

**WHO IS STANDING UP FOR CONSUMERS?  
A SEMI-ANNUAL REVIEW OF THE CONSUMER  
FINANCIAL PROTECTION BUREAU**

---

**HEARING**  
BEFORE THE  
**COMMITTEE ON FINANCIAL SERVICES**  
**U.S. HOUSE OF REPRESENTATIVES**  
ONE HUNDRED SIXTEENTH CONGRESS  
FIRST SESSION

\_\_\_\_\_  
OCTOBER 16, 2019  
\_\_\_\_\_

Printed for the use of the Committee on Financial Services

**Serial No. 116-56**



\_\_\_\_\_  
U.S. GOVERNMENT PUBLISHING OFFICE

42-359 PDF

WASHINGTON : 2020

## HOUSE COMMITTEE ON FINANCIAL SERVICES

MAXINE WATERS, California, *Chairwoman*

CAROLYN B. MALONEY, New York	PATRICK McHENRY, North Carolina,
NYDIA M. VELAZQUEZ, New York	<i>Ranking Member</i>
BRAD SHERMAN, California	ANN WAGNER, Missouri
GREGORY W. MEEKS, New York	PETER T. KING, New York
WM. LACY CLAY, Missouri	FRANK D. LUCAS, Oklahoma
DAVID SCOTT, Georgia	BILL POSEY, Florida
AL GREEN, Texas	BLAINE LUETKEMEYER, Missouri
EMANUEL CLEAVER, Missouri	BILL HUIZENGA, Michigan
ED PERLMUTTER, Colorado	STEVE STIVERS, Ohio
JIM A. HIMES, Connecticut	ANDY BARR, Kentucky
BILL FOSTER, Illinois	SCOTT TIPTON, Colorado
JOYCE BEATTY, Ohio	ROGER WILLIAMS, Texas
DENNY HECK, Washington	FRENCH HILL, Arkansas
JUAN VARGAS, California	TOM EMMER, Minnesota
JOSH GOTTHEIMER, New Jersey	LEE M. ZELDIN, New York
VICENTE GONZALEZ, Texas	BARRY LOUDERMILK, Georgia
AL LAWSON, Florida	ALEXANDER X. MOONEY, West Virginia
MICHAEL SAN NICOLAS, Guam	WARREN DAVIDSON, Ohio
RASHIDA TLAIB, Michigan	TED BUDD, North Carolina
KATIE PORTER, California	DAVID KUSTOFF, Tennessee
CINDY AXNE, Iowa	TREY HOLLINGSWORTH, Indiana
SEAN CASTEN, Illinois	ANTHONY GONZALEZ, Ohio
AYANNA PRESSLEY, Massachusetts	JOHN ROSE, Tennessee
BEN McADAMS, Utah	BRYAN STEIL, Wisconsin
ALEXANDRIA OCASIO-CORTEZ, New York	LANCE GOODEN, Texas
JENNIFER WEXTON, Virginia	DENVER RIGGLEMAN, Virginia
STEPHEN F. LYNCH, Massachusetts	WILLIAM TIMMONS, South Carolina
TULSI GABBARD, Hawaii	
ALMA ADAMS, North Carolina	
MADELEINE DEAN, Pennsylvania	
JESUS "CHUY" GARCIA, Illinois	
SYLVIA GARCIA, Texas	
DEAN PHILLIPS, Minnesota	

CHARLA OUERTATANI, *Staff Director*

# CONTENTS

---

	Page
Hearing held on:	
October 16, 2019 .....	1
Appendix:	
October 16, 2019 .....	67

## WITNESSES

WEDNESDAY, OCTOBER 16, 2019

Kraninger, Hon. Kathy, Director, Consumer Financial Protection Bureau (CFPB) .....	5
---	---

## APPENDIX

Prepared statements:	
Kraninger, Hon. Kathy .....	68

## ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

Clay, Hon. Wm. Lacy:	
Written statement of the Consumer Bankers Association .....	83
Kraninger, Hon. Kathy	
Written responses to questions for the record from Chairwoman Waters ...	92
Written responses to questions for the record from Representative Budd ..	129
Written responses to questions for the record from Representative Foster	130
Written responses to questions for the record from Representative An-	
thony Gonzalez .....	132
Written responses to questions for the record from Representative Hol-	
lingsworth .....	133
Written responses to questions for the record from Representative Posey .	134
Written responses to questions for the record from Representative Steil ...	137
Written responses to questions for the record from Representative	
Timmons .....	138



## **WHO IS STANDING UP FOR CONSUMERS? A SEMI-ANNUAL REVIEW OF THE CONSUMER FINANCIAL PROTECTION BUREAU**

---

**Wednesday, October 16, 2019**

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

The committee met, pursuant to notice, at 10:07 a.m., in room 2128, Rayburn House Office Building, Hon. Maxine Waters [chairwoman of the committee] presiding.

Members present: Representatives Waters, Maloney, Velazquez, Sherman, Meeks, Clay, Scott, Green, Cleaver, Perlmutter, Foster, Beatty, Vargas, Gottheimer, Gonzalez of Texas, Tlaib, Porter, Axne, Casten, Pressley, McAdams, Wexton, Adams, Dean, Garcia of Illinois, Garcia of Texas; McHenry, Wagner, Lucas, Posey, Luetkemeyer, Huizenga, Stivers, Barr, Tipton, Williams, Hill, Emmer, Zeldin, Loudermilk, Davidson, Kustoff, Hollingsworth, Gonzalez of Ohio, Rose, Steil, Gooden, Riggleman, and Timmons.

Chairwoman WATERS. The Committee on Financial Services will come to order. Without objection, the Chair is authorized to declare a recess of the committee at any time.

Today's hearing is entitled, "Who is Standing Up for Consumers? A Semi-Annual Review of the Consumer Financial Protection Bureau."

I now recognize myself for 4 minutes to give an opening statement.

Good morning, everyone. Today, we are here to receive the semi-annual report of the Consumer Financial Protection Bureau (CFPB), and to hear testimony from its Director, Kathy Kraninger.

Director Kraninger, the record shows that you are undermining protections for consumers and letting bad actors off the hook. I am deeply concerned by your anti-consumer actions. You have helped payday lenders by moving to delay and weaken the Consumer Bureau's payday, small-dollar, and car title rule, which would have put a stop to abusive payday loans. You have helped predatory debt collectors by issuing a weak debt collection rule, giving a green light for debt collectors to intimidate consumers by sending unlimited emails and text messages and calling them 7 times a week, per debt, to collect debts. You have issued a proposal and final rule to weaken reporting requirements under the Home Mortgage Disclosure Act (HMDA), making it more difficult for communities across the country to detect predatory and discriminatory lending.

You have forced the Consumer Bureau to abandon its long-standing defense of the constitutionality of the agency's structure. As the agency's lawyers conceded in a court filing, this change gives ammunition to bad actors that want to resist the agency's regulation and enforcement of consumer financial protection laws. Congress specifically designed the Consumer Bureau to be an independent agency, like other Federal financial regulators, and it is clear that you are working to undermine the agency's ability to serve as an independent watchdog for consumers. You have failed to ensure that financial institutions that are caught red-handed committing illegal acts are required to return funds to consumers who have been harmed by those acts.

After three of the first five settlement agreements that you authorized as Director of the Consumer Bureau failed to provide any consumer restitution, I initiated a committee investigation to scrutinize your actions. One of the settlements that the committee examined was with a payday lender called Enova, which illegally took \$2.6 million from consumers' bank accounts without their permission or knowledge.

You authorized the Consumer Bureau to enter a settlement agreement that did not require Enova to return any of the money it took from its customers, not one dime. The committee's investigation has revealed that Eric Blankenstein, the Trump Administration political appointee most well-known for his history of writing racist blog posts, rejected the judgment of career enforcement attorneys and nonpartisan senior management officials who recommended requiring Enova to refund consumers as part of the settlement. Instead, Blankenstein overruled those recommendations, and as a result of his actions and your subsequent decision to authorize a settlement without redress, consumers who were cheated were left with nothing.

It is unacceptable that Trump Administration political appointees are intervening to let predatory financial institutions off the hook and preventing consumers from getting their money back when it is wrongfully taken from them. Today, this committee continues its oversight of the Trump Administration's actions at the Consumer Bureau, and we will continue to stand up for consumers who deserve better from this agency.

I now recognize the ranking member of the committee, the gentleman from North Carolina, Mr. McHenry, for 4 minutes for an opening statement.

Mr. McHENRY. Thank you, Madam Chairwoman, and I want to thank Director Kraninger for being here today. I want to begin by thanking you for defending consumers and working on behalf of consumers. I appreciate your commitment to process, to fairness, and to the rule of law, and I want to thank you for your recent letter to the Department of Justice and to the Speaker of the House about the for-cause removal provision that governs the Director position. We all have taken an oath to uphold the Constitution. This includes ensuring that the Bureau's organizational structure, which was created by the Democrats, is constitutional as well.

As I said this past March, I sense a case of buyer's remorse by my friends on the other side of the aisle when it comes to the CFPB. Under former Director Cordray's regime, the limitless au-

thority bestowed upon the CFPB Director was never an issue for my Democrat friends. However, now that Republicans are in charge of this Administration, and we have a newly appointed and confirmed Director, and that new Director is making necessary and appropriate changes to the way the Bureau functions, my colleagues on the other side of the aisle are quite unhappy with the product of their creation. Instead of upholding the Bureau as a wholly independent agency, free of political influence, the Democrats are passing bills to actually curtail your authorities, dictate the names of Bureau offices, and decree how employees should refer to the CFPB in public.

You are criticized for helping consumers by delivering clear rules of the road to financial companies. You are reprimanded for modernizing the rules that haven't been touched in decades and do not account for technological innovations that have changed the way consumers and financial institutions interact.

There is no doubt that the CFPB needs reform. Guardrails should be put in place, oversight and accountability must be more robust, and structural changes that put consumers above politics are needed.

Before I yield back, I want to recognize the Bureau's efforts in enhanced financial innovation. However, how consumers interact with financial firms is changing rapidly. We cannot bury our heads in the ground and pretend that innovation isn't occurring. We can't stand in the way of innovation and try to kill it before it grows. We need to closely examine how financial technology can increase access to credit and put consumers on the path to financial independence while ensuring those consumers remain protected.

Director Kraninger, I encourage you to continue with your plans and do what you need to do to ensure that the Bureau's goals are fully embraced and implemented by your examiners in the field. I hope my colleagues will bear in mind that you, like so many of us in the room today, are a public servant and are committed to consumer protections. And I hope my colleagues will treat you with the same type of fairness that they have sought for others who have been sitting in your same position.

I look forward to your testimony, and Madam Chairwoman, before I yield back, as a point of personal privilege, I would like to recognize the newest member of our committee, Mr. William Timmons of South Carolina. We welcome you.

Mr. Timmons has an extensive business background, and served in the South Carolina State Senate before getting elected to Congress last year. We welcome you to the committee, and look forward to a productive engagement as a legislator, and your leadership on important issues for South Carolinians.

And with that, Madam Chairwoman, I yield back.

Chairwoman WATERS. Thank you very much, and welcome, Mr. Timmons.

I now recognize the Chair of the Subcommittee on Consumer Protection and Financial Institutions, Mr. Meeks, for one minute.

Mr. MEEKS. Thank you, Chairwoman Waters, for calling this vital hearing. Unfortunately, I think this hearing is so important because the CFPB is failing to accomplish what it was created to do. It has forgotten that it is the Consumer Financial Protection

Bureau and not the businesses' or anyone else's protection bureau. Instead of protecting desperate borrowers from ruinous payday loans, the CFPB is delaying crucial regulations. Rather than protecting consumers from overly aggressive debt collectors, the CFPB has proposed a rule that would harm everyday consumers. In lieu of ramping up in force against bad actors, the CFPB has drastically cut the number of actions taken and fines mandated.

In contrast to the Federal Housing Finance Agency (FHFA), which is defending its constitutionality, Director Kraninger has forfeited on that matter. And when you look at the people who are there, I ask, who in the background is standing in the gap? Who has the experience? Who has protected consumers before and is working on this issue to do what the Consumer Financial Protection Bureau was created to do?

I yield back.

Chairwoman WATERS. I now recognize the ranking member of the subcommittee, Mr. Luetkemeyer, for one minute.

Mr. LUETKEMEYER. Thank you, Madam Chairwoman, and Director Kraninger, we are happy to welcome you to our committee for the second time.

The position of CFPB Director comes with unparalleled authority. As a single Director accountable to no one, the power the Director possesses is nearly limitless. In the previous Administration, Director Cordray completely ignored our system of checks and balances and used the power of the position to sidestep the Constitution. Instead of responsible regulation, he chose to regulate through enforcement of guidance, and to carry out politically-driven attacks.

This Administration, which I have been pushing to stop this usurpation of congressional authority, has recently issued an Executive Order putting a stop to this practice across the entire Administration.

Despite the actions of the previous Administration, Director Kraninger has made progress to increase the transparency and accountability of the CFPB. The Bureau is re-examining previous rules that were not properly researched or administered, such as the small-dollar rule, and has issued new rules to protect consumers from harmful practices such as the debt collection rule. While CFPB has made progress under Director Kraninger, more can always be done. CFPB could also continue to progress to define what constitutes an abusive act or practice under Unfair or Deceptive Acts or Practices (UDAAP), and should continue its re-examination of the small-dollar rule to address inconsistencies of the payments provision, just to name a few.

Transparency and accountability are the guiding principles of American democracy and should extend to our regulatory regime.

With that, I yield back.

Chairwoman WATERS. I now welcome to the committee our witness, the Honorable Kathy Kraninger, Director of the CFPB. Ms. Kraninger has testified before the committee previously, and I believe she needs no further introduction. Without objection, your written statement will be made a part of the record, and you will have 5 minutes to summarize your testimony. When you have one minute remaining, a yellow light will appear. At that time, I would



ask you to wrap up your testimony so we can respectful of both the witness' and the committee members' time.

You are now recognized for 5 minutes to present your oral testimony.

**STATEMENT OF THE HONORABLE KATHY KRANINGER, DIRECTOR, CONSUMER FINANCIAL PROTECTION BUREAU (CFPB)**

Ms. KRANINGER. Chairwoman Waters, Ranking Member McHenry, members of the committee, thank you for the opportunity to provide this update on the activities of the Bureau and its important work.

Preventing harm to consumers is the CFPB's top priority. We prevent harm by educating consumers to protect themselves; we prevent harm by having clear rules of the road for regulated entities; we prevent harm by using supervision and enforcement to promote compliance with the law; and we prevent harm by supporting dynamic and competitive markets that provide for consumer choice.

While prevention is not always possible, it is the right goal, saving consumers from financial headaches, setbacks, and devastation. The semi-annual report included with my written testimony provide a rundown of our activities for the first half of Fiscal Year 2019, and a preview of more recent initiatives, several of which I will highlight now.

First, our efforts to provide clear rules of the road so that companies and consumers know what is lawful and what is not. Just last week, the Bureau finalized a rule that provides needed relief to smaller lenders from collecting and reporting data under the Home Mortgage Disclosure Act, or HMDA, and it also codifies a key provision of the Economic Growth, Regulatory Relief, and Consumer Protection Act.

Additionally, last month the Bureau announced policies to facilitate innovation, reduce regulatory uncertainty, and enhance consumer choice. The Bureau also announced its first no-action letter under the new policy. It is designed to help keep funding streams open for our nation's housing counselors, who have assisted millions of Americans attain the dream of owning a home.

Second, where we cannot prevent harm to consumers, we use our enforcement tool to hold bad actors accountable. Every case is managed by Bureau attorneys seeking justice in the public interest. In Fiscal Year 2019, we announced 22 public enforcement actions and settled 6 previously filed lawsuits, including, in a public fair lending enforcement action, the Bureau settled with one of the nation's largest HMDA reporters for violating HMDA and Regulation C.

We took action against an individual who brokered contracts offering high-interest credit to veterans, and we took action against a student loan servicing company that engaged in unfair practices that violated the Consumer Financial Protection Act.

Further, the Bureau's actions in Fiscal Year 2019 resulted in orders requiring a total of over \$777 million in consumer relief and nearly \$186 million in civil money penalties. I note these figures not as a measure of accomplishment but to underscore the fact that the Bureau continues to appropriately use its enforcement tool.

Third, we continue to promote a culture of compliance through our supervisory tool and to empower consumers through education.

Earlier this year, we launched an initiative, “Start Small, Save Up,” to help prepare Americans to handle unexpected financial events. As part of this initiative, we released a new savings booklet to help individuals create a path to reach their savings goals, and we are looking at other innovative ways to move the needle on saving in America.

For example, the Bureau partnered with H&R Block to study saving during tax refund time. The study showed that encouragement through a simple email or small incentive increased the consumer’s likelihood of saving a portion of their tax refund. It also found that one in five consumers who took advantage of the specific savings feature continued to save 8 months later. We will continue to engage in research about what works to promote the habit of savings and overall financial well-being.

Fourth, I have a few recent announcements to demonstrate that the Bureau is committed to using the tools Congress gave it as effectively and efficiently as possible. Just last week, the Bureau handled its two-millionth consumer complaint. To ensure that the Bureau’s work continues to be informed by this input, I announced last month that we will continue the publication of the Consumer Complaint Database. In addition, we will be enhancing the database by providing new tools and graphics to analyze consumer submissions and putting that data into context.

Also last week, I announced the establishment of a task force to examine the existing legal and regulatory framework. The task force will make recommendations for improving consumer financial laws and regulations, as well as enhancing consumer understanding of markets and products. We are currently accepting applications from individuals who are interested in serving on the task force, and we welcome recommendations from Members of Congress.

Just yesterday, I am proud to note that a new private education loan ombudsman met an important congressional mandate given specifically to that position by issuing his first annual report, on time. The report covers 2 years and analyzes complaints submitted by consumers. The Bureau also sent a signed memorandum of understanding to the Department of Education, consistent with its statutory responsibility to share consumer complaint information with the Department.

Before I close, I would like to touch on one final issue, and that is the constitutionality of the Bureau’s structure. As you are aware—Madam Chairwoman, I can finish. I know there will be questions about the constitutionality.

Chairwoman WATERS. No. I don’t want you to get started on a new part of your—

Ms. KRANINGER. Understood.

Chairwoman WATERS. —report. Your time is up.

[The prepared statement of Director Kraninger can be found on page 68 of the appendix.]

Chairwoman WATERS. I now recognize myself for 5 minutes for questions.

When settling with a company found to have violated consumer protection law, the Consumer Bureau has typically required the company to compensate victimized consumers. Astonishingly, Di-

rector Kraninger, three of the first five settlement agreements that you authorized during your tenure as Director failed to provide any consumer restitution. Alarmed by this failure, this committee started an investigation and examined the three settlements in an effort to understand your rationale for denying consumers compensation in these cases.

The committee recently released a Majority report detailing its findings. One of the settlements examined by the committee involved Enova, a payday lender whom the Bureau found illegally took \$2.6 million from consumers' bank accounts without authorization. The settlement did not require Enova to return any of the money it illegally took from consumers. The committee's Majority staff report revealed that your political appointee overruled the recommendations of career enforcement attorneys and nonpartisan senior management officials to require Enova to provide consumer redress. The political appointee rejected not only the recommendation of career attorneys but also the opinion of the Consumer Bureau's legal division, that returning the money illegally debited was appropriate.

Why did you not require them to—

Ms. KRANINGER. Madam Chairwoman, let me note that every case is fact- and circumstance-specific, and we have to apply the law to those facts and circumstances.

Chairwoman WATERS. No, no. Just tell me about Enova. They took the—well, let me ask you this, did they take the money from consumers' accounts without their knowledge? Did you find that was true?

Ms. KRANINGER. That is certainly the case that—

Chairwoman WATERS. Okay. That is true. Thank you. Having done that, and having done your investigatory work, et cetera, you got to the point of a settlement, is that right?

Ms. KRANINGER. Yes.

Chairwoman WATERS. But you denied the victims any compensation. Why?

Ms. KRANINGER. It is a negotiated settlement. It was the Bureau's estimation, my estimation, and the recommendation of the staff that we engage in this settlement discussion with Enova, and that that was going to bring—

Chairwoman WATERS. Okay. May I—

Ms. KRANINGER. —resolution—

Chairwoman WATERS. —interrupt for a moment and tell you that your career staff advised you that you should compensate the victims, and it was overruled by your political staff. Is that right? Is that true?

Ms. KRANINGER. No I do not—

Chairwoman WATERS. Did your career staff advise you—

Ms. KRANINGER. —remember it that way.

Chairwoman WATERS. Did your career staff advise you that they should be compensated?

Ms. KRANINGER. Every case is—

Chairwoman WATERS. No. Just in this case, did they advise you?

Ms. KRANINGER. I expect a robust—

Chairwoman WATERS. Did they advise you—

Ms. KRANINGER. —process—

Chairwoman WATERS. Ms. Kraninger—

Ms. KRANINGER. —that brings—

Chairwoman WATERS. Ms. Kraninger—

Ms. KRANINGER. —everyone's input in—

Chairwoman WATERS. —did your career staff advise you—

Ms. KRANINGER. —and it is ultimately my decision.

Chairwoman WATERS. —that these victims should be compensated? Did they advise you that these victims should be—

Ms. KRANINGER. Chairwoman—

Chairwoman WATERS. Yes. Did your career staff advise you that they should be compensated?

Ms. KRANINGER. The decision on the settlement was mine, and as we move forward—

Chairwoman WATERS. Okay. Let me—

Ms. KRANINGER. —we were looking for the best—

Chairwoman WATERS. —conclude that you refused—

Ms. KRANINGER. —outcome that we could get—

Chairwoman WATERS. —to answer the question, and you have decided just to answer it by saying that it was your decision, which means that you overruled your career staff and you took the advice of your political advisors. Is that right?

Ms. KRANINGER. I took into account the full advice of the deliberative process, as I have in every other case—

Chairwoman WATERS. As I understand it—

Ms. KRANINGER. —and as I look for—

Chairwoman WATERS. —Enova offered \$1.6 million for the consumers. So they basically said, "Yes, we did it. We were wrong. We should have compensated. But I guess we can offer them \$1.6 million," and you said, "No." Is that correct? Why did you say no?

Ms. KRANINGER. Chairwoman, again, there is a lot of back-and-forth—

Chairwoman WATERS. No, no. I don't want to know about the back-and-forth. I just want to know, first of all, did Enova offer \$1.6 million to the consumers? Is that correct?

Ms. KRANINGER. Chairwoman, it was a negotiated settlement—

Chairwoman WATERS. Did they offer \$1.6 million to the consumers who had been harmed, and you turned it down? Just tell me, did they offer \$1.6 million?

Ms. KRANINGER. Chairwoman, you are probably referring to documents that I don't have in front of me.

Chairwoman WATERS. Well, yes, you do. Listen, I beg to disagree with you, and don't try and come to this committee and not answer the questions, and filibuster, and pretend not to remember. This was a big case. They offered \$1.6 million and you turned it down. You turned down the advice of your career employees. You took the advice of your political appointees, and you knew exactly what was going on. You were aware of the committee's interest in these matters. We requested information about these settlements in February.

And so, I would like to just end my questions with a statement by saying, for whatever reasons you have made these kinds of decisions, they are not in the best interest of consumers, and I am very, very concerned about that.

I now recognize the ranking member, the gentleman from North Carolina, Mr. McHenry.

Mr. MCHENRY. Director Kraninger, at your agency, how many people are confirmed by the Senate? Under the Dodd-Frank Act, how many people at the Consumer Financial Protection Bureau are confirmed by the Senate?

Ms. KRANINGER. Just one.

Mr. MCHENRY. Who?

Ms. KRANINGER. That would be me, sir, the Director.

Mr. MCHENRY. Who makes the decisions for your Bureau on settlements?

Ms. KRANINGER. The Director does make that decision, ultimately.

Mr. MCHENRY. The Director is the ultimate decision-maker?

Ms. KRANINGER. Yes.

Mr. MCHENRY. Does your staff always agree with one another?

Ms. KRANINGER. Definitely not.

Mr. MCHENRY. I think we all can agree that we have the same issue here on Capitol Hill, and if two or more are gathered on Capitol Hill, there will be a disagreement.

I don't know your staff who were part of this decision-making process, but are you accountable for the decision made for these settlements?

Ms. KRANINGER. Yes, Congressman.

Mr. MCHENRY. Okay. Thank you.

I am going to start by asking about the constitutionality question for your Bureau. I know this was the final phrase of your opening statement, but if you want to take a moment to answer this question, because many of us are interested in your view of the constitutionality of what we view as an unaccountable directorship at the CFPB.

Ms. KRANINGER. Thank you, Congressman. It is definitely a weighty decision. It was an important one that I was aware of from the time of my nomination. Every case that has been—many cases, I should say; every case would be an exaggeration—but in many cases that are brought by the Bureau, this claim is raised in response. The constitutional question has delayed many enforcement actions, it has delayed regulatory actions, and it has been something that I believe, fundamentally, the Supreme Court and Congress need to decide and settle, once and for all, so that the Bureau can move forward and actually engage in its mission proactively.

And from that standpoint, I was looking at this question as well, to think about that. I took a very strong position that I agreed with the Department of Justice in the response to Seila Law's petition to the Supreme Court for cert, and I look forward to the Supreme Court's response as to whether they will take this important case up to settle it.

Mr. MCHENRY. Okay. Thank you, and thank you for holding your position as being not just under the rule of law but under the Constitution of the United States, and those constraints.

Let's move on to the London Inter-bank Offered Rate (LIBOR) and FinTech for a moment, because there is significant movement—as you know, the phaseout of LIBOR as a bank reference rate in 2021, and the underlying reference rate, has about \$200

trillion in financial transactions worldwide. This transaction is going to be particularly difficult for legacy consumer contracts, and there is a transition from LIBOR to SOFR (the Secured Overnight Financing Rate).

What steps is the Bureau taking to ensure that consumers are not adversely impacted by this transition?

Ms. KRANINGER. Thank you for this question, too. It is an important one. We have had an interagency public-private partnership ongoing to talk about this transition. The Bureau, specifically, has been engaged in that and has a key role in education of the public. We also have a handbook on what are generally affected here with the adjustable rate mortgages, which is a big part of the market that relies on LIBOR. That handbook has been updated by the Bureau and will be issued soon.

We also have some information that we are giving out to the public to start making them aware of this transition, but obviously a big partnership with industry and with other public sector entities.

Mr. MCHENRY. Thank you. Thanks for the update on that.

I also want to talk about FinTech, as I mentioned. You are finalizing what is called sort of a sandbox policy, which is another way of saying testing, right, testing new ways to meet societal goals and regulatory flexibility to ensure that we are meeting those societal goals under law?

So, I want to ask, along those lines, for the sandbox approach, what safeguards has the Bureau put in place to ensure that consumers are not harmed while also granting regulatory flexibility?

Ms. KRANINGER. The applicants under our innovation policy need to come forward, articulating the risks to consumers that they see as well as the benefits to consumers of the products that they are proposing under the sandbox, for example, and that is the heart of the decision that will be made, that will be a back-and-forth conversation with the entity, and to understand the product better, and to understand where there are questions about regulatory requirements coming into play. But certainly, the benefits to consumers are what the Bureau is going to be weighing in that process.

Mr. MCHENRY. Thank you, and thank you for taking this approach, and building on the former Director's initiative of innovation being a part of the Bureau's actions and activities.

With that, Madam Chairwoman, I yield back.

Chairwoman WATERS. Thank you. The gentlewoman from New York, Mrs. Maloney, who is also the Chair of our Subcommittee on Investor Protection, Entrepreneurship, and Capital Markets, is recognized for 5 minutes.

Mrs. MALONEY. Director Kraninger, the last time you were here we talked about abusive overdraft fees, and you said you would consider putting it on the agenda for comment. And I know that in May you did put a request for comment out on the overdraft fees, although you were requesting comments on ways to make it less burdensome for banks, which was not what I had in mind.

But I want to revisit this, because I feel very strongly about it. In fact, I have legislation before the committee on this. And I want

to start with some very basic practices that I feel are deceptive, unfair, and abusive.

Let me ask you, do you think it is right for banks to reorder, without their customers' knowledge, their transactions so that the largest transaction is processed first, for the sole purpose of maximizing the number of overdraft fees that the bank can charge the customer? Do you think that practice is fair? Yes or no?

Ms. KRANINGER. Absolutely not.

Mrs. MALONEY. Oh, okay. Well, I don't think it is fair either. You are the nation's top consumer financial regulator, so what are you planning to do about it?

Ms. KRANINGER. Congresswoman, I would like to take just a second to talk about that overdraft request for information because it is around our requirement under the Regulatory Flexibility Act to assess that rule. It is an opportunity to look at any comments that come in about the overdraft rule and to assess those. So that is what we intend to do, consistent with the conversation that you and I had.

Mrs. MALONEY. I would like to get a personal commitment from you that you will consider rules cracking down on abusive, unfair, and deceptive practices in overdraft. Many times, the customer knows nothing about it, and they are slammed with it, caught in a never-ending cycle of debt. Will you make that commitment?

Ms. KRANINGER. I certainly pledge to you that we will look at all of our tools, whether it is education or enforcement, in the case of unfair, deceptive, and abusive practices. Those are on the table.

Mrs. MALONEY. Okay. Thank you.

Director, in September 2019, you indicated in a filing with the Supreme Court that you now agreed with the position of the Trump Administration that the Consumer Bureau's independent structure, which limits the President's authority to remove a Director solely for cause, was unconstitutional. Yet just a month before, the CFPB, consistent with its longstanding position, filed a brief in another case, arguing that the Bureau's structure was constitutional. And the Bureau's General Counsel assigned both filings, the one stating that the Bureau was constitutional and then the later filing asserting the exact opposition.

My question to you is, did you direct the General Counsel or other CFPB career attorneys to change positions they previously argued to various courts regarding whether or not the structure of the Bureau is constitutional?

Ms. KRANINGER. Yes, I did direct the change, as we looked carefully at the cert petition to the Supreme Court in *Seila Law*, and discussed the issue with the Department of Justice, and certainly had an internal discussion about it. I took the position that the Director's removal provision in the Dodd-Frank Act was something that needed review by the Supreme Court to settle this question, and that, in my view, it was unconstitutional.

Mrs. MALONEY. Well, I just find this very troubling. Congress deliberately created the CFPB as an independent regulator, and for you to second-guess Congress' judgment on the constitutionality of the CFPB and to argue against the CFPB's structure in court is disrespectful to Congress. So, I hope that you will reconsider.

I would like to revisit some of the comments from the chairwoman, and I want to echo Chairwoman Waters and emphasize that if the Consumer Bureau can't get relief for consumers who have been harmed—and you admit they have been harmed—then what are you doing? If you are not following direction from your staff to help consumers who are harmed, then you are absolutely worthless.

I yield back.

Chairwoman WATERS. The gentlewoman from Missouri, Mrs. Wagner, is recognized for 5 minutes.

Mrs. WAGNER. Thank you, Madam Chairwoman. Director Kraninger, thank you for your testimony and your leadership. You are standing up for consumers at the CFPB, and under your leadership the CFPB is making great strides to increase transparency and accountability, enforce the rule of law, and end regulation by arbitrary enforcement. For far too long, the CFPB had lacked any meaningful oversight or accountability that other Federal financial agencies have, and my colleagues and I are encouraged by your efforts to question the constitutionality of your position, and the structure of the CFPB, in a recent letter to the Justice Department. And I would like to ask that that be entered into the record.

Chairwoman WATERS. Without objection, it is so ordered.

Mrs. WAGNER. Director Kraninger, the Bureau is run by a single Director who cannot be removed at will by the President. How does this structure benefit American consumers in Missouri's Second Congressional District?

Ms. KRANINGER. Congresswoman, I appreciate where you are coming from on this question, and I took the position, certainly, that the Supreme Court needs to review this, and that, in my view, it is unconstitutional in terms of the removal provision, specifically, and the remedy was laid out in the Justice Department's filing.

But I will say the rest I will certainly leave as a question for the Supreme Court and Congress to consider, in terms of what the structure is that would be most appropriate. And I recognize it is a controversy that needs to be discussed, and there are two sides to this position.

Mrs. WAGNER. In your opinion, how can CFPB better protect consumers? Is more regulation the answer?

Ms. KRANINGER. It is really the most effective use of all of our tools, and I take your point. I do believe that we really need to look closely at our regulatory actions to ensure that the benefits do outweigh the costs, because the costs are not just costs imposed on regulated entities. Those costs do actually make their way to consumers, both in access to credit as well as the cost of the credit that they are seeking. And so that is something that we absolutely have to take into account in our actions, and, no, costs without benefit do not help consumers.

Mrs. WAGNER. Cost-benefit analyses are a good thing for the CFPB and for other regulatory agencies to undertake, correct?

Ms. KRANINGER. Absolutely.

Mrs. WAGNER. They protect the consumer.

How do transparency and accountability at the Bureau benefit consumers, as well as businesses?



Ms. KRANINGER. I fundamentally believe that the government owes the people a clear articulation of what the rules are. The debate and discussion needs to be out in the open, frankly, about what different positions are, and it is something that I have taken to heart. I have tried to make sure that we are engaged in that very robust discussion and transparency, including in issuing requests for information, having our symposia series, where we are bringing in experts to debate things and webcasting that, and issuing advance notices of proposed rulemaking, again, to continue to have a dialogue ongoing as the Bureau shapes its proposals before issuing regulations.

Mrs. WAGNER. And I commend you for those very public and transparent actions that you are taking. The steps under your tenure to greatly improve transparency and accountability are absolutely commendable. What else can be done within the Bureau's existing authorities? Is congressional action needed to strengthen that transparency?

Ms. KRANINGER. With respect to congressional action and transparency, certainly if I find any particular matters, I will ask. I do believe, in terms of protecting consumers, there is one request that I have sought from Congress, and that is specific authority to be able to supervise for Military Lending Act compliance. But beyond that, that is the only legislative ask at this time.

Mrs. WAGNER. Is congressional action necessary to ensure that CFPB is accountable? What is the CFPB doing, in absence of action, to ensure it remains accountable for its actions?

Ms. KRANINGER. Congresswoman, we are continuing to carry out, to the best of our ability, the mission that we have been given by Congress. I have nearly 1,500 employees who carry that work out every day, and I am very proud to represent them.

Mrs. WAGNER. You believe in the Constitution and in following it?

Ms. KRANINGER. Absolutely.

Mrs. WAGNER. My time has expired. I yield back.

Chairwoman WATERS. Thank you. The gentlewoman from New York, Ms. Velazquez, is recognized for 5 minutes.

Ms. VELAZQUEZ. Thank you, Madam Chairwoman. Director Kraninger, as you know, I have had several concerns about the changes the CFPB is making to the Home Mortgage Disclosure Act. In May, Chair Waters and I sent you a letter, signed by 62 of the Members, expressing those concerns, including your decision to retire the HMDA Explorer Tool, which allowed users to design their own queries and tables, and to download raw mortgage data.

In your response, you said that in order to prepare for the retirement of the old site, the Bureau conducted a number of interviews with community groups and HMDA stakeholders last summer, to develop a new set of requirements based on the needs of data users.

Can you please tell me specifically which groups and HMDA stakeholders did you meet with, and which ones have endorsed your approach?

Ms. KRANINGER. Congresswoman, we can certainly get back to you with a list of individuals that we asked last summer about the change. I can tell you, I took seriously the letter that you sent, I

asked the staff whether we had that robust engagement, and we are looking very carefully at this.

Ms. VELAZQUEZ. Did you ask the staff if you had that robust engagement? What was their answer?

Ms. KRANINGER. They said, yes.

Ms. VELAZQUEZ. Oh, yes?

Ms. KRANINGER. They did believe that they had that robust engagement.

Ms. VELAZQUEZ. Then can you explain why the leading HMDA advocate in the country, the National Community Reinvestment Coalition (NCRC), slammed your approach? Did your staff meet with them, the leading organization nationwide?

Ms. KRANINGER. Congresswoman, I do believe that NCRC was part of that discussion. I have met with them several times since, and I can promise you that this is something that we are going to continue to look at so that we make sure that the tool, going forward, is providing the users of the data set the visibility they need.

Ms. VELAZQUEZ. My question is, which of the groups that you met with endorsed your approach?

Ms. KRANINGER. Congresswoman, there were a number of conversations with them. They understood—I guess one thing I haven't said yet is—

Ms. VELAZQUEZ. But do you understand what I am trying to say to you?

Ms. KRANINGER. I do.

Ms. VELAZQUEZ. The national leading advocate group, the coalition, slammed your approach.

Ms. KRANINGER. And I can tell you that the information technology tool itself is not supportable, and that is part of this problem. But we absolutely are committed to providing the right tool going forward, and have engaged them in the conversations around what capabilities they would like to see, and we will continue to do so.

Ms. VELAZQUEZ. But you adopted the change. You just got rid of this tool that is so important to determine whether or not there is discrimination in lending. You are denying access to raw data for researchers, for university researchers who have done extremely great research in demonstrating whether or not discrimination in lending still exists.

Ms. KRANINGER. I can tell you, Congresswoman, that the tool that we have been talking about is just the IT mechanism to get to the old HMDA data. The new data is all available and, frankly, in larger data sets—

Ms. VELAZQUEZ. Your raw data is available?

Ms. KRANINGER. —than they were before. Absolutely, yes.

Ms. VELAZQUEZ. So anyone can download the raw data?

Ms. KRANINGER. Yes. That remains absolutely the case.

Ms. VELAZQUEZ. That is not—

Ms. KRANINGER. The discussion seems to be around a couple of different analytic tools, slices that some of the advocates were using that they would like to see continued, and that is something that we are talking to them about. But I promise you, the data is available, frankly, in a broader and more usable format than it ever was before. The so-called LARs data, the loan-level data, is

now available in standard format, whereas entities used to have to go to every single financial institution individually and get that data in slightly different formats. So there are constant improvements in this area, and I am committed to continuing them.

Ms. VELAZQUEZ. How do you reconcile the fact that the national leading group, HMDA group, is opposed to the changes that you made?

Ms. KRANINGER. I think we are working to continue to understand what their concerns are, but I can tell you again that the Explorer Tool is still available, and the data that they have available to them is more extensive than ever before.

Ms. VELAZQUEZ. But can you answer this question: S. 2155, did it require you to make changes?

Ms. KRANINGER. Yes, it did.

Ms. VELAZQUEZ. To the HMDA Explorer Tool?

Ms. KRANINGER. No, it did not.

Ms. VELAZQUEZ. I yield back.

Mrs. WAGNER. Madam Chairwoman, I have a point of order.

Chairwoman WATERS. The gentlelady is recognized.

Mrs. WAGNER. Madam Chairwoman, I hope that you will remind my colleagues that we should observe the decorum rules outlined in House Rule 17. And just to be clear, Director Kraninger, as sadly stated by one of my previous colleagues on the other side of the aisle, we do not believe that you are—

Chairwoman WATERS. Excuse me.

Mrs. WAGNER. —absolutely worthless.

Chairwoman WATERS. The gentlelady from Missouri must direct her questions and comments to the Chair.

Mrs. WAGNER. Madam Chairwoman—

Chairwoman WATERS. You are not—

Mrs. WAGNER. —I have directed it to you.

Chairwoman WATERS. —authorized to direct a question to the witness.

Mrs. WAGNER. I am directing it to you, Madam Chairwoman. I hope that you will remind our colleagues that we should observe the decorum rules outlined in House Rule 17.

Chairwoman WATERS. The Chair—

Mrs. WAGNER. Director Kraninger should not be referred to as “absolutely worthless.” I would ask you to please remind our colleagues.

Chairwoman WATERS. The Chair has recognized the gentlelady. The Chair is in charge, and the Chair will decide exactly how this committee will be run. Thank you for your comments. We shall move on.

The gentleman from Oklahoma, Mr. Lucas, is recognized—

Mrs. WAGNER. Rule 17.

Chairwoman WATERS. —for 5 minutes. Mr. Lucas is recognized for 5 minutes.

Mr. LUCAS. Thank you, Madam Chairwoman, and, Director, I have a couple of questions. But before I launch into those, would you like to finish your opening statement?

Ms. KRANINGER. Oh, thank you, sir. I think we did with Congressman McHenry, but I am happy to do that if you have given me the moment to do so.

As you are aware, I joined the government's recent brief urging the Supreme Court to hear the case, *CFPB v. Seila Law*. This matter is in litigation, so I am not going to discuss it at length, but I do want to highlight some key points.

From the Bureau's earliest days, the constitutionality of the Director's removal provision has been raised, to challenge legal actions taken by the Bureau in pursuit of our mission. Litigation over this question continues to cause significant delays to some of our enforcement and regulatory actions. I believe this dynamic will not change until the constitutional question is resolved, either by Congress or by the Supreme Court.

My position on this question will not stop the Bureau from fulfilling our statutory responsibilities. We will continue to defend the actions the Bureau takes now and has taken in the past.

Thank you, sir.

Mr. LUCAS. Now, Director, many members of this committee have concerns about the small-dollar rule, and during your last visit before this committee we discussed the payments provision of the small-dollar rule. I would like to continue that dialogue by asking you if there are currently any plans to modify this section of the small-dollar rule?

Ms. KRANINGER. Congressman, I remember the conversation, and I know that there have been questions raised. There was a petition, in fact, for us to reconsider it, and that is a petition that is still standing.

In the meantime, though, the payments provisions, as you know, are stayed due to litigation over the rule in its totality. I can say that the payments provision and the underwriting requirements do have a separate legal and factual basis in the 2017 rule, and the reconsideration rule that the Bureau issued last spring was directed specifically at the factual and legal underpinnings of the underwriting provision.

Mr. LUCAS. Coming at a slightly different question, next, I would like to ask about the Bureau's Tribal consultation process. This policy provides general guidance on how CFPB should consult with Tribal governments during the rulemaking process, and I note for the record that I represent all or part of 16 different Tribes, so I am very sensitive about how all Federal agencies interact with the Tribes.

Could you elaborate on how the Bureau is working to adhere to, and improve, the Tribal consultation process?

Ms. KRANINGER. Absolutely, and I appreciate that opportunity. I have had the opportunity to meet with Tribal leaders in this position, and I shared with them that I have a history in many of my other positions in government of working with Tribal entities to understand the unique issues that they are facing, and to have that dialogue with them as required through the regulatory process.

We do have a Tribal official designated. We do have regular interactions with the Tribes, and make sure that, again, they have the opportunity to raise the concerns or questions or issues that they are seeing in the marketplace that affect them. And we very much appreciate that engagement and take that into account, both in the formal process as well as informally seeking their views.

Mr. LUCAS. It is not only in Oklahoma but across the country, that they are a progressive, very focused economic force in developing communities, for the benefit of everyone.

With that, thank you, Director, and I yield back the balance of my time, Madam Chairwoman.

Chairwoman WATERS. Thank you very much. The gentleman from New York, Mr. Meeks, who is also the Chair of our Subcommittee on Consumer Protection and Financial Institutions, is recognized for 5 minutes.

Mr. MEEKS. Thank you, Madam Chairwoman. Madam Director, I have 5 minutes, and I am going to ask you, first, a couple of questions that require simply a yes-or-no answer. That is all it is. Simple questions.

One, are you aware of the fact that the Consumer Bureau's legal division concluded that the law supported the Consumer Bureau's ability to seek remediation from Enova? Yes or no?

Ms. KRANINGER. I'm sorry, that we sought mediation with Enova? Is that the premise of your question?

Mr. MEEKS. Yes, that the Consumer Bureau's legal division concluded that the law supported the Consumer Bureau's ability to seek remediation from Enova, yes or no?

Ms. KRANINGER. I don't know that I am aware of that, Congressman, but I guess we might need—

Mr. MEEKS. So the answer is no?

Ms. KRANINGER. —to get to the next question and we can talk more fully about it.

Mr. MEEKS. Okay. The next question is, did you go against your own legal division to deny consumers relief in the Enova case, yes or no?

Ms. KRANINGER. It was part of the process—

Mr. MEEKS. Yes or no?

Ms. KRANINGER. Congressman—

Mr. MEEKS. I only have 5 minutes.

Ms. KRANINGER. —I know you are seeking—

Mr. MEEKS. I don't have time. I have other questions. Yes or no?

Ms. KRANINGER. I can tell you that the full panoply of—

Mr. MEEKS. I just need a yes or a no.

Ms. KRANINGER. —was under consideration in each case.

Mr. MEEKS. You know, we are talking about decorum here and all of that. Decorum would say that the witness would answer the question, and the question is simple: Did you go against your own legal division to deny consumers relief in the case of Enova? Yes or no?

Ms. KRANINGER. Congressman, as we already discussed, the decision is mine.

Mr. MEEKS. You are not—

Ms. KRANINGER. I absolutely think—

Mr. MEEKS. So the answer is yes?

Ms. KRANINGER. —and recommendations of all of the staff—

Mr. MEEKS. So then, would the answer be yes?

Ms. KRANINGER. —it is a deliberative process—

Mr. MEEKS. It is your decision.

Ms. KRANINGER. —and it comes to me for a decision.

Mr. MEEKS. No one is denying the fact that it is your decision. My question is simple. You made the decision.

Ms. KRANINGER. Given that it is my decision—

Mr. MEEKS. The question is just—

Ms. KRANINGER. —I am not overruling anything.

Mr. MEEKS. —did you make—

Ms. KRANINGER. It is my decision.

Mr. MEEKS. Your decision. So, you overruled—

Ms. KRANINGER. There is no overruling when it is my decision, sir.

Mr. MEEKS. Well, you get recommendations. At times, my staff make certain suggestions to me, and if I overrule them, I will stand up and say I overrule them. So the question to you is simple. You had the authority. Nobody is questioning whether or not you had the authority. The question is, did you?

Ms. KRANINGER. The decision is mine to make, based on, of course—

Mr. MEEKS. I am not questioning that. The question is—

Ms. KRANINGER. I guess I would question the use of the word “overrule,” then, Congressman.

Mr. MEEKS. The question is—

Ms. KRANINGER. Because that implies that there is an action that is taken—

Mr. MEEKS. —did you go against—

Ms. KRANINGER. —that is being reversed.

Mr. MEEKS. —what the legal division recommended?

Ms. KRANINGER. There was a robust discussion that many staff provided info on.

Mr. MEEKS. Let me try it one more time, because this is a yes-or-no answer. The legal division came up with an opinion, right, that they presented to you. Doing their job, they presented you with their opinion, right? That is their job.

Ms. KRANINGER. I wouldn't say—again, as a factual matter, the enforcement attorneys bring these recommendations forward—

Mr. MEEKS. Did they present you their opinion after they did their work? Yes or no?

Ms. KRANINGER. The enforcement attorneys do present the case—

Mr. MEEKS. So, it is a yes. What is so difficult about—

Ms. KRANINGER. —and it is my decision.

Mr. MEEKS. Is it difficult to say yes? So, they did.

Ms. KRANINGER. The question about the legal division is the part that is confusing, sir.

Mr. MEEKS. You looked at it and you decided that you didn't want to do it because you had the authority to, and others that you listened to, you had the authority and you said, well, I am not going to do that. I am going to do it a different way. You are the boss. You are the Director. You are there. That is what you did. So just say yes, because that is what you did. Because then the next question would be, when you do that, okay, what—now this is not a yes-or-no question, it gives you a chance. I am trying to be fair here, but you won't answer yes or no.

So what factors do you consider when deciding consumers deserve compensation, when the Consumer Bureau concludes that they have been cheated? What factors do you consider?

Ms. KRANINGER. Absolutely. There are a variety—

Mr. MEEKS. I have wasted all this time to get—

Ms. KRANINGER. Thank you, Congressman. A variety of factors are weighed when we are seeking justice and resolution in every particular case, including, certainly, the consumer harm that has been done, our ability to quantify that, and our ability to identify the consumers who have been harmed.

The concept of disgorgement also comes into play. When you take the case of Enova, as has been discussed here, the funds that were taken in an unauthorized manner were actually funds that were owed by the consumers, and that is something that the consumers did not—

Mr. MEEKS. Let me just conclude with this.

Ms. KRANINGER. There are a number of factors that are weighed in the process.

Mr. MEEKS. I have 8 seconds. Let me just conclude with this. Enova offered \$1.6 million to consumers and you did not accept it, so that seems clear. And the fact that going into this transparency and accountability—I am out of time. I yield back.

Chairwoman WATERS. The gentleman from Florida, Mr. Posey, is recognized for 5 minutes.

Mr. POSEY. Director Kraninger, I regret this committee began with a lot of partisan sniping directed at you by the Majority here, and I regret even more the denigration of you personally by members of this committee. I think if I ever called a witness before this committee “totally worthless,” I would probably be asked to step aside from this committee. I think that is a new level of low behavior in this committee, and I regret that the Chair does not enforce the rule of decorum in any way whatsoever.

Your predecessor, of whom they seem to be speaking so gleefully about today, appeared before this committee several times. You should know the words “yes” or “no” were not in his vocabulary, and I think he set a new level of bureaucratic petulance, arrogance, and defiance. I asked him one question, and he didn’t have the answer at hand with him, so he said he would get back with me. Over 190 days later, I still did not have it. If he ever found anyone under the jurisdiction of your agency that tardy, they would be automatically assumed to be terribly in default, in any number of ways, and I can’t imagine the penalties that there would be.

But there really does seem to be a double standard here, and because the Chair cut you off in your opening statement, and a number of members have asked you questions and not given you a chance to answer them, I would like to yield such time to you, as you might like to respond to some of the things. Please don’t ask them, the men, if they still beat their wives. That is the kind of questions they have been asking you, and it really shouldn’t be asked in this committee. But anything else you would like to say, I would be happy to yield you the time.

Ms. KRANINGER. Thank you, Congressman. I agree with you that there are not very many yes-or-no questions asked in a forum such as this that actually have a yes-or-no answer. So the opportunity

to elaborate a little bit, to provide the context that gives a better answer, a more fulsome answer, a transparent answer, to explain what are complex decisions, I truly appreciate.

And I do think, again, the very nature of the decision in some of these cases, reasonable people can disagree. Reasonable people at the agency disagree. Ultimately, it is my decision, sitting in this seat, as I have a case presented to me, what the facts and circumstances are. And many of you have participated in negotiated settlements or lawsuits and litigation. We have to think about the resources that are going to be applied if we can't reach a negotiated settlement, and end up going to court. Those are attorneys who are now spending their time trying to resolve that particular case, carry that forward for years, potentially. And in the meantime, we also have to think about what we can do to just move through that expeditiously to get justice, because that is what we are looking at in each case. So, thinking about the mix of restitution, of penalty.

I know the committee is focused on two particular cases in the report that they issued, that I haven't had the chance to review yet, and I look forward to seeing what their conclusions are. But we have actually settled 19 cases in the last fiscal year, many of which did, in fact, include restitution for consumers, and some of which did not. And, in fact, as we judged that the entity had no ability to pay, a civil penalty of \$1 was levied so that we could—we used the civil money penalty fund that Congress provided to us to provide restitution to consumers. For example, in the *Corbett* case, the case that I mentioned in my opening statement, we did, in January, levy a civil penalty of \$1 on Mr. Corbett, and since that time we have given \$9 million in redress to veterans who were harmed by his actions.

And so, that is the opportunity that I get to highlight here with the time you have given me here, sir, so thank you.

Mrs. WAGNER. Will the gentleman yield?

Mr. POSEY. For 20 seconds.

Mrs. WAGNER. I just want to reiterate, following up on your point, Mr. Posey, that Clause 1(b) of Rule 17, House Rules, requires that Members confine their remarks to the matter under debate, avoiding personality. Impugning a Member's motives or implying a lack of intelligence, calling someone "absolutely worthless" is not consistent with the principles of decorum, and I hope that the Chair will ensure the debate is consistent with the standards and history of this committee.

I thank the gentleman for yielding.

Mr. POSEY. I thank you for yielding back.

Director, are your stipulated settlements a matter of public record, unlike the Obama Administration's Justice Department?

Ms. KRANINGER. Yes. Our settlements are public.

Mr. POSEY. Thank you.

Chairwoman WATERS. I recognize myself for a point of personal privilege, to respond to Mr. Posey's comment about my actions as Chair. First of all, I do not believe there was a breach of order and decorum, and the Director is not a protected class. And I believe that the remarks were directed to the Bureau.

Mr. HUIZENGA. Yes, we agree that the CFPB is one of those.



Chairwoman WATERS. The gentleman from Missouri, Mr. Clay, who is also the Chair of our Subcommittee on Housing, Community Development, and Insurance, is recognized for 5 minutes.

Mr. CLAY. Thank you, Madam Chairwoman, and welcome back, Director Kraninger. Recent data released by the Federal Reserve Bank of New York revealed the racial disparities in student loan debt. Based on data from the country's 10 most segregated metropolitan areas, majority-minority neighborhoods had significantly higher student loan default rates. For example, in Milwaukee, the default rate in majority-minority neighborhoods is 4 times greater than the rate in majority white neighborhoods.

The Consumer Bureau's 2017 Fair Lending Report indicated that the Bureau prioritized student loan servicing, but its most recent Fair Lending Report for 2018, issued under your leadership, indicated that the Consumer Bureau did not identify student loan servicing as a priority.

Director Kraninger, given the significant racial disparities in student loan and overall student loan debt, why is student loan servicing no longer a fair lending priority?

Ms. KRANINGER. Congressman, thank you for bringing this study to my attention. It is not something I have seen, and I would certainly be interested in going back to look at it.

I'm also interested in understanding if they have found any corollaries to that racial disparity, whether it was also based on income or graduation rates, because we know the default rates are very much tied, certainly, to graduation rates and other factors. And so, if there is new information from that study, I look forward to looking at it.

With respect to all of the different markets where fair lending laws apply, they continue to be areas where we are engaged in examination and enforcement actions.

Mr. CLAY. Will the Bureau address the racial disparities in student loans?

Ms. KRANINGER. Certainly, compliance with the law in general is something we absolutely are enforcing, and looking at this study and other areas where we can learn from that. I look forward to that.

Mr. CLAY. The Bureau's spring 2019 report to Congress stated that the Bureau wants to ensure that the data collection and reporting requirements established in the 2015 HMDA rule, "appropriately balanced the benefits and burdens associated with data collection and reporting."

I would like a simple answer, yes or no, do you agree that robust HMDA data is essential to the Consumer Bureau's enforcement of fair lending laws?

Ms. KRANINGER. Congressman, I guess I want to make sure I understand how you are using the word "robust." But if it is in a typical statistical mode of how robust data is used, then yes, it is a disclosure law.

Congress required that HMDA data be made available and transparent, and that is something that we are committed to continuing to do and have done.

Mr. CLAY. And as you know, the data reveals patterns in lending practices. You know that, right? And so when you look at these disparities, do you have a plan on how to respond to it?

Ms. KRANINGER. The data, sir, I would say is in and of itself certainly useful in that conversation and we do analytics on the data. It is not dispositive. There is a lot of back and forth that happens with entities, even in examining for compliance with HMDA to understand what the data actually tells us. But it is certainly useful.

Mr. CLAY. Okay. But then, that will take us to the next logical question, how can you protect consumers from discriminatory lending practices if you reduce transparency and the amount of information mortgage lenders have to disclose? How is this proposed rollback a balanced approach?

Ms. KRANINGER. There is a balancing test even in the original 2015 rulemaking and, as you know, both by congressional action and the Bureau's action this is something that is an ongoing review and an ongoing rulemaking around how we balance that burden, particularly on smaller entities, and how we ensure that there is transparency around the mortgage data that is provided.

That is something that we are looking at very carefully. But it is not the only activity that we are engaged in to promote fair lending and address discrimination in the marketplace.

I certainly am using both our education tool and our enforcement tool, looking at that data carefully, and working with industry, many of whom want to also address these issues.

Mr. CLAY. Thank you.

Chairwoman WATERS. The gentleman from Missouri, Mr. Luetkemeyer, is recognized for 5 minutes.

Mr. LUETKEMEYER. Thank you, Madam Chairwoman.

Welcome, Director Kraninger, and, obviously, my first question is going to be about Current Expected Credit Losses (CECL). This subject is extremely concerning to me and has my full attention, and I have discussed this with you before.

To me, I think it is vitally important that CFPB be engaged in this as well because I think if this rule is implemented to the full effect that it could be, it would have a dramatic effect, I think, on the availability of affordable home loans for low- and moderate-income individuals, which I think should be of grave concern to you.

So my question to you is, we discussed this before from the standpoint, I believe, of there needs to be a study done. I think the Office of Financial Research is ready to do this study.

If the Financial Stability Oversight Council (FSOC) would request such a study, hopefully it would happen. You sit on FSOC. Would you be willing to make such a request of the FSOC committee?

Ms. KRANINGER. Congressman, as you noted, we have talked about it. I appreciate where you are coming from on it. There do seem to be a lot of different opinions on this.

But I can promise you I have talked to my colleagues about it and will continue to, and I have not had the chance yet to bring it up to the head of the Office of Financial Research. But I have talked to others in terms of the study that you are seeking.

Mr. LUETKEMEYER. In earlier testimony, you made a comment that it was important to study information to make effective rules,

and so this, to me, just makes sense. And I would appreciate your continued support of that.

A number of comments have been made this morning about the constitutionality of the CFPB and arguments about fixing it, how you fix it, whatever you do.

It is really kind of interesting to me that my good friend, Mr. Scott, and I have a bill that we have asked the Chair to bring to the Floor which would actually address one of the issues that we brought up this morning.

Yet, we have yet to have that hearing, and I would respectfully request such a hearing of the chairwoman because I think to not do that would be hypocritical, to not have a hearing from the standpoint that everybody in a bipartisan fashion believes this is an issue that needs to be brought forward, and to have a hearing on.

Yet, here we are, 9 months into this Administration, and this committee has yet to have this hearing.

With that, I know one of the other comments—I think it was Mr. Lucas who mentioned minutes ago that with regards to the payday rule, I think the National Automated Clearing House Association (NACHA) has had some rule changes that they put in place, and I think you made the comment a minute ago with regards to sort of letting everything sit on hold, to see how it all works out.

I would hope that you are taking those rule changes into consideration as you work through this process.

Ms. KRANINGER. Yes, Congressman, we are looking at new information. We obviously got a lot of comments back in response to the proposed reconsideration rule, as well as things that are changing in the market in general and activities the States are taking in this space. So, all of that information is useful.

Mr. LUETKEMEYER. In the fall of 2018 Unified Regulatory Agenda, the Bureau announced it was considering whether rulemaking or other activities may be helpful to further clarify the meaning of “abusive acts or practices” in the Dodd-Frank Act.

In addition, in June of this year the CFPB held a symposium on the definition of “abusive acts or practices.” What was your takeaway from the symposium and what was the response from the stakeholders?

Ms. KRANINGER. It was a very robust discussion, as you can imagine. Hours of back and forth and conversation about whether the statute stands on its own and whether there is a need for further either guidance or rulemaking or other action to further clarify the language in the statute.

That is something that I am taking a look at now and the staff is taking a look at now to take some follow-up action out of that symposium. So, nothing at this particular moment to relay, but it is an active issue that we are looking at.

Mr. LUETKEMEYER. Thank you. With regards to the debt collection rule, how will consumers who are affected by the collections industry benefit from the changes in the proposed debt collection rule?

Ms. KRANINGER. I’m sorry. How are collectors—

Mr. LUETKEMEYER. How will consumers—

Ms. KRANINGER. Oh, consumers.

Mr. LUETKEMEYER. —who are affected by the collections industry benefit from the changes in the proposed debt collection rule?

Ms. KRANINGER. Thank you for the question, Congressman.

The clarity that the rule provides is what we are really proposing, and there were 162 questions that we asked for comment on. It is an incredibly challenging area, actually, to provide a bright line rule test on.

I know we will be talking, I am sure, about the frequency of contact and the mode of contact. Those were things that we thought we could actually provide some clarity on. But that is not the only thing that characterizes harassment under the FDCPA.

And so, the ability to set a bright line rule, perhaps, for what words are in the communication that is, again, something that we thought was beyond our ability to put clarity into place.

But the goal of the rule overall and the rulemaking effort and the assessment we are making of all of the comments is really around providing clarity so both consumers and collectors understand what the rules are.

Mr. LUETKEMEYER. Thank you. I yield back.

Chairwoman WATERS. Thank you.

The gentleman from Georgia, Mr. Scott, is recognized for 5 minutes.

Mr. SCOTT. Thank you, Madam Chairwoman.

Director Kraninger, we have a national crisis, and it seems to me that your agency is the centerpiece, should be the centerpiece, for our nation to really put forward meaningful action to solve, and that national crisis is this: financial education of the American people.

Did you know, Director, that only 17 of the 50 States' school systems require a course for their students in financial education, personal finance, just the simple things?

Is it any wonder that right now, we have 58 million unbanked and underbanked folks? We have our young people without the knowledge of how to navigate our financial system, and as a result of that, predators are out there just waiting to pounce.

And so, I want to start by letting you know that you cannot have consumer financial protection without consumer financial education. The predators are out there.

That is why we have these problems. It is a tragedy that only 17 out of 50 States require the kids to have a course in financial education out of 50.

And so, you being the Director of this agency should be at the forefront, and I want to start off by asking you, can you describe any financial protection, financial education programs that you are currently working with?

Ms. KRANINGER. Absolutely, Congressman, and I share your passion on this topic. It is an important one. We have tremendous capabilities inside the Bureau, and education is a key facet of the tools that Congress gave us. It is a pillar of my tenure and will continue to be.

One of our premier programs is actually called, "Your Money, Your Goals," and it is something that we are continuing to build upon, working with financial educators across the country, putting

it in library systems, getting that out. So, that is a key program for us.

Mr. SCOTT. Okay. I only have 2 minutes, and the chairwoman brings that hammer right down.

I am working on a piece of legislation, Director, that would give the CFPB grant-making authority. We don't put resources for this to reach out, to work with these school systems.

We should mandate for all 50 States' school systems to teach our young people how to handle their money, how to make it in what is the world's financial system, or we won't have the best financial system if we don't bring our younger generations along.

So, it would give you the grant-making authority to provide funding for a flexible education program. The CFPB would be able to work with schools, with library systems, and with nonprofits to provide targeted education instruction on a range of critical topics that provides the most value for consumers.

And I want to ask you, would you partner with us in this? We are bringing forth this powerful piece of legislation. This is the richest country in the world.

What better place to put grant power and grant authority? You have the money and if you need more for this worthy cause, to educate the American people, to keep our people out of the grip of these predatory lenders—they are going after our young people. They are going after them because they know technology in our financial system is moving so fast.

So, would you partner with us? Thank you, Madam Chairwoman. I yield back. You have the floor, Director. I am looking to you as a partner. Thank you.

Chairwoman WATERS. The gentleman yields back his time.

Mr. SCOTT. Yes, ma'am.

Chairwoman WATERS. The gentleman from Michigan, Mr. Huizenga, is recognized for 5 minutes.

Mr. HUIZENGA. Director Kraninger, I am going to rewind the tape here a little bit. I know that alienates a number of the younger staff. Tape is what we used to record things on and it is time to do a little rewind.

Please do not take the comments of one of my colleagues as the belief of this committee. That comment, by the way, was directed at you personally, not at the Bureau writ large, as the Chair laughingly tried to characterize it.

And I can tell you that having sat in this chair and in this committee with, back then, Director Warren as she was creating this entity, and then with Director Cordray, if those comments were ever directed at them personally like that, there would be rioting out in those halls right now, and that is just—you, frankly, deserve an apology, and I hope my colleague from New York does do that and does the right thing.

I also want to rewind a little tape. I am pretty sure that Director Cordray's middle name was "Stonewall." It was probably one of the least transparent hearings that we would ever have when he would come in, and it lends itself to a number of the other concerns that many of us had with the actions of the CFPB.

There are two things. There is the structural question—how it is constituted and put together—and then also, what were its actions?

I had direct involvement with one of those when the CFPB, without announcement, went after a small land title company in my district called Lighthouse Title. And I won't impugn him and risk his career on the other side of the aisle by naming him, but one of my colleagues on the other side, after a month of not even getting a return phone call from the staff at the CFPB about our concerns, offered to intervene, put me on the speaker phone while he made the call to the CFPB to try to help resolve this because Lighthouse was going to be put out of business by the CFPB, not because they violated a rule, not because they violated the law, but because the CFPB decided to put a letter out that they didn't like the actions, even though it was legal, they just decided that no longer should this company act in this way and they wanted to set a precedent for everybody else.

That gets to the very heart of the issue that we have with what is the constitutional structure of this organization? Is congressional action necessary to ensure CFPB accountability? Because right now, there is none.

Many of us believe that it was an out-of-control and unaccountable organization when it was first created, and I believe that you had to come in and do some serious repair of relationships between both the regulators and the regulated with consumers and their interaction with those that you regulate.

So, I want to give you an opportunity to maybe lay out what you think are those congressional steps that could be put in place to hold the CFPB properly accountable.

I will, by the way, point out that many of us on this side of the aisle pointed out to our colleagues on the other side of the aisle that at some point, that worm was going to turn.

When you had an unaccountable organization with a Director that not even the President could remove, that was going to be problematic, and that is exactly what it turned out to be.

And I appreciate your efforts in trying to put this back in a reasonable box. But the time is yours.

Ms. KRANINGER. Thank you, Congressman.

I will note that it is, certainly, the purview of Congress and now with a cert petition before the Supreme Court for the court to look carefully at the removal clause associated with the Director, and that is where I have made my view very clear that I do believe that that provision is unconstitutional and needs review and needs to be addressed and settled.

So I am hoping that takes place fairly quickly. The important work of protecting consumers, the important work laid out in the statute that gave the Bureau its mission, our efforts to educate consumers, to create regulations that are clear rules of the road for the regulated entities, to engage in the supervisory conduct that allows for compliance by entities that are seeking to, again, provide responsible products and services to consumers, that is important, and our enforcement actions. And we will continue to do those.

Mr. HUIZENGA. All right. And in my last second, I believe that fiscal oversight needs to be returned to Congress with this organization as well.

With that, I yield back.

Chairwoman WATERS. Thank you.

I recognize myself to respond to the gentleman's criticism of the gentlewoman from New York.

The gentlewoman's remark was directed, in my view, to the CFPB, not to the witness.

The gentleman from Texas, Mr. Green, who is also the Chair of our Subcommittee on Oversight and Investigations, is recognized for 5 minutes.

Mr. GREEN. Thank you, Madam Chairwoman.

Madam Director, should the CFPB place more emphasis on protecting financial institutions than protecting consumers?

Ms. KRANINGER. Congressman, our mission is protecting consumers.

Mr. GREEN. Should it place more emphasis on consumers?

Ms. KRANINGER. Our mission is to protect consumers.

Mr. GREEN. May I take that as a yes?

Ms. KRANINGER. Yes, sir.

Mr. GREEN. Thank you. If that is the case, let us look at the curious circumstance of Capital One.

In 2012, Capital One added payment protection to the accounts of their consumers without consent. Sterling Jewelers, in 2019, did a similar thing.

When the CFPB engaged in taking corrective action, Capital One paid \$140 million in restitution. Sterling, on the other hand, paid zero in restitution.

Both engaged in similar activities. One paid a very, very substantial amount to consumers by virtue of the Bureau's actions, and in the Sterling case, the Bureau did not ascertain the number of consumers who were harmed, the amount of restitution that should be paid, and, in fact, made a zero amount of restitution applicable.

It just seems to me that if this is the case, you are putting the financial institution before the consumer. How do you rationalize going from \$140 million as restitution to zero in restitution?

Ms. KRANINGER. Congressman, I am presuming that the comparison that you are making is laid out in the report that the committee issued as we were just starting the hearing.

I haven't had the chance to look at it. I very much look forward to looking at it and seeing what conclusions that you—

Mr. GREEN. Well, in that case, let me continue. Let me continue if you haven't reviewed it.

One would assume that as the head of the CFPB, the person who makes these decisions—you indicated earlier that these are your calls—I have to assume that this zero amount of restitution was your call.

The \$140 million occurred before you arrived. So if you recommended zero restitution, I find that quite egregious, to be quite candid with you. A zero amount of restitution when you have consumers who have been harmed and, clearly, they are owed restitution.

Without their consent, they had this payment protection added to their accounts. This is unacceptable.

But let us just look at why it is unacceptable. It is unacceptable because these large institutions will simply build in the cost of doing business these penalties, and if they have zero, then they

really have a bonanza, because these large institutions are paying billions in fines.

Over the last 10 years, I show where one lending institution paid \$76.1 billion in fines.

So what you are doing is giving them a license to continue without penalties. At least if they had to make the restitution, that would be something to deter them.

But under your watch, no restitution. I find that unacceptable.

Ms. KRANINGER. If I could, Congressman, there was, in fact, a penalty in the Sterling case.

Mr. GREEN. Not just yet, please. I have 39 seconds and I gave you the opportunity to explain.

Let me ask you one other question. Do you believe in the concept of testing? Do you think that that works in acquiring empirical evidence?

Ms. KRANINGER. Congressman, I believe you are referring to matched-pair testing?

Mr. GREEN. Yes, ma'am.

Ms. KRANINGER. Okay. It is something that the Bureau does utilize.

Mr. GREEN. Do you believe that is effective?

Ms. KRANINGER. It is one capability of our—

Mr. GREEN. Is it one capability that is effective? Can you say that it is effective in any way or do you believe—

Ms. KRANINGER. It is one that we use so—

Mr. GREEN. Okay. So you believe that it is effective? Is that a yes?

Ms. KRANINGER. In certain circumstances, yes. In the right circumstances.

Mr. GREEN. Okay. Thank you very much. I yield back.

Chairwoman WATERS. The gentleman from Kentucky, Mr. Barr, is recognized for 5 minutes.

Mr. BARR. Thank you.

Director Kraninger, I first want to address a comment made by my colleague from New York earlier in this hearing. When she said that she believed that you had disrespected Congress for having the audacity of taking the position that the Bureau's structure is unconstitutional, as if the Executive Branch has no independent responsibility to assess the constitutionality of its actions, let me just say on behalf of me and my colleagues, I want to thank you for respecting many of us, Members of Congress, who believe that the Bureau's structure is unconstitutional and apparently the en banc panel of the Fifth Circuit Court of Appeals agrees with you, Director Kraninger, and agrees with those of us in Congress who believe that it is unconstitutional, and disagree with the gentlelady from New York, as they have held that the structure of the FHFA is unconstitutional because it shares the same defects in its structure as the Bureau.

I would also just make the editorial comment to my colleagues on the other side of the aisle, that to the extent that they are frustrated with or to the extent that they disagree with some of your decisions, or worse, to the extent that they refer to you as worthless, in violation of House Rules, I would invite them to end their stubborn opposition to my legislation that would bring the Bureau



under the congressional appropriations process. That would actually bring much-needed accountability to the Bureau.

Instead of blaming you, I would respectfully submit that they ought to blame themselves because they created an agency, they deliberately designed an agency to elude congressional oversight or accountability.

My question, Director Kraninger, to you, though, is about UDAAP. As you know, Dodd-Frank gave the Bureau authority over so-called unfair, deceptive, and abusive acts and practices, and while the concept of “unfair or deceptive” has long histories and regulatory track records, the “abusive” element is causing some confusion and uncertainty.

In short, the absence of due process about how lenders can comply with UDAAP will result in fewer choices for consumers, less competition, higher prices, and ultimately less access to credit for borrowers.

Besides the June symposium, what progress have you made on clarifying the definition of “abusive” under UDAAP?

Ms. KRANINGER. I will say that the symposium was the starting point of that conversation, as you noted, Congressman, and we received statements from the experts on it.

We benefited from their conversation and we are looking at that very carefully now to decide what the next steps are. I don’t have anything to share with you today specifically on that.

But the record is clear in terms of what that conversation was, and is something that I am weighing carefully.

Mr. BARR. Director, I would encourage you to expedite that, because due process is counting on you.

The small-dollar payment provision—when a lender places a loan in collections that can harm the borrower and limit opportunities for credit rehabilitation—are you concerned that lenders could react to the payments provisions of the rule by proceeding straight to collections following the second unsuccessful payment attempt?

Ms. KRANINGER. Actually, this is the first time I have heard that concern raised. I know there are other concerns that have been raised about the payments provision.

It is currently stayed by the court, so is not in effect yet. We also have petitioned to look at it but, largely, again, are reconsiderations associated with the underwriting provision.

Mr. BARR. I appreciate you considering that potential unintended consequence.

With respect to debit cards in the payments provision, the provisions that I understand that would apply when a payment is made through a debit card, even though this method of payment results in no charge to a consumer when there is insufficient funds, would you consider revising the rule to exclude debit cards since there is no harm to consumers in the debit card context?

Ms. KRANINGER. We are certainly looking at the petition around the payments provisions but found that the underwriting provisions had a greater concern in terms of the legal basis and the factual basis for it. So, that is why that is the reconsideration part.

Mr. BARR. Again, take a look at that, because I think there may be some well-intended drafting of this but some unintended consequences.

Finally, disparate impact—as you know, this summer HUD published a proposal to revise its disparate impact rule under the Fair Housing Act. The HUD-proposed rule established a five-part test to assess claims of disparate impact in compliance with the inclusive communities decision.

In its fall 2018 rulemaking agenda, the Bureau stated it was considering future rulemaking on the application of disparate impact theory under the Equal Credit Opportunity Act.

The spring 2019 rulemaking agenda did not mention this effort. Does the Bureau plan to examine how it evaluates disparate impact claims in order to harmonize the standards with those of HUD?

Ms. KRANINGER. I can tell you, Congressman, that we have disparate impact on the symposia agenda and we want to have that conversation.

Mr. BARR. Harmonization with HUD would be helpful.

Thank you. I yield back.

Chairwoman WATERS. The gentleman from Missouri, Mr. Cleaver, who is also the Chair of our Subcommittee on National Security, International Development and Monetary Policy, is recognized for 5 minutes.

Mr. CLEAVER. Thank you, Madam Chairwoman.

I want to talk collections. ProPublica, in 2015, conducted an investigation into collection lawsuits, and it was very troublesome because one of the things they discovered was that debts in most African-American communities were, on average, 20 to 25 percent smaller than the debts in predominantly non-minority communities.

And you had nothing to do with creating that, but I want to know if there is anything afoot in the CFPB to address that issue and reduce the pain it is causing.

Ms. KRANINGER. Congressman, you are raising an important issue. Your colleague mentioned the study around student loan default rates and a racial disparity issue there.

This is certainly something that we need to understand and what, really, are the factors associated with that.

For example, I haven't had the chance to look at either study, so now I have another one to look at, but with the understanding of what other factors were involved in that in terms of income or other things that were associated with those challenges.

I would say on debt collection, I do believe clear rules for collectors are important, and that is why we are engaging in rulemaking and modernization of the Fair Debt Collection Practices Act (FDCPA).

Mr. CLEAVER. Yes, some of this is—I don't think people had a meeting and said, let us figure out a way to do minorities in on collection lawsuits. Nobody had that meeting. Some of this stuff is institutionalized and so we are not conscious of it.

And so when you were saying that you want to look at some extenuating circumstances or some other things that may be at play, that is one of the things that I think ought to be involved in the way you look at that.

But equally disturbing, at least to me, is that the highest rate of garnishments are among workers who earn between \$25,000 and

\$40,000, and here, again, you know that same report—this is the ProPublica report—is dealing with things that happen all the time, over and over and over and over again.

I think a deep dive is needed into doing that, and so my question is, will you look at that but also look at the fact that it may take something else to fix it other than just saying, well, this happens on a cold day and people are nervous because it is cold, and so it slips in there. There are some other things at play.

One of the other things is I am on the Congressional Modernization Committee, as is the newest member of this committee, Mr. Timmons, and one of the things we have agreed on—the Democrats and Republicans—is that we pay our staffs insufficiently, and one of the recommendations that I am 100 percent behind is when we make our recommendations, we will be figuring out a way to pay the staff more money.

Everybody agrees that we don't pay them sufficiently and it is difficult to keep good staff.

Now, I want to talk about your staff and, I mean the political appointees. I know some of them and they are worth what they are making. I am not upset with what they are making. I wish we had the had capacity to pay our staffs that well.

But I am wondering about the morale of people—you know, when you bring people in, give them a higher salary, and maybe even give them your ear a little more than you do the people who have been there since the beginning.

Can't you understand or can't you see that that could have created a morale problem? I mean, just look at the people who resigned as a result of that.

One of them, the Student Loan Ombudsman, resigned, the Assistant Director resigned.

Ms. KRANINGER. Thank you, Congressman, because I can tell you that the morale of the employees is important. It is important to the functioning of the agency so that we can carry out our mission.

And so as a leader, that is something that is important to me. I have made it a huge priority, setting the right staffing levels. I challenged managers to articulate what their needs are and hiring people at the right levels and bringing them in to make them part of the process.

So my engagement with the staff at all levels is critically important to me in my leadership.

Chairwoman WATERS. The gentleman's time has expired.

Mr. CLEAVER. I yield back.

Chairwoman WATERS. The gentleman from Colorado, Mr. Tipton, is recognized for 5 minutes.

Mr. TIPTON. Thank you, Madam Chairwoman.

Director Kraninger, thank you for taking the time to be here.

It's an interesting conversation today, and I think I would like to start with, should the CFPB stay within the constraints of the law?

Ms. KRANINGER. That sounds like a trick question. But yes, I think the answer is yes to that.

Mr. TIPTON. No trick to it. You know, I think that is something that is important. I think that there has been certainly a lot of concern, particularly from our side of the aisle, that the CFPB has

overreached in so many instances, and to be able to have those confines under the direction of Congress, is something that is achievable.

When we are talking about being able to identify consumers who have actually been hurt, I think we can all agree we would like to make sure that there is adequate restitution.

But I would like to know if you have experienced instances in which you suspect maybe a company's behavior has harmed consumers, but being able to identify those specific consumers, the amount of time it may take—have you had those types of circumstances where it has been difficult?

Ms. KRANINGER. Absolutely. As we look at each case that comes forward and the facts at play and our ability to identify and quantify the harm, identify the consumers who have been harmed, that is part of every case.

Sometimes, we are able to do it, and other times, we are not. But we are seeking the best outcome in the interest of justice, using all the tools that Congress gave us including civil penalties, injunctive relief, and restitution.

Mr. TIPTON. So given that sort of basis, how are you going to provide restitution when you can't identify who has been harmed specifically?

Ms. KRANINGER. That is truly a challenge, and one that we have had in some of the cases, frankly, that the committee is highlighting.

But where we can, we are absolutely providing redress. I would also note, too, that the supervisory process supports this.

There are a lot of companies that are coming forward self-identifying issues, and providing redress to consumers. That is something that is not out as a public figure or amount of money but is hugely important to the functioning and proper functioning of the financial services processes.

Mr. TIPTON. Great. Thank you.

In your time as Director over the Bureau you have talked at great length about the need to be able to use all of the tools at the Bureau's disposal to be able to protect consumers and regulate the financial institutions.

Can you explain what you have done, maybe in a little more detail, to be able to equip your staff and examiners during the efficiency process and the exams?

Ms. KRANINGER. Yes, Congressman.

This is important to me, as I came in as Director and looking at, really, a fundamental important tool of supervision, having the examiners with the right training and engagement with the entities.

I have set the tone that that tool is really about setting that culture of compliance. We point out issues to companies, and those companies, unless we are talking about violations that require further action, are at liberty to decide what they want to do with the recommendations that we make and the observations that we share.

And that is what you would expect responsible companies to do, is to consider that in their own business models and activities and engage with us.

And so that is something that we are really looking at closely, making sure that we are focused on the right actors, making sure that we are using data that we have in the process effectively to limit the on-site time that we have, which we know is a huge resource consideration for both the financial entities and ourselves, and to make sure that we are doing that the best way we can.

Mr. TIPTON. One thing I have always been interested in is being able to not have a one-size-fits-all. We have a very dynamic economy, with different business structures.

Are you pursuing ways to be able to tailor rules, the examination process, to be able to meet different needs of different size businesses?

Ms. KRANINGER. Definitely, and it is a work in progress, I can tell you that, when it comes to the examination process.

But it is something that we are really working our way through also so we can be more agile so that we can address risk that we see in the system and be responsive to it. That is important.

Mr. TIPTON. And maybe as a final follow-up here, one thing I think we always need to be doing is always examining the impacts after the fact.

When we have had a rulemaking, do you have a process in place to be able to see if it is working? Is it achieving the goal? Is it too cumbersome? Not aggressive enough? Is that a policy that you are pursuing?

Ms. KRANINGER. Absolutely, and I can tell you that Congress gave us a key mandate in that area, and that is to assess our rulemakings 5 years after they become effective.

We are really building that into the up-front process. As we are considering a proposed rule, what data do we need to assess that 5 years later? What is the baseline? Well, if you don't have a baseline you have nothing to compare it to after the fact.

Mr. TIPTON. Great. Thank you for being here.

Chairwoman WATERS. The gentleman from California, Mr. Vargas, is recognized for 5 minutes.

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

And welcome, Director. It is good to see you again.

I do remember that you are a Jesuit product, and as a former Jesuit, I am not going to say anything harsh at all to you. It would be breaking protocol. So, you can count on that.

I do have a long history, though, here, and I do recall conversations from my friends on the other side with the previous Director when they were actually screaming at the top of their lungs and calling him names.

If you go back and look at the record, it was there, too. I didn't think that that was appropriate so I am not in favor of any of that.

I do want to ask you, though, some questions, and maybe some tough ones. The issue of Asset Recovery Associates, Inc., the company—you signed a consent order that only consumers who affirmatively complained about the company's misrepresentation were eligible for redress.

This is after your Bureau found that Asset Recovery misrepresented itself to the consumers. So should the burden be placed on consumers to proactively complain when they are cheated by debt

collectors, banks, or credit card companies, or other financial services in order to get relief?

Do they have to do that? Isn't that what you guys do?

Ms. KRANINGER. Congressman, I will say this was a negotiated settlement. We do have to consider the resources that we need to apply to carry it forward and the successful potential outcome of litigation.

In that particular case, we did not have any evidence that we could rely upon because some of these statements—I should say all of these statements—were verbal.

And so the ability to, again, identify the consumers who were harmed and get them restitution, this was the recommendation that came forward as to how to do that in this case. Each case is going to be different.

Mr. VARGAS. Okay. Fair enough.

Are you aware, though, of any other prior settlements that the Bureau entered into that required the consumers subjected to illegal debt collection practices to have previously complained to be eligible for relief?

Ms. KRANINGER. I am not aware of other cases that had that exact fact pattern. But I think we will be looking at each case based on its own facts and the merits of the case and the opportunities we have to seek justice in all the forms Congress gave us.

Mr. VARGAS. Okay. And I know you have a tough job. But I have to say that the Enova case does seem strange to me. I know that my friend on the other side said that, well, you can't identify consumers.

It is kind of hard to make them whole if you don't know who they are. But in that case, you did know who they were. There were 6,829 of these consumers.

So, there is not a million of them. I mean, they are an identifiable group. And yet, you decided not to give them any redress. Why is that?

And I know that you jumped around one way or another. But I have to say that one does seem a little bit disturbing.

Ms. KRANINGER. I understand, Congressman, where you are coming from on that one. But I would say what weighed the decision in that case was that the consumers did, in fact, owe the debt.

That was not something that was in question. And so the opportunity to make sure that we got injunctive relief against that entity as well as disgorgement to discourage them from doing that again and taking the profits that they made from that was the approach that was taken in that case.

Mr. VARGAS. Okay. And just, lastly, I would say this: I hope that you are a little more aggressive when it comes to discrimination.

Discrimination does exist, and I did notice that under your leadership, you haven't gone after those cases as aggressively as prior Directors have.

So, I hope you do take a look at that. I mean that honestly. I think that there is a lot of discrimination that is not addressed and I think you are in the perfect position to do it, and I hope you think about that.

Ms. KRANINGER. Absolutely, and thank you for raising it, Congressman. Discrimination is abhorrent in every case where we find it and it certainly is a responsibility I take seriously.

Mr. VARGAS. Okay. If you weren't a Jesuit product, I would be much more aggressive. But I can't. It would mean breaking all sorts of protocols.

But, again, I appreciate your work, and I wish you the best. Thank you.

Chairwoman WATERS. Thank you.

The gentleman from Texas, Mr. Williams, is recognized for 5 minutes.

Mr. WILLIAMS. Thank you, Madam Chairwoman.

And, Director, thank you for being here. Back in March, you told this committee that you were a capitalist, and before I start my questions I want to make sure that that is still the case and you haven't been tainted by all the conversations about socialism.

Ms. KRANINGER. Yes, Congressman, I am still a capitalist.

Mr. WILLIAMS. Well, thank you for that. And also, we have had the word, "worthless" thrown around. I want to substitute, "priceless" for it.

And also, I appreciate your being a capitalist, because I, too, am a devout capitalist and I think that competition is the best consumer protection.

I want to read a quote from your Deputy Director, Brian Johnson, who said market activity is a product of competition. Firms competing over consumer dollars must offer products that offer a better value, better quality, or both. The consumer decides.

And consumers can drive information about the product so through these processes, especially as it relates to quality, and Adam Smith the invisible hand of the market is itself a form of consumer protection.

So, Director, do you share this same belief that the Bureau should be encouraging greater competition in a healthy marketplace to protect consumers who do need protection?

Ms. KRANINGER. I do agree, and Congress gave us that task specifically in the statutory language.

Mr. WILLIAMS. Thank you.

As you know, the final prepaid rule went into effect on April 1st, and I have been hearing there is some consumer confusion around mandated online disclosures.

Are you aware of this issue, and are you willing to continue working through this unintended consequence that has come up since the implementation of this rule?

Ms. KRANINGER. I am embarrassed to say I am not aware of what you are referencing, but I will certainly look at that and the effective functioning of the prepaid rule.

Mr. WILLIAMS. We will get with you, okay?

Ms. KRANINGER. Please do.

Mr. WILLIAMS. Section 1071 of Dodd-Frank contains a mandate that CFPB conduct rulemaking on small business data collection.

Now, while I understand the intent of this section, I am concerned, as some are, about the effects this could have on small business lenders and the cost of credit.

So how do you plan on mitigating these potential pitfalls of Section 1071?

Ms. KRANINGER. Congressman, it is a mandatory rulemaking in the law and from that standpoint we are going to proceed with it.

The first step under my leadership is actually hosting a symposium. It is going to take place in a couple of weeks here on November 6th, where we are going to have a conversation around the approaches that we could take to it.

It is very clear from the statutory language that it is aligned with and borrowed some of the concepts from HMDA. So it is a data collection.

I think that is something that we need to look at in terms of, this is not an area where there is a standardized data collection that happens, as you well know, in small business lending.

So looking at that carefully is going to be important. The next step of the process then is the Small Business Regulatory Enforcement Fairness Act (SBREFA) process, so looking at small business impacts as we try to shape a proposal, moving forward, to carry out Congress' direction on this.

But it is something we are going to move forward with but we are going to move forward in a very transparent and deliberative conversation.

Mr. WILLIAMS. Great.

Early this month, the President signed two Executive Orders that will limit the ability of agencies to circumvent Congress and public scrutiny when they are developing burdensome regulations.

A 2018 report by the House Oversight Committee found that of the 13,000 guidance documents issued by Federal agencies since 2008, only 138 had been formally submitted to Congress and the U.S. Government Accountability Office (GAO).

So, Director, how do you plan on continuing to make your agency transparent as you go through various rulemakings?

Ms. KRANINGER. I can tell you, sir, that when it comes to rulemaking and guidance, this is a conversation. I know of Congress' interest.

I have looked at the law and looked at the Executive Orders that have come out on this, and we are committed to being transparent, issuing advance notices of proposed rulemaking, requests for information, inviting the public to comment and engage with us as we are looking to produce rulemakings that affect the marketplace so substantially. That is important.

When it comes to guidance, you have made it very clear in the guidance on guidance, which is an interesting term to have to use. But that is merely an interpretation.

It is not a requirement of law, and so we will continue to make those things clear as we provide answers to industry appropriately that they are asking questions about how to make sure they are in compliance with rulemakings and the law.

Mr. WILLIAMS. Just quickly, you talked about your symposium. What is the biggest takeaway you think the general public can take away from that? I heard it was a success.

Ms. KRANINGER. Thank you. We have had two so far and it really is a commitment to transparency and a commitment to productive



dialogue. Reasonable people can disagree. We can come at the facts from different vantage points.

But agreeing to the facts is also something that I am hoping we can take away from this process, and it has been very helpful.

Mr. WILLIAMS. Thank you.

Main Street America appreciates you. Thank you.

Chairwoman WATERS. I now recognize Mrs. Maloney for a point of personal privilege.

Mrs. MALONEY. Thank you, Madam Chairwoman, for recognizing me for this point of personal privilege.

I just wanted to clarify a comment I made at the end of my questions. I did not intend to say that Director Kraninger was worthless. I don't believe that is the case.

I only intended to echo the chairwoman's point about the Bureau making consumers whole. I didn't intend to disrespect the Director personally, and I am sorry for the confusion that my statement caused.

And I yield back.

Chairwoman WATERS. Thank you.

The gentlewoman from Michigan, Ms. Tlaib, is recognized for 5 minutes.

Ms. TLAIB. Thank you so much, Madam Chairwoman. And Director Kraninger, thank you so much for being here again.

Racial bias in mortgage lending is pretty well-documented. According to the Center for Investigative Reporting's Reveal Project, which examined about 31 million Home Mortgage Disclosure Act records, modern-day redlining persists in about 61 metro areas, including the City of Detroit, which is in my district. It is over 80 percent African American, even though white borrowers got almost the same number of mortgages as Black borrowers in my City, again, despite that they are a smaller percentage.

So the Home Mortgage Disclosure Act, as you know, Director, requires the collection reporting disclosure of information about mortgage lending that can be used to detect potential discrimination, which is really important to the people I represent at home.

So to you, as Director, how important is the Home Mortgage Disclosure Act's role in assessing race as a factor in the mortgage market?

Ms. KRANINGER. It is, certainly, one of the capabilities that we have available to us and we use it extensively.

In terms of the information that is provided, it provides a first stop as we are looking to conduct examinations, which we do a number of fair lending examinations specifically into mortgage entities engaged in mortgage origination servicing, looking at what data was provided, what that data might indicate, engaging in the back and forth with the entity over observations and their responses to that.

So it is certainly useful in the process and an important part of the process.

Ms. TLAIB. The CFPB's data browser unveiled with the 2018 Home Mortgage Disclosure Act eliminated the disclosure reports which provided a more detailed breakdown of racial and ethnicity information by the lender. Is that correct?

Ms. KRANINGER. That the 2018 collection actually provided additional data? Yes.

Ms. TLAIB. No, it eliminated providing that more detailed information about ethnic and racial background.

Ms. KRANINGER. I don't believe that is the case.

Ms. TLAIB. Okay.

Ms. KRANINGER. But I am certainly happy to take that back to understand better where you are coming from, Congresswoman. But I believe that collection was—

Ms. TLAIB. I would love to follow up and see if it is accessible to the public, the information, if you can actually go in there. I think in the last 20-something years, we have been able to, I believe, go back in there and actually see.

So the reports have been available for more than 20 years, easy public access to lender data, including the mortgage data by race, ethnicities, is the entire purpose of the Act or just one—

Ms. KRANINGER. Yes. Okay. I think I understand where you are going now. There is some confusion over the—prior to 2018, the data was more limited in terms of the elements that were collected. But it was publicly available.

With the 2018 data, we have additional fields, including the more detailed ethnicity information, and that is also still publicly available and, in fact, available in a much better manner because it is standardized now across all of the entities that are providing—what advocates and others who use the data used to have to do was go to each individual institution. Now, we make that all available on government websites, so it is something that they can get to.

The question has been around the analytical tool called the Explorer that entities used to use or use, I should say, still—it is still available. It is still up. That is how they accessed the old data.

The new data actually can't be searched through that tool. It is an IT upgrade issue.

Ms. TLAIB. That is what causes frustration for advocates right now, Director, is that we need to address that right away because they are frustrated that the purpose of the whole Act and the data—it is kind of setting them back in not having easy access to that information.

How long has it been that they haven't been able to reconcile that IT issue?

Ms. KRANINGER. It is only an issue with respect to the 2018 data that was just released in full and it is just they can't use—

Ms. TLAIB. When was that released?

Ms. KRANINGER. —the old analytical tool. In the end of August. So the old tool just can't be there. But there are new tools that we are continuing to build so that they will get back the same capabilities.

But I know they are raising questions. This was not something that was intentional and it was certainly not something that was hidden, and it is something we will continue to talk with them about to make sure that we can make the analytical tools available, going forward, that are going to be robust.

Ms. TLAIB. Thank you, Director.

And if I may, Madam Chairwoman, I would love to be able to follow up. If you can follow up with the whole committee in regards to that.

Again, it is really important, especially for families that I represent, that we have easy access to that data because right now it is very frustrating for advocates to be able to show that there is an issue with discrimination.

Thank you.

Chairwoman WATERS. The gentleman from Arkansas, Mr. Hill, is recognized for 5 minutes.

Mr. HILL. I thank the chairwoman.

There is an old expression that where you stand depends on where you sit, and so it has been very amusing today to see a lot of outrage from your leadership of the Bureau now that my friends—and the shoe is on the other foot.

We have a Republican head of the CFPB, and during my first 4 years in Congress, we had Mr. Cordray, and it was Republicans who were criticizing the power of the Director of the CFPB.

So I hope we can have some bipartisan consensus that the CFPB should be put on a budget and that the Director should have more accountability, whether that is a commission or some other forum.

Thank you for being here today, and I appreciate the ranking member's questions about sandbox work in the FinTech arena. I wanted to just step just around that topic and say on the no-action letters that you are pursuing, have you had more FinTech companies now approach you for a no-action letter?

Ms. KRANINGER. There have been a lot of entities that have come forward in conversation with us, both when we issued the proposals last year and since we have gone final.

The only no-action letter request that, I guess, has progressed far enough along is actually around the template that we had for entities that are providing funds or engaged in interactions with housing counselors.

So that no-action letter that we issued with HUD's assistance to housing counselors is the continued more specific activity in this area.

But we are certainly hoping that more entities come forward with some great ideas including in trial disclosures, too. Congressman, you didn't mention that one, but I am most excited about our opportunities there, too.

Mr. HILL. And this no-action policy that you have undertaken here, do you see that being more broad? Because we had many debates with Director Cordray over the TILA-RESPA role and the nonbinding guidance and the very difficult-to-find webinars that the CFPB produced.

Instead of just pursuing what other Federal agencies have, which is providing no-action guidance, and no-action that if they pursue it, they are not going to be pursued by compliance officers, are you going to extend that to other policies at the CFPB?

Ms. KRANINGER. Certainly, we are looking at our opportunity to be as transparent and clear as possible about what the rules are that—

Mr. HILL. Thank you.

I just would urge you that webinars are not guidance. Webinars are not helpful. Your website is not that supportive of the private sector.

Real guidance that is legally binding is what allows the private sector to move on, and the idea of a no-action letter, I think is a good suggestion.

Recently, I was at a Bank Policy Institute event and Covington & Burling presented a paper that they had written on artificial intelligence, and they made a suggestion that the CFPB should lead the effort to modernize the regulatory framework for use of artificial intelligence in credit underwriting in light of your authority to implement the nation's Federal consumer protection laws that regulate banks and nonbanks in this area.

Is that position something you agree with, and is that something you are pursuing?

Ms. KRANINGER. I have seen the paper and it is something that I have asked staff to look at carefully and see what we can do.

We have been engaged in conversations both with industry and with our interagency partners, with the States, around what additional clarity or actions might be needed in this area.

So it is an ongoing conversation at this point but something we will certainly take seriously.

Mr. HILL. Good. However, our FinTech and AI Task Forces, on a bipartisan basis, have heard really interesting testimony in this regard, and if that clarity could be provided by the CFPB and you felt that was a way for you to determine that the use of credit underwriting models, machine-learning models, were, in fact, compliant with fair credit reporting and fair lending, that would be a big help, and drop, I think, agency costs and blocks to innovation around the country.

Recently, I introduced H.R. 4231, the Credit Access and Inclusion Act, which would allow public housing authorities, as well as utility and telecom companies to report payment data to the credit reporting agencies. Is that something the CFPB supports?

Ms. KRANINGER. I am aware of your legislative proposal, sir, and generally try to stay away from providing particular feedback on them. But we can provide technical assistance if you would like to get specifics back on your bill. Overall, though, I would say that there are opportunities, real opportunities that come from some of these alternative data models, and that is something we are encouraging in a lot of different ways, including with the innovation policies.

Mr. HILL. Good. Thank you. I yield back.

Chairwoman WATERS. The gentlewoman from Virginia, Ms. Wexton, is recognized for 5 minutes.

Ms. WEXTON. Thank you, Madam Chairwoman, and welcome back, Director Kraninger. It's nice to have you back with us again.

As you mentioned in your opening remarks, the 2019 report from the Consumer Bureau student loan ombudsman was released yesterday. Is that correct?

Ms. KRANINGER. Yes.

Ms. WEXTON. And have you had an opportunity to review that report?

Ms. KRANINGER. Yes, I have.

Ms. WEXTON. Okay. And I am not asking if you have committed it to memory, just if you had a chance to read it.

Ms. KRANINGER. That is helpful. Thank you.

Ms. WEXTON. Super. I have as well. I have it here. And I always like to look at the recommendations, because that is where we, as policymakers, see things we can make changes to. And there is a recommendation in the report that says, "With respect to developing and sharing data analytic tools that support civil and criminal enforcement actions, and particularly with regard to the data that those tools rely upon, policymakers should consider providing limited exceptions to existing statutes which would then enable increased flexibility in changing data elements collected, and complaints, so that such data elements and complaints may be more reflective of, and responsive to, the changing environment."

Do you agree with that recommendation?

Ms. KRANINGER. Certainly, I appreciate the ombudsman's ability to make that recommendation, and I can say that we look forward to talking more about it. I think there is always an opportunity that additional data will help, and shared analytic frameworks, understanding each other's analytic frameworks is important to that.

So, I support the principle. I just want to understand better what is behind it, and look at actions that the Bureau should take, just as you are looking at actions that lawmakers should take.

Ms. WEXTON. So do I, because this recommendation, to me, sounds like a bunch of gobbledygook. It sounds like something that somebody might say in a term paper when they are trying to get a bunch of buzzwords in, but it doesn't seem to have much substance. Can you give me an example of what kind of exception to an existing statute you think needs to be made?

Ms. KRANINGER. The ombudsman does have a measure of independence, so I would say that this is his recommendation, that I know he would be happy to come to talk to the committee more about further. But I would say that I believe there might be some reference to—

Ms. WEXTON. You are not aware of any particular statutes or any particular datasets that he is recommending be changed?

Ms. KRANINGER. Not at this time, no.

Ms. WEXTON. Thank you. So continuing on the issue of student loans, how many people are currently working in CFPB's student loan ombudsman office?

Ms. KRANINGER. Currently, there is just one, but in addition to that, we have four staff in the student section, in the consumer education division.

Ms. WEXTON. So there is just one, and that is Robert Cameron, correct?

Ms. KRANINGER. That is correct.

Ms. WEXTON. All right. And are you aware that under the previous Administration, there were between five and seven full-time staff in addition to the Director?

Ms. KRANINGER. I am aware that there were never seven full-time staff. There were, in fact, five. We are going to ultimately have seven between the student section and the ombudsman's office, so that when we look at comparing apples to apples in terms of the functions there will be more staff dedicated to that activity.

Ms. WEXTON. When do you expect to make those hires?

Ms. KRANINGER. The fifth hire in the student section is underway now. It always takes longer than I wish that it would, but that position has been posted. So that should be done probably in the next 2 to 3 months—

Ms. WEXTON. Great.

Ms. KRANINGER. In 2 months, I hope.

Ms. WEXTON. Before Mr. Cameron was appointed the CFPB's student loan ombudsman, he was one of the top attorneys at the Pennsylvania Higher Education Assistance Agency, or PHEAA. Is that correct?

Ms. KRANINGER. That is correct, in addition to 20-plus years of public service to the State of Pennsylvania, and military service.

Ms. WEXTON. And that is the same PHEAA that has been sued by the Commonwealth of Massachusetts and the State of New York for unfair practices with regard to their student loan servicing?

Ms. KRANINGER. That is correct, and it is also, again—

Ms. WEXTON. And this is the same company that operates FedLoan Servicing?

Ms. KRANINGER. Yes. They are a contractor to the Department of Education.

Ms. WEXTON. And FedLoan Servicing is accused of mismanaging the Public Service Loan Forgiveness Program. Is that correct?

Ms. KRANINGER. Again, you are citing what is public information about ongoing litigation.

Ms. WEXTON. So it is correct.

Ms. KRANINGER. Yes.

Ms. WEXTON. Okay. And you do understand, just for the record, that the role of the ombudsman is to serve as an advocate for for student loan borrowers, not the student loan industry, right?

Ms. KRANINGER. And again, we are talking about a person who has decades of public service experience and military service experience and who actually knows how this process works.

Ms. WEXTON. I understand that. But I am just asking you, as the Director of this agency, for the record, to say whether it is your opinion that the ombudsman is there to represent consumers, not the agencies.

Ms. KRANINGER. And I understand that you are saying that, but I am understanding, also, why you are asking this question, and I don't appreciate the impugning of Mr. Cameron's motives or experience.

Ms. WEXTON. I am not impugning anybody. I just wish that you would answer the question. So is it the role of the student loan ombudsman to act on behalf of borrowers, to represent them?

Ms. KRANINGER. Yes, just as I have said, it is the mission of the Bureau to protect consumers and that is a mission to which we are dedicated.

Ms. WEXTON. Very good. So that was not so difficult.

So what happens if Mr. Cameron observes evidence of misconduct from PHEAA? Would he recuse himself? Have you had any discussions about that?

Chairwoman WATERS. The gentleman from Georgia, Mr. Loudermilk, is recognized for 5 minutes.

Mr. LOUDERMILK. Thank you, Madam Chairwoman. Director, thank you for being here. I know it has been a long day. As you can see, after we get a chance to ask our questions many are going to leave, but you are kind of stuck here.

I appreciate your transparency. We did have an issue with the previous Director, Mr. Cordray, with transparency. There were quite often references made that he was not required to share with us. I don't know whether that is true or not, but under the development of the CFPB, with very little oversight from Congress, it appeared that, at least under his belief, he didn't have to be as forthright.

I thank you for your transparency. Transparency is important, but it is also important for transparency that you are given the opportunity to actually be transparent by answering the questions. And I want to apologize to you for—I mean, there have been insinuations made that you have taken certain actions without being given the opportunity to expand upon those.

Believe it or not, some have political narratives, that if you are going to bring up information contrary to what they perceive to be true, or what they want to be true, sometimes they will just shut you down. We are seeing that take place not only on this committee but in other committees dealing with other issues going on here today. I can promise you I am going to give you plenty of opportunity to answer the questions, because it is important not only for us to know but for the American people, to know what is going on.

Something else I observed is there are some who have taken the idea that being fair to business is somehow anti-consumer, and I don't see that as being so. Most businesses—not all, but most businesses—highly value their customers. Because of the competitive free market environment we are in, if they don't concern themselves with the welfare and the service they provide to their customers, their customers will ultimately go somewhere else. And so, I think that is important for us to understand, that part of your role to ensure that consumers are being taken care of is to make sure that businesses are treated fairly as well. And I think it is important to bring that up.

With that, there is a concern I had—and I wrote you a letter a couple of weeks ago—about the Bureau's remittance rule. We are coming up on a situation where, for international money transfers, Dodd-Frank requires the banks to provide full disclosure of exactly what the cost of that transfer is going to be, and in most cases, or in a lot of cases, they don't know, because it is out of their hands. And so, there has been an exemption that is going to expire in July of next year, for that rule.

That is a concern of mine because ultimately it is going to affect consumers, because if these banks are required to report something factually that they have no way of doing, many of them will just get out of the business, which will reduce the competition, which will ultimately affect the consumers.

So my question is, the Bureau has the authority under Sections 904 and 919 of the Electronic Fund Transfer Act, and Section 1032 of the Dodd-Frank Act, to provide other types of exemptions for this. Do you plan on using any of those authorities or other rule-

making procedures to ensure consumers don't lose access to these services?

Ms. KRANINGER. Congressman, I appreciate you raising the question. As you know, we issued a request for information where we pointed out the fact that this ability to estimate is expiring next July. We wanted to make sure that was widely known, and that Congress certainly knew that provision and that particular exception would be going away, consistent with the law.

We also asked for input about the thresholds, frankly, of what—as you recall, the Dodd-Frank Act talks about, in the manner—or in the course of normal business, that was the amount of remittance transmission that would require this kind of reporting and subject the entities to the rule. So we are looking precisely at that. The fall regulatory agenda has not been issued yet, but you will see an action associated with this on it. And we are looking carefully at what we can do, again, consistent with our authorities and the rulemaking process, to reduce this burden, recognizing that we want to see entities continue to provide remittances to their customers who need that service.

Mr. LOUDERMILK. Historically, if there are fewer businesses providing a service, there is less competition. Generally, the effect that I have seen on the consumers is without competition, which keeps prices low, businesses can and often do raise their prices. Is that a concern?

Ms. KRANINGER. Yes. Generally, yes.

Mr. LOUDERMILK. Thank you. I yield back.

Chairwoman WATERS. The gentlewoman from Pennsylvania, Ms. Dean, is recognized for 5 minutes.

Ms. DEAN. Thank you, Madam Chairwoman. And thank you, Director, for being here and reporting to us again.

I looked, with interest, to your report that ends spring of 2019, and I wanted to renew my conversation with you about a particular area that I believe is within your jurisdiction, that I am concerned about.

The report struck me in a couple of ways. Number one, I was struck by the significant problems issue. You have a section that begins the report, really, with significant problems faced by consumers. And in there you have three pages: natural disasters in credit reporting; first-time homebuying servicemembers; and consumer insights on bill paying. I was struck by the lack of information in there. I was struck by the lack of depth or density. And I was also struck by the absolute absence of a conversation about the student loan debt crisis.

Do you know the total student loan outstanding debt in this country? Do you know that number?

Ms. KRANINGER. Yes. It is approximately \$1.6 trillion.

Ms. DEAN. Yes. And you didn't think that that earned a place in significant problems for consumers, under your jurisdiction?

Ms. KRANINGER. The semi-annual report is really providing Congress a laundry list of things that we had done.

Ms. DEAN. Did you think student—did that come across your desk?



Ms. KRANINGER. The private education loan ombudsman did issue his report and address very specifically a couple of areas that—

Ms. DEAN. Well, let's talk about the ombudsman. So, in any event, I am just letting you know, I was puzzled by the absolute lack of a conversation about student loan debt, and noticed that you did not describe any major actions that you or your agency had taken to protect student buyers, other than two legal actions you note in here that were started before your tenure. They were from 2017. I think you started in December of 2018.

So just the absence of a conversation around such a crisis, and a borrower's issue, instead devoting half a page to helping people pay their bills by maybe changing a date of the bill. It just looked like an absence of content, frankly.

Finally, hiring a student loan ombudsman, you did hire—and I am going to piggyback on Representative Wexton's good questions—Robert Cameron. The position was left open for 300 days, is that correct?

Ms. KRANINGER. It was open for 300 days, yes.

Ms. DEAN. And then you hired him, you put him in place, and he has no support staff at this point. He is alone, as the ombudsman? You just told us that.

Ms. KRANINGER. That is correct, that he is an office of one, and I have asked him to provide—

Ms. DEAN. Again, the gravity of the problem—

Ms. KRANINGER. —the body of support that he needs.

Ms. DEAN. —300 days of vacancy, and a single man sitting in an office trying to deal with a \$1.6 trillion problem.

Also, the appearance of impropriety. The mission is to be a protection for the borrowers, and yet the appointee, after a 300-day search, is somebody who comes from the servicing side of the world. No impugning of the gentleman's credentials, but it doesn't seem like a good fit for the mission of what this ombudsman should be doing.

I noted another thing. You said he is ombudsman for the private market. Is that correct? Private loans only?

Ms. KRANINGER. That is the title that the statute gave him.

Ms. DEAN. Okay. Do you know the breakdown between Federal student loan percentage and private student loan percentage?

Ms. KRANINGER. The private student loan origination as of now is roughly around 9 percent of the market.

Ms. DEAN. That is correct, leaving 91 percent of the market Federal jurisdiction—Federal origination of loans.

Are you asking us to change this title so that it would include, and give jurisdiction to that ombudsman, of Federal student loans as well? Since he has 100 percent of the problem, or we have 100 percent of the problem, why would he be looking at only 9 percent of the problem?

Ms. KRANINGER. I will tell you his report does articulate certainly what is happening on the Federal side as well as the private side, so that is in there.

Ms. DEAN. Okay, but that is apparently not his charge, according to you.

Ms. KRANINGER. It is his title, as Congress gave it to him.

Ms. DEAN. Does the CFPB, outside of the ombudsman, have jurisdiction over the Federal student loan debts?

Ms. KRANINGER. We have jurisdiction over consumer financial protection law, which does apply in, again, all of the cases that we could say around student loans.

Ms. DEAN. So you take ownership of that, in the absence of the ombudsman statute saying all student loan debt. Would you advocate for us to change the statute, and make sure the ombudsman actually oversees all student loan debt complaints?

Ms. KRANINGER. I defer to Congress. If Congress wants to take that action—

Ms. DEAN. Don't you see, as the leader of this agency, there is a huge gap, a 91 percent gap?

Ms. KRANINGER. As I noted already, we do actually engage with the Department of Education on Federal student loans, as well as the private education.

Ms. DEAN. Thank you. I renew my concerns. Thanks.

Chairwoman WATERS. The gentleman from Ohio, Mr. Davidson, is recognized for 5 minutes.

Mr. DAVIDSON. Thank you. I appreciate, Director Kraninger, your testimony. I appreciate the work of you and the team there at the Consumer Financial Protection Bureau really looking after America's consumers, and doing it in a way that, as one of my colleagues asked, not a trick question, that is in accordance with the law. Frankly, some of us did share concerns that there were activities that were taking place there, while, maybe not inherently illegal, because of the vast authority directed to the Director of the CFPB or the agency, or applying standards that were clearly not spelled out in law.

So I think that as a matter of course, most people would agree that when consumers have clearly defined laws, they are better protected. Would you agree with that assessment?

Ms. KRANINGER. Yes, I would.

Mr. DAVIDSON. I feel particularly concerned about a body of law that is just void in the United States, which is with respect to digital assets. When you think about blockchain, a lot of that space, and the innovation around the world, is taking place in the United States of America. The innovators are here, they are doing research here, they are coming up with great companies here, but a lot of them are finding that they need to raise capital outside the United States. They are leaving the United States, not to avoid our laws but to find some laws where they have legislative certainty.

And, unfortunately, the SEC has a backlog of hundreds of requests for no-action letters, with companies that want to just be clear that the SEC is not going to come back after the fact and say, this is a security that you are involved in. They have only issued two, and when Director Clayton was here, I referred to that process as essentially, all of the charm and inefficiency of a Third World power structure. And in some ways, all of the CFPB structure suffers from that same flawed power structure, as you and others have alluded to, frankly, a lot of concerns about the constitutional structure of it, but even the efficacy of it. The base structure of the CFPB could improve.

When you look at this void in digital assets, I applaud you for recognizing it and creating this process for the prospect of no-action letters from the CFPB. But I have the same concerns, frankly, that on a company-by-company basis, we are still going to look at a patchwork. And what we really need here is a law. Do you think legislative certainty that would spell out what is and is not a security could protect consumers who were, in many cases, defrauded by initial coin offerings? And some people share the same concerns about initial exchange offerings today.

Ms. KRANINGER. Congressman, I recall well your interest in this topic, and I share it. It is an important one. As you know, the Dodd-Frank Act stipulated that things identified as securities and commodities under the jurisdiction of the SEC and the CFTC are outside of the CFPB's purview. So in many respects, I also am at the tail end of that, looking at the SEC and the CFTC's leadership, in terms of how they define where they are playing in this arena.

It is something that the interagency is discussing, and the CFPB is there, appropriately, for that conversation. So that is at least the status of the way that this arena is looking.

Mr. DAVIDSON. Yes, and thanks for respecting the boundaries that are there. To some respect, it is not like the SEC, the CFPB, and the FTC aren't supposed to protect consumers as well. It is not like the United States suddenly realized we should protect consumers, and in the Dodd-Frank Act, created the CFPB. We were already supposed to be protecting consumers with numerous other agencies, but, of course, creating the CFPB highlighted that, and, frankly, gave a lot of extra resources to that cause.

When I think about UDAAP and your reference to that, one of the ways is that you can't just put whatever you want in the terms and conditions. Are there abuses of these terms and conditions? And top of mind for me is privacy. So when we look at lending, for example, we have all kinds of laws there, but in the United States we also have a regulatory void with privacy. Who owns the data? Can somebody just say, in a 6-point font and 400 pages, that in exchange for free access or free stuff, you give over your freedom and your right to privacy?

Are you looking at privacy in any way as a consumer protection?

Ms. KRANINGER. Again, certainly, I am personally concerned about privacy, and we are looking at, and very carefully protecting the privacy rights under the Act, consistent with the data that we collect. When it comes to privacy regulation, the Dodd-Frank Act specifically excluded from our jurisdiction the Gramm-Leach-Bliley Act safeguards. So, there are some limits to our authority.

Mr. DAVIDSON. Clearly, for Gramm-Leach Bliley, but for the individual consumer, perhaps this body, this robust body that passes and makes our laws will get to privacy and digital assets.

With that, I yield back.

Chairwoman WATERS. The gentleman's time has expired. The gentlewoman from Massachusetts, Ms. Pressley, is recognized for 5 minutes.

Ms. PRESSLEY. Thank you, Madam Chairwoman. Director Kraninger, it is estimated that debt collectors contact consumers over a billion times a year, a billion. We need solutions of scale to address this problem. Millions of Americans find themselves behind

on one bill, then two, then three, usually because of a disruptive life event: a death; illness; being laid off; or predatory loans. And before they know it, they are debt-trapped. CFPB's proposed debt collection rule falls short of anything that an agency with "consumer protection" in its name should feel comfortable offering.

Director Kraninger, there has been quite a bit of correspondence between my office and yours, so I am appreciative of the opportunity to follow up on that correspondence in person. As you are well aware, Chairwoman Waters, Representative Porter, and myself wrote to you outlining our many concerns about your proposal. This proposed rule would allow debt collectors and collection attorneys to attempt to collect old, expired debt, decline to translate important notices, and claim a safe harbor from liability if they make false, deceptive, or misleading statements in court filings, among other things.

Director Kraninger, yes or no, under your proposed rule are consumers required to affirmatively consent to being contacted by debt collectors via text or email message? Do they have to affirmatively consent? Yes or no?

Ms. KRANINGER. That structure of consent is provided by virtue of the fact that we have communicated—

Ms. PRESSLEY. It is a simple question.

Ms. KRANINGER. —with creditors, using those modes of communication. So there is a limitation on the way that they can be communicated with via email or text.

And I will also note, Congresswoman, that this is a proposal. I think the interest that we have is to set some bright-line rules where we can. We knew that there would be much feedback on this. We asked 162 questions in that proposed rule to get the feedback—

Ms. PRESSLEY. I am reclaiming my time. I appreciate that.

Ms. KRANINGER. Thank you.

Ms. PRESSLEY. Let me just get on to my questions. So one more time, yes or no, do consumers have to affirmatively consent?

Ms. KRANINGER. In the prior process, they probably—

Ms. PRESSLEY. Okay. I am going to move on. To be clear, under your rule, a consumer does not give a debt collector permission to contact them via text message or email before the messages start. Is that correct? Yes or no?

Ms. KRANINGER. Again, because they used that as a prior mode of communication, and they can unsubscribe at any point.

Ms. PRESSLEY. I am reclaiming my time. They can opt out, but they are in this before they are even aware that they are in it. They can opt out, but they are not affirmatively consenting to be contacted in this way. Those are the facts. I have always believed that people closest to the page should be closest to the power, driving and informing the policymaking, and it just feels to me that that is not the case here.

So as a consumer, Director Kraninger, what kind of phone plan do you have? Do you have unlimited texting? Yes or no?

Ms. KRANINGER. Yes, I do.

Ms. PRESSLEY. Okay. So without an unlimited plan, the cost of sending and receiving SMS text messages can range from 10 to 30

cents per text, costs that can quickly add up for those without an unlimited plan.

Yes or no, under your proposed rule, would collectors be allowed to send consumers an unlimited number of text messages?

Ms. KRANINGER. Only under certain circumstances. I imagine someone without an unlimited plan—

Ms. PRESSLEY. Yes or no?

Ms. KRANINGER. —would not provide their number for any creditors to contact them—

Ms. PRESSLEY. Okay. Reclaiming my time.

Ms. KRANINGER. —through that phone and through text.

Ms. PRESSLEY. Would collectors pay for the costs associated with these texts? Yes or no?

Ms. KRANINGER. To the extent that there is a charge, the consumer would be charged under the scenario that you are painting.

Ms. PRESSLEY. Right. The consumer would be charged. So again, that is not consumer protection.

Ms. KRANINGER. Consistent with their service agreement that they have with their provider.

Ms. PRESSLEY. I want to bring into this space the consumers who have been contacted, harassed, 1 billion times, and often for debt that they didn't even incur. So let's say I am a consumer with a prepaid or limited phone plan and each text costs me 20 cents to receive. As a result of some medical event or other disruptive life event that happens to everyone, because hardship does not discriminate, I now have 4 debts in collection, and each collector texts me 5 times a day. This happens. So at 20 cents a text, I would have to pay an additional \$120 a month. That is over \$1,400 a year for people who are already struggling to make ends meet, and to pay these debts, even if they rightfully incurred them.

Ms. KRANINGER. Under the rule, they would unsubscribe, so they would pay \$1—actually, you said 4 debts, so we are talking about 80 cents.

Ms. PRESSLEY. Reclaiming my time, that is why I introduced H.R. 4664, the Monitoring and Curbing Abusive Debt Collections Practices Act, which will prohibit the issuance of any rule that would allow for this type of consumer harassment. When debt despair is on the rise, and debt collection is the second-most complained-about issue for our agency, this proposed rule is simply unacceptable.

Thank you, and I yield back.

Chairwoman WATERS. The gentleman from Tennessee, Mr. Kustoff, is recognized for 5 minutes.

Mr. KUSTOFF. Thank you, Madam Chairwoman, and thank you, Director, for being here this morning and this afternoon. I appreciate the CFPB's desire to replace the Qualified Mortgage (QM) patch that applies to the entire market and really does not give the Government-Sponsored Enterprises (GSEs) an advantage over other mortgage options. Given the importance of QM to lenders and consumers alike, I think we can all understand the uncertainties about what the future of the QM rule is going to be and how that affects the market.

What do you think about the qualified mortgage, essentially the definition of the mortgage that is well-written and without the

complex or risky loan features? Do you have an opinion about what will replace it and what it will look like?

Ms. KRANINGER. Congressman, we issued an advance notice of proposed rulemaking to solicit some feedback on key questions, including the one that you are asking, very much soliciting input on this and looking at what we will take as a next step. We have heard concerns around, frankly, the requirements that would meet the ability to repay under Appendix Q, that being a challenge, in terms of being able to issue a qualified mortgage in the current structure. And so, we are looking very carefully at those things and thinking about what a responsible path forward would be.

Mr. KUSTOFF. Thank you, Director. I assume that one objective would be to provide consumers with equal or improved access to qualified mortgage loans relative to what we see from the current rule.

Ms. KRANINGER. I will say there is a natural tension between the ability-to-repay requirement that Congress put into the statute and is now very much a part of the mortgage process, and access to credit, in general. So, looking at that balance is something that is part of the process, yes.

Mr. KUSTOFF. Thank you. I know you have had a number of questions today about the small-dollar lending rule. If I could ask you specifically about Subpart C in the rule, to add additional compliance burdens on institutions and payment processors due to conflicts with existing laws and regulations in payment system rules, could you address that and what the CFPB is looking at in terms of trying to address those issues?

Ms. KRANINGER. We did receive a petition on the payments provision to consider that, and currently the payments provision is stayed by the court, caught up in the larger issues around the payday rule and reconsideration of the underwriting requirement.

I can tell you that we will look at that petition. Our focus right now is concerns around the factual and legal basis of the payday 2017 rule, and the underwriting provisions. So we are moving forward on that, looking at the 19,000 comments that we received, some of which did address the payments provision. So we will look at that them, too, as part of that process.

Mr. KUSTOFF. I know that Congressman Barr asked you a number of questions about the payments provision. Do you have any concern that the small-dollar loan rule could potentially cause harm to consumers?

Ms. KRANINGER. Congressman, there is a specific assessment that goes along with the rulemaking, and so the access-to-credit issue and competition in this space is something that we looked at and considered. It is something that we got feedback from. The presence of the States in this marketplace and what the rules are in different States, and experimentation and experience associated with what the States have put into place is also a factor, and something that we need to look at too.

Mr. KUSTOFF. From a practical standpoint, what are the payment alternatives for consumers, if they lose the option of using electronic payments? Specifically, Congressman Barr asked about debit cards, for example.

Ms. KRANINGER. That is definitely something that has been raised as a concern, what the alternatives are, debit or going back to cash payments or other things that make this more challenging. That is definitely something we need to look at.

Mr. KUSTOFF. In my remaining time, Congressman Davidson asked about UDAAP. Could you give guidance as to what is considered abusive? What do you consider abusive, under the statute?

Ms. KRANINGER. Congressman, we have actually taken enforcement actions in the past around that term. It is something that we are actively looking at right now. I don't want to opine here in a way that is going to mislead people in terms of what an ultimate decision makes, what that looks like, but it is something that I take seriously. It is something that we need to be transparent about and provide.

Mr. KUSTOFF. Thank you, Director. I yield back.

Chairwoman WATERS. The gentleman from California, Mr. Sherman, is recognized for 5 minutes.

Mr. SHERMAN. Thank you. In July of 2019, the CFPB released an advance notice of proposed rulemaking (ANPR) for the QM patch. One out of every six mortgages made last year relies on the QM patch. That patch is set to expire, I believe, in very early 2021. And the tendency in government is to maybe issue something else like a day before the old thing expires. Business can't work that way. Can you commit to keeping the patch in place for at least one year after you put out the rule, so that businesses know they can continue to operate as they shift their business to any new rule you issue?

Ms. KRANINGER. Congressman, I share your interest in making sure there is a smooth transition, and it being transparent about what is going to be required. That is why we issued the ANPR as early as we did, to forecast this. We asked specifically for input on how long a transition period should be, and we will be moving forward on sharing that perspective. We are still a year and a couple of months away, and I can pledge to you that we will be timely in getting that back out.

Mr. SHERMAN. And you have a full appreciation of how difficult it is for every company, particularly the smaller ones, to be able to move from one system to the other.

Another issue is the Property Assessed Clean Energy (PACE) loans. It is wonderful to see people get more efficient air conditioners, but we obviously need underwriting standards. In March, the Bureau issued a notice of proposed rulemaking, but it doesn't appear as if you have done anything since then. Are you moving forward to protect homeowners from perhaps signing up for loans they can't afford to pay back, that the industry says are not loans; they are just liens against your house that you have to pay. Are you moving forward?

Ms. KRANINGER. Yes, Congressman, we are moving forward. As you know, we were directed to do the rulemaking, so we are doing it. The next step is really going to be a data collection to make sure we can understand the unique nature, as Congress told us to, of this marketplace, and how to establish ability to repay, that is going to acknowledge and make use of that unique faction.

Mr. SHERMAN. And hopefully, with all of the appropriate disclosures. I hope that you know, from the homeowner's standpoint, it does not matter whether it is a loan to build a new bedroom or a loan to improve your air conditioning system. It is true, the air conditioning system might save some electricity, and help the planet. But basically, from the homeowner's standpoint, it is a home improvement loan, and they need the same kind of protections, whether it is for a bedroom or an air conditioning system.

Dodd-Frank Section 1022 allows your Bureau to exempt certain classes of rulemaking at its discretion, to exempt institutions of a certain size, or to have one rule applied to the giant institutions and a separate rule applied to smaller or medium-sized institutions. Are you fully using your authority under Section 1022 to make sure that the smaller institutions have rules that they can officially abide by?

Ms. KRANINGER. Congressman, I can tell you it comes up in every rulemaking context, and it is something that we need to carefully understand and weigh, in terms of what should apply, to which entities, and how, and what the cost burdens are. Congress has repeated that in many different contexts, including by requiring us to take into consideration specifically small business impacts of our rulemaking. So it is certainly something that we look at and examine carefully.

Mr. SHERMAN. And you are working on these new debt collection rules. You have heard about them from my colleagues. It is my understanding that they are supposed to apply onto third-party debt collectors, or would they apply to the first party, where you have the institution itself collecting the amount of money owed to it?

Ms. KRANINGER. This rulemaking, under the FDCPA, applies to third-party debt collectors only.

Mr. SHERMAN. Thank you.

Chairwoman WATERS. The gentleman from Indiana, Mr. Hollingsworth, is recognized for 5 minutes.

Mr. HOLLINGSWORTH. Good afternoon, Director. Thank you so much for being here today. I really appreciate your efforts undertaken to reform the CFPB, but also to ensure that we remain focused on protecting consumers.

I know something that we have talked a lot about today is the small-dollar rule, and I really appreciate, frankly, your work on the small-dollar rule and the continued effort to ensure that Americans have access to small-dollar loans that are really, really important to them making ends meet. Much ink has been spilled in conversation in this committee about the individuals back home, like in my State of Indiana—occasionally, their transmission goes out, or occasionally, they have an unexpected bill, and they need these small-dollar loans in order to make ends meet, to meet the needs of their daily or weekly cash flow. And I know how important that is.

As Einstein famously said, "Everything should be made as simple as possible, but no simpler," and I think in government, we should try to solve the problem in its narrowest capacity, not too narrow but not too broad. One of the concerns I have about the small-dollar rule that the Bureau has promulgated is that it perhaps is too expansive, that it can include things that we wouldn't traditionally consider small-dollar installment loans. And I wanted



to inquire if you had any plans to further narrow the rule to try to exclude those things that aren't traditionally considered small-dollar lending.

Ms. KRANINGER. I have heard—

Mr. HOLLINGSWORTH. I think that we have had some comments on this back-and-forth before.

Ms. KRANINGER. Yes.

Mr. HOLLINGSWORTH. And I know that you have made progress on that since our last conversation, and I wanted to hear a little bit more about it.

Ms. KRANINGER. It is certainly something that we are aware of, and that we have received comments on. The focus at the moment is on the underwriting provisions and the reconsideration rule.

Mr. HOLLINGSWORTH. Correct.

Ms. KRANINGER. But it is something that has been raised, and we have a petition specifically to look at the payments provision.

Mr. HOLLINGSWORTH. Great. I really appreciate that, and I certainly think that the bulk of your efforts should be where you said it was going. But I think this is an important aspect as well, because the last thing I would want is for us to solve this problem at the small-dollar level but then have an impact on the medium-dollar level, right, something that was unintended. I find myself cleaning up a lot of unintended consequence messes up here, and I prefer just to get it all done in one fell swoop, because I think that is the best outcome for the consumer in the long run.

So I really appreciate your continued efforts, and continued focus on this would be much appreciated.

Thanks so much. I yield back.

Chairwoman WATERS. Thank you. The gentlewoman from Iowa, Mrs. Axne, is recognized for 5 minutes.

Mrs. AXNE. Thank you, Madam Chairwoman, and thank you, Director Kraninger, for being here again today. I appreciate it. Just a few quick questions to start out.

Director, if you want to go out to eat, you can choose the restaurant you go to, correct?

Ms. KRANINGER. Yes.

Mrs. AXNE. And if you don't like the food there—

Ms. KRANINGER. As long as there is availability.

Mrs. AXNE. What is that?

Ms. KRANINGER. As long as there is availability there.

Mrs. AXNE. Yes. We don't have those problems in Iowa like D.C., I don't think. But if you don't like the service or the food, you have a choice to go someplace else. Is that correct?

Ms. KRANINGER. Yes, that is true.

Mrs. AXNE. And if you need a credit card, you still have that same exact choice, right? You can go elsewhere if you are unhappy with the service, correct?

Ms. KRANINGER. Yes, I would say that is correct. Again, there are pros and cons to every choice.

Mrs. AXNE. Got it. So, my sons are in high school. I have two boys, 15 and 17, just about ready to head off to college. If they take out a student loan, they don't get to pick which student loan servicing corporation they will actually be dealing with, do they?

Ms. KRANINGER. Again, the rules are set by the Department of Education, and by statute by Congress, so that is accurate, but it is not something for the Bureau to intervene on.

Mrs. AXNE. They don't get to pick which loan servicing corporation that they deal with, so we have that straight.

What that sounds like to me is that they are not actually a customer. They are actually a product for a company. I can think of a couple of other businesses that fall in line with that same perspective: credit reporting; and third-party debt collection. And, Director, I am assuming that you are familiar with the CFPB's Consumer Complaint Database?

Ms. KRANINGER. Yes, I am.

Mrs. AXNE. Can you tell us where these three industries—student loan servicers, credit reporting, and debt collectors—rank in the number of complaints in that database, since you were confirmed as Director?

Ms. KRANINGER. They are continuing and prominent areas for complaints, but I would also put those complaints into context, because they are a snapshot into what is happening in the industry, but certainly not the totality of the picture.

Mrs. AXNE. They are actually three of the top seven nationally. So if you weren't aware of that, that is where—top three.

Ms. KRANINGER. Yes.

Mrs. AXNE. Customer choice is one of the core aspects of our economy. It is what allows the market to set prices efficiently. It is important that businesses like student loan servicing make sure that they give customers a choice. It seems to me this lack of customer choice would call for increased oversight and consumer protection. Does that sound right to you?

Ms. KRANINGER. Again, consistent with our mandates in the law, and consistent with the law that is set out for the Department of Education in carrying out their programs and the contracts they have with their services.

Mrs. AXNE. Okay. So do you agree that there should be some oversight, since this is a place where customers truly have no choice?

Ms. KRANINGER. There is a structure of oversight in this area, and I do believe oversight is appropriate.

Mrs. AXNE. Okay. So why did you appoint Robert Cameron, the former general counsel at one of the three for-profit student loan servicers, to head up consumer protection efforts for these student loan servicers, if you believe there should be good government oversight?

Ms. KRANINGER. There was a career selection process, a competitive process, that Mr. Cameron applied for. Actually, he was attracted to the position by our hearing in March. That is how he heard about it, because the position was competed at that time. And that struck a chord with him where he wanted to perform this job. And I can tell you that I am very proud that he made it through the process, and I had the opportunity to confirm that selection. He has decades of public service experience, including a military service record. In fact, he had just come back from a deployment when he was watching that hearing. So, I am grateful for Americans like that who will step forward.

Mrs. AXNE. I absolutely appreciate his service. We are talking about student loan debt here. My objective is to make sure that we protect student loan recipients and make sure that they aren't priced out of a market so that they don't enter into the world with so much debt loan that they can't move forward.

What I see here is that the person in charge of making sure that we protect these people is literally the fox guarding the henhouse. He comes from this industry and he is overseeing his former colleagues, in one of the industries that is one of your biggest complaints.

Moving on, our attorney general in Iowa, Tom Miller, just did a study of the rates offered in the private student loan market, and found that not only did overall interest rates vary widely, often the advertised rates were much lower than the rates consumers actually received. And I have heard this over and over. To make matters worse, customers' rates are going up.

Are you willing to have the CFPB study this issue nationally?

Chairwoman WATERS. She is waiting for me to gavel.

Ms. KRANINGER. I didn't want to answer, Chairwoman, without your permission.

Chairwoman WATERS. The gentleman from Ohio, Mr. Gonzalez, is recognized for 5 minutes.

Mr. GONZALEZ OF OHIO. Thank you, Madam Chairwoman. I first want to thank Chairwoman Waters and Ranking Member McHenry for holding this hearing, and to thank you, Director Kraninger, for your continued service and your attention today.

I have the pleasure of serving both on the Financial Services Committee and also the Science, Space, and Tech Committee, so I am constantly thinking about the nexus between emerging technologies and how they can improve the financial well-being of my constituents, when I think of consumer financial protection. I think part of that is finding a way to encourage innovation that allows for more products to come into the market, and to give people more options, frankly.

And then within the AI Task Force, we have been exploring issues related to the use of AI machine-learning tools to better inform credit decisions by financial institutions, especially to potentially help the credit-invisible population gain some measure of access to credit. It's a huge problem. In the committee and in the task force, we have explored questions related to the use of alternative data to help inform a machine-learning model and potential credit decisions.

As a general premise, do you support the use of alternative data, i.e., less traditional data points, that could give lenders additional insight?

Ms. KRANINGER. I would say yes, and certainly Congress support that by providing a provision on that in the Dodd-Frank Act.

Mr. GONZALEZ OF OHIO. Yes. And then with respect to the sandbox that we have talked about a little bit—which I think is a great idea, by the way—help me understand what you are looking at with respect to what is happening in the sandbox, to figure out whether it is being effective and it is serving the purpose that we have decided? How should we think about its effectiveness, from your perspective?

Ms. KRANINGER. We certainly did our best to keep the policy on the broader side, so that we would encourage applications.

Mr. GONZALEZ OF OHIO. Right.

Ms. KRANINGER. At this point that is where we are, encouraging applications so that we can consider them and ensure that we can grant applications that are going to be beneficial to consumers.

I think there are lots of opportunities for things to come forward, like what you are referencing in terms of alternative data, and I hope that those kinds of applications come forward.

Mr. GONZALEZ OF OHIO. Great. And then, let's say they have come forward and now we are in the process of—let's say, fast-forward 3 years, and we are looking back and asking, "Is this successful? Do we feel like we have accomplished our goal?" What would you be looking at in that world? What specifically?

Ms. KRANINGER. I do think that the sandbox gives us opportunities to think about future rulemaking or future guidance that is going to make these things clear for the broader market, and so that is something that may come to bear too, in the next steps.

Mr. GONZALEZ OF OHIO. Great. And then I guess building on that, one thing I have heard that would be particularly useful to provide guidance on is what sorts of data, alternative datasets can be used, with respect to complying with the Equal Credit Opportunity Act, but also just generally. Have you given any thought to that specifically, and where you are on that?

Ms. KRANINGER. Yes, we have. I will say the first no-action letter that the Bureau ever issued to Upstart did address some of those issues, and there was a blog that we released this summer, when we came back and looked at the data that Upstart had collected under the no-action letter. And so, I think there are some opportunities there, certainly, to think more about that topic.

Mr. GONZALEZ OF OHIO. Great. Thank you, and I yield back.

Chairwoman WATERS. The gentlewoman from North Carolina, Ms. Adams, is recognized for 5 minutes.

Ms. ADAMS. Thank you, Madam Chairwoman, and thank you, Director Kraninger, for appearing before us today.

As I mentioned, back in March your predecessor led a destructive campaign to weaken and destroy the CFPB from within, but you hold the power to right these wrongs and restore it to its original intent.

Do you believe that our student borrowers are facing significant challenges within our private and Federal student loan system? And give me a yes or no, I have several questions I want to ask.

Ms. KRANINGER. Yes, I believe there are a lot of challenges in that area.

Ms. ADAMS. All right. So do you believe that the student loan ombudsman is an important resource for student borrowers?

Ms. KRANINGER. Yes. Congress created the position with that intention.

Ms. ADAMS. Okay. I agree with you that student borrowers need an ombudsman, somebody looking out for them when they inevitably experience servicing errors. I had the pleasure of teaching college for 40 years, so I understand the needs that students have.

Prior to hiring Mr. Cameron, were you aware that in a 2017 report on the Public Service Loan Forgiveness Program, the CFPB was sharply critical of PHEAA?

Ms. KRANINGER. I am not sure I am aware of that particular report or reference, but I grant you that.

Ms. ADAMS. Okay. Specifically, the CFPB criticized PHEAA for messing up payments of borrowers who were supposed to be on track for loan forgiveness. In fact, PHEAA has been involved in a number of scandals over the years. As recently as October 3rd, the State of New York filed a Federal lawsuit against PHEAA for abusive acts. The suit states that the student loan servicer failed in its most basic task, depriving thousands of borrowers of benefits.

So now I ask, why weren't these items deeply disqualifying?

Ms. KRANINGER. I will note that filing litigation at this stage is not actually an indication of a guilty party. I would also say that there are entities that are performing consistent with the Department of Education's rules, and the Department of Education should take action when their contractors are not performing consistent with their rules.

So with respect to Mr. Cameron, in particular, he actually earned this position through a competitive process, and has had decades of public service and military service, and I do believe that, again, he is meeting the requirements that I have laid out for him in this job. I issued his first annual report yesterday, and he is really doing a great job so far.

Ms. ADAMS. Thanks very much. Let me just circle back to a question that Representative Wexton attempted to ask earlier, before her time ran out. For the Public Service Loan Forgiveness Program, it is particularly important that the Bureau has strong oversight over their conduct. Given Mr. Cameron's prior employment at PHEAA, will he recuse himself from cases that involve his former employer? Do you know, yes or no, if he would?

Ms. KRANINGER. He is certainly in contact with the ethics attorneys at the Bureau and the ethics attorneys at PHEAA, consistent with his responsibilities under professional responsibility requirements of the job.

Ms. ADAMS. It is clear that a conflict of interest is at play here, so as the Director, will you direct Mr. Cameron to recuse himself from complaint cases involving PHEAA?

Ms. KRANINGER. I know that Mr. Cameron will take the advice of the attorneys around what the ethics requirements are in any future activity.

Ms. ADAMS. But you are not going to give him that—okay.

So why has the number of supervisory exams opened by the Consumer Bureau declined? When you last appeared before the committee you said, and I quote, "I can assure you that fair lending is a continuing priority in the Bureau." So why has the number of supervisory exams opened by the Consumer Bureau declined?

Ms. KRANINGER. The reference here, I believe, is that historically there were 13 exams opened, and we managed to open 10. I think by the same measure—the record will end up correcting me, but it is that kind of difference. I can assure you that I am committed to it. Part of this is also the hiring process of getting more examiners on board. But we have 300 examiners who have taken fair lending

training and are engaged, or able to be engaged in fair lending exams. And I do commit to, again, a similar level, not an exact level, necessarily, because it is based on the number of staff we have and the other things that are going on. But a continued commitment to fair lending, I pledged, and I believe I am meeting.

Ms. ADAMS. Thank you very much, Madam Chairwoman. I yield back.

Chairwoman WATERS. The gentleman from Tennessee, Mr. Rose, is recognized for 5 minutes.

Mr. ROSE. Thank you, Chairwoman Waters, and thank you, Director Kraninger, for joining us here today.

I would like to jump in right away with the CFPB's small-dollar rule. The CFPB's final rule, published on November 17, 2017, notes that the Bureau's research with respect to payment practices focused on online payday and payday installment loans, where payment attempts generally occur through the ACH network, and thus can be readily tracked at the account and lender level.

Director Kraninger, was Automated Clearing House (ACH) data the primary source of data used to evaluate payment practices in the CFPB's small-dollar rule?

Ms. KRANINGER. Congressman, I know that is a primary method that was tackled, I suppose you could say, in that rule. I am not sure of the detailed analysis, but we can certainly get back to you.

Mr. ROSE. Banks can charge nonsufficient funds (NSF) fees for checks that bounce. Banks can charge NSF fees for ACH withdrawals when an account is overdrawn. In both circumstances, the borrowers do not have to give prior authorization for overdraft charges to occur. However, overdraft charges on debit cards cannot occur without the consumer's prior authorization. This is because of the CFPB's own rulemaking. It seems to me that debit cards behave quite differently than checks or ACH transactions.

Director, did the CFPB undertake a comprehensive study as to the effects of debit card payments in addition to relying on ACH payments?

Ms. KRANINGER. So I understand, Congressman, what you are asking here, and I am not aware of how much the details of this were examined, but I am aware of the concern and having it raised, and it is certainly something we will look at as we proceed. The focus has really been on the underwriting requirements portion of the payday rule, and really looking at the legal and factual sufficiency of that. But as we move forward, we will look at the other side as well.

Mr. ROSE. Okay. I appreciate that.

Shifting gears, Director Kraninger, I would like to ask you about student loan servicing. As one of the CFPB's central responsibilities, the Bureau is required to receive, review, and attempt to resolve complaints about financial products. The CFPB's Complaint Database was launched in 2012, and began publishing Federal loan servicing complaints in 2016. However, a report released a couple of weeks ago by the American Enterprise Institute noticed that the CFPB automatically categorizes all complaints about a Federal student loan as a loan servicing issue, regardless of the actual problem the borrower describes. Further, even though the borrower can

select subcategories for a complaint, only the main category, Federal student loan servicing, is publicly displayed.

I found this to be misleading and concerning, especially given the ongoing debate about the Federal student loan program and how frequently this database is cited, even here today, when making the case that loan servicers are negligent.

Director Kraninger, as part of your efforts to make enhancements to the CFPB's Consumer Complaint database, do you intend to address this particular issue with regards to how Federal student loan complaints are categorized and published?

Ms. KRANINGER. I can tell you we are looking very broadly at many issues around how context can be provided to those complaints, and specific to the report you mentioned, I have actually asked the staff to come back to me and explain their perspective on those findings and observations.

Mr. ROSE. Thank you. The last time you were here, I mentioned that during Director Cordray's tenure as CFPB Director, an enforcement action was brought on what CFPB alleged was borrower harm in the student loan servicing arena. Since the action was first brought in 2017, according to court documents and news articles, the CFPB still has not identified any actual consumers who were treated illegally or harmed. You stated that you would be looking at all ongoing litigation and getting familiar with those issues. Are you familiar with this issue?

Ms. KRANINGER. I'm sorry, Congressman. I missed probably one key word in your question that is probably the key one I needed.

Mr. ROSE. Cases in the student loan serving arena that the CFPB has brought.

Ms. KRANINGER. Yes. I am familiar with at least the ongoing litigation in this arena.

Mr. ROSE. I am concerned that leaving cases pending since 2017 is not the best use of taxpayer dollars. I am concerned that the CFPB is dragging out these cases in search of a problem, and a perpetrator, in order to justify the already sunk cost. I know you cannot comment on pending litigation, but I hope that you, as Director of the CFPB, will resolve this litigation soon.

And then, finally, I just want to echo Congressman Luetkemeyer's call for an investigation—

Chairwoman WATERS. The gentleman's time has expired.

Mr. ROSE. —or a study.

Chairwoman WATERS. The gentlewoman from Ohio, Mrs. Beatty, who is also the Chair of our Subcommittee on Diversity and Inclusion, is recognized for 5 minutes.

Mrs. BEATTY. Thank you, Madam Chairwoman. To the Director, thank you for being here today. We have had the opportunity to have a number of conversations and visit, and so you won't be surprised by some of my questions. You know how passionate, like my colleagues, I am about protecting our consumers, and where I stand on the issue of diversity and inclusion, and especially having inclusion.

But today, I want to quickly focus on two things. Last month, this committee held a hearing on abusive debt collection practices, and I brought up the CFPB's Complaint Database, specifically as it relates to the great State of Ohio that I represent. And according

to your agency's Complaint Database, debt collection topic was the most complained about by Ohioans.

Madam Director, do you have any idea how many complaints surfaced as it relates to debt collection, from Ohio?

Ms. KRANINGER. Off the top of my head, Congresswoman, I don't. But I think you are going to tell me, which will be helpful.

Mrs. BEATTY. Yes. 16,000 complaints, and more than one-third of those 16,000 complaints about debt collection were specifically related to the issue of debt collection that was not owed to people. So when I think of protecting our consumers and having that number from one area, and then you find out that it was about dollars not owed.

I asked the hearing panel if anything in the Consumer Bureau's debt collection rule addressed this issue about the number-one thing complained about in the State of Ohio. And do you think they said yes or no? They said, no.

So I am asking you, do you believe there is anything in your agency's proposed debt collection rule that directly seeks to address the number one complaint about debt collection in the great State of Ohio?

Ms. KRANINGER. The question of substantiation by creditors and between creditors and third-party debt collectors is one that the Bureau, from the beginning of undertaking this effort in 2013, decided not to include in the rulemaking. I appreciate that it is a significant complaint area, and there are opportunities, I think, to address that through education, certainly through our enforcement actions as well.

Mrs. BEATTY. Let me ask you this question, because my time is running. I hear what you are saying. The answer is no, but does that mean now, knowing the volume of it, that you wouldn't take any consideration with the vast trove of consumer complaints and the data within your database? It is not important, 16,000 and for debt that is not owed, and we are protecting our consumers?

Ms. KRANINGER. It is absolutely information we use in our enforcement actions, or to inform enforcement actions that we might take, as well as education efforts. But with respect to this particular rulemaking, it is something that we are not addressing.

Mrs. BEATTY. Well, I am going to keep talking about this, because I don't think that is fair to the citizens of Ohio. But you mentioned enforcement so let me go to my next question.

Under Acting Director Mulvaney's short time in running—or maybe I would like to say gutting—the Consumer Bureau, he stripped the agency's fair lending office of its enforcement powers. Now on page 8 of your written testimony, it states, and I quote, "During the reporting period, the Bureau did not initiate or complete any fair lending public enforcement actions. In addition, during this reporting period, the Bureau did not refer any matters to the DOJ with regard to discrimination, pursuant to Section 706(g) of the Equal Credit Opportunity Act."

The reason I asked you this question is that this is the first time in its history that there has been a 6-month period where there was no discrimination in lending occurring in this country. Now, I know the number of complaints that I hear about and I get, and



I know Congresswoman Adams talked about exams, but this is an enforcement.

Do you really expect me to believe that there was nothing in the fair lending for 6 months, and in the history, this has never happened?

Ms. KRANINGER. I absolutely grant that this report is not a measure of discrimination happening in the markets, in general.

Mrs. BEATTY. So, there was discrimination? We just didn't deal with it in the fair lending practice?

Ms. KRANINGER. We have the cases that are opened by the Bureau attorneys in this agency, and we just did not have cases—

Mrs. BEATTY. So you didn't report it—

Ms. KRANINGER. —that were—

Mrs. BEATTY. —but it is actually happening.

Ms. KRANINGER. —during that time.

Mrs. BEATTY. I'm sorry, my time is up.

Chairwoman WATERS. The gentleman from South Carolina, Mr. Timmons, is now recognized for 5 minutes.

Mr. TIMMONS. Thank you, Madam Chairwoman. It is an honor to serve on this committee. The people of South Carolina and the people of the Fourth Congressional District have wanted representation here for a while, and I am just excited to get to work.

Director Kraninger, I want to begin by thanking you for taking the time to come before this committee today, and offer you a minute or two of my time to further expound on any answers that you did not have sufficient time to answer.

Ms. KRANINGER. Thank you for that, Congressman. I would just come back to Congresswoman Beatty's question, because it is an important one, and that is around enforcement cases in general. They definitely are not a measure of what discrimination is happening in the marketplace, but it is our best effort, looking at referrals from other agencies, looking at our complaints, looking at what is happening in the marketplace, where we are bringing investigations and career Bureau attorneys are taking those investigations where they can, based on the facts and circumstances, and carrying them through the conclusion, or closing them. And so the public enforcement actions are when we are actually able to bring a case or settle the claims that we have against an individual entity.

That is, by nature, not something that is necessarily in the time-frame that we would like it to be in, so that is something that we are balancing and looking at, and making sure we are applying our resources effectively.

But I can assure you that we do have fair lending examinations for lending investigations that are open and ongoing.

Mr. TIMMONS. Thank you. My great-grandfather started an insurance company 80 years ago, and I want to ask you, what do you view as the CFPB's role in insurance regulation?

Ms. KRANINGER. The Dodd-Frank Act specifically took insurance regulated by the States out of our purview.

Mr. TIMMONS. Simple enough. Thank you.

One additional question. I know one of my colleagues may have already touched on this, but I represent a district where a large number of my constituents access capital from nonconventional lenders. These lenders would be significantly impacted by the im-

plementation of the so-called small-dollar rule. I know that you and your team are working on an update to this rule, and I wanted to see if you could give us a sense of when we might expect to see the update finalized.

Ms. KRANINGER. Thank you, Congressman. It is something certainly that we are working very hard on. The comment period closed this summer, I believe, and so we are working our way through the 19,000 comments that we received, including some additional research that has come to bear, and working our way through that. So it is an appropriate, deliberate process, but one that we are working our way through.

Mr. TIMMONS. Could you give any kind of a 2-, 4-, 6-, 8, 12-month timeline?

Ms. KRANINGER. I can tell you that 12 months is definitely too long at this point. And I have also made folks aware publicly that we wouldn't get to this issue this year, so it is not going to come out this year. It is going to take a little longer than past December.

Mr. TIMMONS. Thank you. I yield to the ranking member for the remainder of my time.

Mr. MCHENRY. I thank my colleague for yielding, and welcome to the committee.

Director Kraninger, student lending, student debt. Under the old regulations, would a debt collection agency or firm be able to text their customers?

Ms. KRANINGER. Yes, if they so chose to do so.

Mr. MCHENRY. Okay. And how does your rule change texting, since this is much discussed this day, about texting?

Ms. KRANINGER. What we were trying to do is provide some clarity in that space, so a debt collector could only text a consumer if that consumer had provided that number and communicated with their creditor via that text messaging mechanism.

Mr. MCHENRY. Is that written in statute?

Ms. KRANINGER. That is not written in statute.

Mr. MCHENRY. Is that written in regulation?

Ms. KRANINGER. It is a real issue, and it is something that we are addressing in the rule.

Mr. MCHENRY. It was determined by the courts, am I correct?

Ms. KRANINGER. There are 12,000 lawsuits every year around the FDCPA, so it is active—different courts studying different standards, which is why we tried to pursue—

Mr. MCHENRY. To provide clarity, was this to provide clarity to the debt collectors or to the consumers, or both?

Ms. KRANINGER. Both.

Mr. MCHENRY. Both. So those who actually want to pay their bills, now, perhaps, will get a text that they missed their payment, kind of like what I signed up for with every one of my utilities. What I am saying is the discussion around all this stuff is not the intention that I have seen from the regulation you have offered, and so I think it is important that Members understand that, and the nature of student debt as well, much more broadly than about the CFPB.

Chairwoman WATERS. The gentleman's time has expired. The gentlewoman from California, Ms. Porter, is recognized for 5 minutes.

Ms. PORTER. Thank you, Madam Chairwoman. Director Kraninger, you have emphasized education at the Bureau over priorities like enforcement. And when you were asked, on CNBC, what predatory practices you were worried about you said, and I quote, "It is really a buyer beware situation." Your Deputy said that the single most important policy that the CFPB is pursuing is "to ensure consumers have the ability to make their best choices in free markets."

So while you have emphasized education, enforcement to protect consumers who are cheated under your watch has plummeted. I gather from this that you expect consumers to take personal responsibility in understanding and choosing financial services products, and I know you would hold yourself to that same standard.

I read in the paper that you kept the calculator that I offered you in our last conversation. Do you happen to have it with you?

Ms. KRANINGER. No. I actually don't have it.

Ms. PORTER. Okay. That is fine, because most consumers don't carry calculators.

Ms. KRANINGER. Well, they are on every phone, so they actually do.

Ms. PORTER. Terrific.

Ms. KRANINGER. I have a phone.

Ms. PORTER. Feel free to use your phone. Since you are all about disclosures and giving consumers the information they need to make their own best choices in free markets, I would like to show you an average, simple, Truth in Lending Act (TILA) disclosure to help people understand the cost of a loan.

There it is. I know it is hard to see. You are going to have to look to your side, because I am not allowed to show it this way. So if you look to your side, this is a TILA disclosure, and there are two boxes missing: the amount financed; and the amount of the payments. I would like to know what the amount financed is.

Ms. KRANINGER. Congresswoman, I am the first to note that I don't think many of the disclosures that are provided to consumers are all that useful, particularly when you talk about some of the things that have happened in the mortgage space.

Ms. PORTER. This is not a mortgage.

Ms. KRANINGER. The opportunity to actually improve on disclosures is where I think we have a great opportunity to look and—

Ms. PORTER. Ms. Kraninger, you are responsible for improving on those disclosures then. So before you go about improving them, what I am trying to assess is whether or not you understand them, because it is going to be very difficult to improve them if you don't understand what we have been disclosing for the last 35-plus years under the Truth in Lending Act. What is the amount financed? All of the information you need is displayed.

Ms. KRANINGER. I will tell you despite how large that is, I can't actually read it from here.

Ms. PORTER. Madam Chairwoman, may I give the witness a copy of it?

Chairwoman WATERS. The gentlewoman is given permission to give—

Mr. McHENRY. Will the gentlewoman provide copies for everyone?

Ms. PORTER. Yes, and—

Mr. MCHENRY. Quite frankly, I can't see on it on the big screen, based off of where the cracks are. And the hectoring of the witness about math problems is quite insulting to all of us on this committee.

Ms. PORTER. Oh, to the contrary, Mr. McHenry. Math problems are exactly what the Bureau's, "Your Money, Your Goals" educational program is about, in which the semi-annual report of the Director—

Mr. MCHENRY. If the gentlewoman will yield—

Ms. PORTER. I will not yield. The "Your Money, Your Goals" program is designed to use, to build your own financial skills and confidence, and to be able to start money conversations with the people that they serve. So I am asking Ms. Kraninger about her own skills and confidence so that she can administer the program that she is touting in the semi-annual report.

Ms. KRANINGER. I would say, as point of fact, I don't necessarily get in the weeds of administering that program. There are 1,500 people at the agency and they do certainly have many people out in the field—

Ms. PORTER. Reclaiming my time—

Ms. KRANINGER. —who administer the program.

Ms. PORTER. I appreciate that staff do much of the work, but consumers in the marketplace do not have staff to understand these disclosures. They are out there by themselves, trying to figure it out. You, in fact, are in charge of making sure that the lenders, often entry-level, rank-and-file employees, fill these disclosures out correctly.

So as the head of the Consumer Financial Protection Bureau, when you see these disclosures, you have to be able to know if they are correctly completed or incorrectly completed. Otherwise, you can't do the enforcement work.

Ms. KRANINGER. As a point of fact, it is not me, myself, who is doing that. Again, it is the enforcement attorneys and the examiners who have tools that actually help support them in actually doing that in a broad range of credit calculations and activities.

Ms. PORTER. So I think the answer is, you are not able to come up with the amount of the payments or the amount financed.

Ms. KRANINGER. I am telling you that there are a lot of things—

Ms. PORTER. That sounds like a no.

So I brought the teachers' manual, and I just want to read to you. This is a straightforward problem that simply tests whether the students mastered the basics. The amount calculated is calculated by subtracting the finance charge from the total of payments, \$7,604.30 minus \$1,496.80. That is it. The amount of the payments, you take the total of the payments, \$7,604.30, and you divide by 36. It is \$211.

Let's try this a different way. These two glasses of water each have 32 parts per billion of a chemical. One is perfluorooctanoic acid and the other is fluorosilicic acid. Which one of these glasses of water is safe for me to drink? And again, the relevance of this is important.

Chairwoman WATERS. The gentlewoman's time has expired.

I want to thank Director Kraninger for her time today.

The Chair notes that some Members may have additional questions for this witness, which they may wish to submit in writing. Without objection, the hearing record will remain open for 5 legislative days for Members to submit written questions to this witness and to place her responses in the record. Also, without objection, Members will have 5 legislative days to submit extraneous materials to the Chair for inclusion in the record.

This hearing is adjourned.

[Whereupon, at 1:27 p.m., the hearing was adjourned.]



# **A P P E N D I X**

October 16, 2019

**Written Testimony**  
**Kathleen L. Kraninger, Director, Consumer Financial Protection Bureau**  
**Before the House Committee on Financial Services**  
**October 16, 2019**

Chairwoman Waters, Ranking Member McHenry, and distinguished Members of the Committee thank you for the opportunity to present the Consumer Financial Protection Bureau's most recent Semi-Annual Report to Congress.

The Bureau presents these Semi-Annual Reports to Congress and the American people in fulfillment of its statutory responsibility and commitment to accountability and transparency. The Bureau's Spring 2019 (October 1, 2018, to March 31, 2019) Semi-Annual Report meets this mandate. My testimony is intended to highlight the contents of this Semi-Annual Report (Report).

***1. Significant problems faced by consumers in shopping for or obtaining consumer financial products or services***

In each Report, the Bureau identifies relevant trends affecting consumers shopping for, or obtaining consumer financial products or services. In this Report, the Bureau highlights three trends detailed in two Quarterly Consumer Credit Trends (qCCT) reports and a Research Brief.

**First**—Natural disasters can result in substantial property destruction and personal injury, and tragically, loss of life. They can also result in negative shocks to household finances, including lost income and major unexpected expenses.<sup>1</sup> Many financial institutions offer financial relief or assistance that often includes payment relief for customers affected by natural disasters. The qCCT report about Natural Disasters and Credit Reporting documents current practices for natural disaster reporting as reflected by comment codes entered in credit records.

The Bureau recognizes the serious impact major disasters or emergencies have on consumers and the operations of many supervised entities. Existing laws and regulations provide supervised entities regulatory flexibility to take certain actions that can benefit consumers in communities under stress and hasten recovery. The Bureau will also consider the impact of major disasters or emergencies on supervised entities themselves when conducting supervisory activities. In September 2018, the Bureau issued its "Statement on Supervisory Practices Regarding Financial Institutions and Consumers Affected by a Major Disaster or Emergency."<sup>2</sup>

The Bureau currently also produces a significant range of educational material on the financial aspects of preparing for a disaster. For example, the Bureau recently worked with the Federal Emergency Management Agency (FEMA) to develop a disaster checklist to help consumers prepare for a natural disaster. This material is made available to the public both in print and online.

**Second**—Understanding Servicemembers options in obtaining a mortgage is important in determining how the Bureau can best support Servicemembers and veterans. Servicemembers have a range of options for obtaining a mortgage. The qCCT report about Mortgages to First-



time Homebuying Servicemembers discusses how loan choices for first-time homebuyers have evolved from 2006 to 2016. This report shows that Servicemembers' reliance on VA loans for first time homebuying increased from 2006 to 2016. The Bureau is also focused on supporting Servicemembers in the mortgage loan process.

The Bureau's Buying a House tool is a useful guide in helping Servicemembers and veterans become aware of how to navigate the path to achieving homeownership.

**Third** – Bureau research has consistently demonstrated that having control of personal finances is an important element in financial well-being. Our Research Brief *Consumer Insights on Paying Bills* looks at common challenges related to bill payment. The Brief outlines a range of steps that consumers can consider to enhance timely debt servicing and maximize their cash flow.

The Bureau's approach to consumer protection includes five principles<sup>3</sup> for effective financial education, and the steps discussed in this Research Brief flow from the principle of helping consumers make good decisions and to follow through. This review is illustrative of the proactive approach we intend to continue in order to foster the financial well-being of American consumers.

## **2. Justification of the budget request of the previous year**

The Bureau is funded principally by transfers from the Federal Reserve System, up to the limits set forth in Section 1017 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act) (12 U.S.C. 5497). As of March 31, 2019, the Bureau had received two transfers for Fiscal Year (FY) 2019 in the amounts of \$172.9 million (October 1, 2018) and \$122.8 million (January 2, 2019) for a total of \$295.7 million. Additional information about the Bureau's finances, including information about the Bureau's Civil Penalty Fund and the Bureau-Administered Redress programs is, available in the annual financial reports and the Chief Financial Officer (CFO) quarterly updates, published online at [www.consumerfinance.gov](http://www.consumerfinance.gov). Copies of the Bureau's quarterly funds transfer requests are also available online.

As of March 31, 2019, the end of the second quarter of FY 2019, the Bureau had spent approximately \$281.9 million in 2019 funds to carry out the authorities of the Bureau under Federal financial consumer law. This includes commitments, obligations, and expenditures. A commitment is a reservation of funds in anticipation of a future obligation. The Bureau spent approximately \$154.9 million on employee compensation for the 1,452 employees on board at the end of the second quarter.

**3. *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***<sup>4</sup>

**3.1 - Significant rules**<sup>5</sup>

The Bureau did not adopt significant final rules or orders during the preceding year. The Bureau issued two significant notices of proposed rulemaking:

- Payday, Vehicle Title, and Certain High-Cost Installment Loans<sup>6</sup>
- Payday, Vehicle Title, and Certain High-Cost Installment Loans; Delay of Compliance Date<sup>7</sup>

**3.2 - Less Significant rules**<sup>8</sup>

- Final Rule: Federal Mortgage Disclosure Requirements under the Truth in Lending Act (TILA) (Regulation Z)<sup>9</sup>
- Final Rule: Amendment to the Annual Privacy Notice Requirement Under the Gramm-Leach-Bliley Act (Regulation P)<sup>10</sup>
- Final Rule: Partial Exemptions from the Requirements of the Home Mortgage Disclosure Act under the Economic Growth, Regulatory Relief, and Consumer Protection Act (Regulation C)<sup>11</sup>
- Final Rule: Summaries of Rights under the Fair Credit Reporting Act (Regulation V)<sup>12</sup>
- Final Rule: Home Mortgage Disclosure (Regulation C) Adjustment to Asset-Size Exemption Threshold<sup>13</sup>
- Final Rule: Truth in Lending Act (Regulation Z) Adjustment to Asset-Size Exemption Threshold<sup>14</sup>
- Final Rule: Civil Penalty Inflation Adjustments<sup>15</sup>
- Final Rule: Technical Specifications for Submissions to the Prepaid Account Agreements Database<sup>16</sup>

**3.3 - Significant initiatives**:

- Final Policy Guidance: Disclosure of Loan-Level Home Mortgage Disclosure Act (HMDA) Data<sup>17</sup> (December 2018)
- Advance Notice of Proposed Rulemaking: Residential Property Assessed Clean Energy<sup>18</sup> (March 2019)
- Assessments of Significant Rules pursuant to Section 1022(d) of the Dodd-Frank Act
  - Remittance Rule assessment report<sup>19</sup> (October 2018)
  - Ability to Repay and Qualified Mortgage Rule assessment report<sup>20</sup> (January 2019)
  - 2013 Real Estate Settlement Procedures Act (RESPA) Mortgage Servicing Rule assessment report<sup>21</sup> (January 2019)
- Trial Disclosure Proposed Policy<sup>22</sup> (September 2018)
- No-Action Letters and Product Sandbox Proposed Policies<sup>23</sup> (December 2018)

- Start Small, Save Up Initiative<sup>24</sup> (February 2019)
- Suspicious Activity Reports on Elder Financial Exploitation<sup>25</sup> (February 2019)
- Classroom Activities for Teaching the Building Blocks of Financial Capability<sup>26</sup>
- Consumer Education (“Ask CFPB”) Milestones
- Your Money, Your Goals (financial empowerment tools and resources)
- Memorandum of Understanding with the Federal Trade Commission<sup>27</sup>
- Director’s Listening Tour (December 2018–March 2019)
- CFPB Advisory Committees Enhancements
- Guidance Documents<sup>28</sup> (bulletins and guidance documents in the last year)
  - Summer 2018 Supervisory Highlights<sup>29</sup>
  - Winter 2019 Supervisory Highlights<sup>30</sup>
  - Bulletin 2018-01: Changes to Types of Supervisory Communications<sup>31</sup>
  - Statement on Supervisory Practices regarding Financial Institutions and Consumers Affected by a Major Disaster or Emergency<sup>32</sup>
  - Interagency Statement Clarifying the Role of Supervisory Guidance<sup>33</sup>
  - Prepaid Account Examination Procedures<sup>34</sup>
  - Short-Term, Small-Dollar Lending Examination Procedures<sup>35</sup>
  - TILA Examination Procedures<sup>36</sup>
  - Electronic Fund Transfer Act (EFTA) Examination Procedures<sup>37</sup>
  - CFPB Supervision and Examination Process<sup>38</sup>
  - Examination Report Template<sup>39</sup>
  - Supervisory Letter Template<sup>40</sup>
  - Examination Scope Summary Template<sup>41</sup>

#### 3.4 - Plan for upcoming initiatives:

- Home Mortgage Disclosure Act Data Release<sup>42</sup> (August 2019)
- Credit Card Market Report<sup>43</sup> (August 2019)
- Start Small, Save Up Initiative (ongoing)
- Consumer Complaint Database<sup>44</sup> (ongoing)
- Misadventures in Money Management (MiMM) for Active Duty Servicemembers<sup>45</sup> (ongoing)
- Savings Booklet<sup>46</sup>
- Director Stakeholder Engagement<sup>47</sup> (ongoing)
- Bureau Symposia Series<sup>48</sup> (ongoing)
- Guidance Documents (ongoing)
  - Equal Credit Opportunity Act (ECOA) Baseline Review Examination Procedures<sup>49</sup>
  - HMDA Examination Procedures<sup>50</sup>
  - Statement on Collection of Demographic Information by Community Development Financial Institutions<sup>51</sup>
  - Automobile Finance Examination Procedures<sup>52</sup>
  - Summer 2019 Supervisory Highlights<sup>53</sup>
  - Annual Report to Congress on TILA, the Electronic Fund Transfer Act (EFTA), and the Credit Card Accountability Responsibility and Disclosure (CARD Act)<sup>54</sup>

### 3.5 - Plan for upcoming rules:

The Bureau published its Spring 2019 Rulemaking Agenda as part of the Spring 2019 Unified Agenda of Federal Regulatory and Deregulatory Actions, which is coordinated by the Office of Management and Budget.<sup>55</sup> As an independent regulatory agency, the Bureau voluntarily participates in the Unified Agenda. The Unified Agenda lists the regulatory matters that the Bureau reasonably anticipates having under consideration during the period from May 1, 2019, to April 30, 2020.<sup>56</sup>

The Bureau is considering further prioritization and planning of the Bureau's rulemaking activities, both with regard to substantive projects and modifications to the processes that the Bureau uses to develop and review regulations. The Bureau expects the Fall 2019 Agenda to issue a more comprehensive statement of priorities to reflect ongoing statutorily mandated market monitoring and the Bureau's other activities discussed in the Report.

During the reporting period, the Bureau was engaged in a number of rulemakings to implement directives mandated in the Economic Growth, Regulatory Relief, and Consumer Protection Act of 2018 (EGRRCPA), the Dodd-Frank Act, and other statutes. As part of these rulemakings, the Bureau is working to achieve the consumer protection objectives of the statutes while minimizing regulatory burden on financial services providers, including through facilitating industry compliance with rules.

#### Pre-rulemaking initiatives, as reflected in the Bureau's Spring 2019 Unified Agenda:

- Equal Credit Opportunity Act (Regulation B) Business Lending Data Collection and Reporting Requirements
- Remittance Transfers<sup>57</sup>
- Home Mortgage Disclosure Act (Regulation C) Data Collection and Reporting Requirements<sup>58</sup>

#### Proposed rules for the upcoming period, as reflected in the Bureau's Spring 2019 Unified Agenda:

- Debt Collection Rule<sup>59</sup>
- Home Mortgage Disclosure Rule (Regulation C)<sup>60</sup>
- Public Release of Home Mortgage Disclosure Act Data<sup>61</sup>

#### Final rules for the upcoming period as reflected in the Bureau's Spring 2019 Unified Agenda:

- Payday, Vehicle Title, and Certain High-Cost Installment Loans; Delay of Compliance Date<sup>62</sup>
- The Expedited Funds Availability Act (Regulation CC) (EFA Act)<sup>63</sup>

**4. *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***

The Bureau's Office of Consumer Response analyzes consumer complaints, company responses, and consumer feedback to assess the accuracy, completeness, and timeliness of company responses. The Bureau uses insights gathered from complaint data to scope and prioritize examinations and ask targeted questions when examining companies' records and practices to help understand problems consumers are experiencing in the marketplace, to provide access to information about financial topics and opportunities to build skills in money management that can help consumers avoid future problems, and to inform enforcement investigations to help stop unfair, deceptive or abusive practices.

During the period April 1, 2018, through March 31, 2019, the Bureau received approximately 321,200 consumer complaints.<sup>64</sup> This was an approximate two percent decrease from the prior reporting period.<sup>65</sup> Consumers submitted approximately 82 percent of these complaints through the Bureau's website and five percent via telephone calls. Referrals from other state and Federal agencies accounted for eight percent of complaints. Consumers submitted the remainder of complaints by mail, email, and fax. The Bureau does not verify all of the facts alleged in complaints but takes steps to confirm a commercial relationship between the consumer and the company. During this time period the Bureau sent approximately 257,300 (or 80 percent) of complaints received to companies for review and response.<sup>66</sup> Companies responded to approximately 95 percent of complaints that the Bureau sent to them for response during the period. The remaining complaints were either pending response from the company at the end of the period or did not receive a response.

The Bureau also publishes the *Consumer Response Annual Report*,<sup>67</sup> which provides a more detailed analysis of complaints. A detailed chart breaking down the complaints received by type is included in that Report, along with a discussion about how we use and apply the data.

**5. *Public supervisory and enforcement actions to which the Bureau was a party during the preceding year***

The Bureau's supervisory activities with respect to individual institutions are non-public. The Bureau has, however, issued numerous supervisory guidance documents and bulletins as described in the Report.

The Report also outlines a range of public enforcement actions from April 1, 2018, through March 31, 2019, detailed in descending chronological order by filing or issue date. This section also identifies those actions involving Office of Administrative Adjudication Orders with respect to covered persons that are not credit unions or depository institutions.

**6. *Actions taken regarding rules, orders, and supervisory actions with respect to covered persons which are not credit unions or depository institutions***

The Bureau's *Supervisory Highlights* publications provide general information about the Bureau's supervisory activities at banks and nonbanks without identifying specific companies. Between April 1, 2018, and March 31, 2019, the Bureau published two issues of *Supervisory Highlights*. All public enforcement actions are listed in Section 5.2 of the Report, and actions taken with respect to covered persons which are not credit unions or depository institutions are noted with the summary of the action.

**7. *Assessment of significant actions by State attorneys general or State regulators relating to Federal consumer financial law***

For purposes of Dodd-Frank Section 1016(c)(7) reporting requirement, the Bureau has determined that any actions asserting claims pursuant to Section 1042 of the Dodd-Frank Act are "significant." The Bureau is unaware of any State actions asserting Dodd-Frank Act claims that were initiated during the April 1, 2018, through March 31, 2019 reporting period.

**8. *Analysis of the efforts of the Bureau to fulfill the fair lending mission of the Bureau***

The Report provides an update on the Bureau's work to fulfill requirements mandated by the Dodd-Frank Act related to fair lending, noting highlights from the Bureau's fair lending enforcement<sup>68</sup> and rulemaking<sup>69</sup> activities from April 1, 2018, through March 31, 2019. We continued our efforts to fulfill the fair lending mission of the Bureau through supervision, interagency coordination, and outreach in the period October 1, 2018, through March 31, 2019.

**8.1 - Fair lending supervision:**

The Bureau's Fair Lending Supervision program assesses compliance with Federal fair lending consumer financial laws and regulations at banks and nonbanks over which the Bureau has supervisory authority. As a result of the Bureau's efforts to fulfill its fair lending mission in this reporting period, the Bureau's Fair Lending Supervision program initiated 10 supervisory events at financial institutions under the Bureau's jurisdiction to determine compliance with Federal laws intended to ensure the fair, equitable, and nondiscriminatory access to credit for both individuals and communities, including the ECOA and HMDA. For exam reports issued by Supervision during the reporting period, the most frequently cited violations were:

- Section 1003.4(a): Failure by a financial institution to collect and accurately report data regarding applications for covered loans that it receives, originates, or purchases in a calendar year, or, failure to collect and accurately report data regarding certain requests under a preapproval program in a calendar year; and
- Section 1002.12(b)(1)(i): Failure to create and preserve records and other documents required by the regulation.

In the current reporting period, the Bureau initiated 10 supervisory events, which is fewer than the 13 fair lending supervisory events reported as initiated during the reporting period reflected

in the Fall 2018 Semi-Annual Report.<sup>70</sup> In the current reporting period, the Bureau issued fewer matters requiring attention (MRAs) or memoranda of understanding (MOUs) than in the prior period. MRAs and MOUs direct entities to take corrective actions and are monitored by the Bureau through follow-up supervisory events. Consistent with BCFP Bulletin 2018-01,<sup>71</sup> the Bureau issues Supervisory Recommendations (SRs) to address supervisory concerns related to financial institutions' compliance management systems. SRs do not include provisions for periodic reporting nor expected timelines for implementation. During the current reporting period, the Bureau provided SRs relating to supervisory concerns related to weak or nonexistent fair lending risk assessments and/or fair lending training.

#### 8.2 - Fair lending enforcement.<sup>72</sup>

The Bureau has the statutory authority to bring actions to enforce the requirements of HMDA and ECOA. In this regard, the Bureau has the authority to engage in research, conduct investigations, file administrative complaints, hold hearings, and adjudicate claims through the Bureau's administrative enforcement process. The Bureau also has independent litigating authority and can file cases in Federal court alleging violations of fair lending laws under the Bureau's jurisdiction. Like other Federal bank regulators, the Bureau is required to refer matters to the U.S. Department of Justice (DOJ) when it has reason to believe that a creditor has engaged in a pattern or practice of lending discrimination.<sup>73</sup>

During the reporting period, the Bureau did not initiate or complete any fair lending public enforcement actions. In addition, during this reporting period,<sup>74</sup> the Bureau did not refer any matters to the DOJ with regard to discrimination pursuant to Section 706(g) of ECOA. During the reporting period, the Bureau continued to implement and oversee compliance with the pending public enforcement orders that were entered by Federal courts or issued by the Bureau's Director in prior years.

#### 8.3 - Fair lending outreach:

The Bureau is committed to hearing from and communicating directly with stakeholders. The Bureau regularly engages in outreach with Bureau stakeholders, including consumer advocates, civil rights organizations, industry, academia, and other government agencies, to: (1) educate them about fair lending compliance and access to credit issues, and (2) hear their views on the Bureau's work to inform the Bureau's policy decisions. Outreach is accomplished through meetings and the delivery of speeches and presentations addressing fair lending and access to credit issues as well as issuance of Reports to Congress, Interagency Statements, *Supervisory Highlights*, Compliance Bulletins, letters and blog posts, as well as through meetings and the delivery of speeches and presentations addressing fair lending and access to credit issues. During the reporting period, Bureau staff participated in twenty-one (21) outreach events involving fair lending and access to credit issues.

#### 8.4 - Fair lending coordination:

The Bureau's fair lending activity involves regular coordination with other Federal and state regulatory and enforcement partners. During the reporting period, Office of Fair Lending and Equal Opportunity (OFLEO) staff continued to lead the Bureau's fair lending interagency coordination and collaboration efforts by working with partners on the Interagency Working

Group on Fair Lending Enforcement, and chairing the Interagency Task Force on Fair Lending and the Federal Financial Institutions Examination Council (FFIEC) HMDA Data Collection Subcommittee.

**9. *Analysis of the efforts of the Bureau to increase workforce and contracting diversity consistent with the procedures established by the Office of Minority and Women Inclusion (OMWI)***

The Bureau issued the Annual Report of OMWI activities on April 3, 2019.<sup>75</sup> Throughout the reporting period the Bureau continued executing on objectives and strategies outlined in the Bureau of Consumer Financial Protection Strategic Plan FY 2018–2022,<sup>76</sup> which complements and reinforces the Diversity and Inclusion Strategic Plan 2016–2020. The Bureau began developing a Diversity and Inclusion Strategic Plan Update in March, which was published in July.<sup>77</sup>

As of March 2019, an analysis of the Bureau’s current workforce reveals the following key points:

- Women represent 49 percent of the Bureau’s 2019 workforce with no change from 2018;
- Minorities (Hispanic, Black, Asian, Native Hawaiian/Other Pacific Islander (NH/OPI), American Indian/Alaska Native (AI/AN) and employees of two or more races) represent 40 percent of the Bureau workforce in 2019 with no change from 2018; and
- As of March 31, 2019, 12.7 percent of Bureau employees on permanent appointments identified as an individual with a disability. Out of the permanent workforce, 3.4 percent of employees identified as an individual with a targeted disability. As a result, the Bureau continues to exceed the 12 percent workforce goals for employees with disabilities and 2.0 percent for employees with targeted disabilities—in both salary categories, as required in the EEOC’s Section 501 regulations.

The Bureau seeks to increase diversity through efforts in recruiting and workforce engagement. During the reporting period, the Bureau was under a hiring freeze.<sup>78</sup> However, the Bureau onboarded nine (9) hiring exceptions, including six (6) women and four (4) minorities. The Bureau also utilized the student volunteer internship program, other professional development programs, and recruitment efforts directed to reach veterans and applicants with disabilities. To promote an inclusive work environment, the Bureau focuses on strong engagement with employees and utilizes an integrated approach to education, training, and engagement programs that ensures diversity and inclusion from non-discrimination concepts are part of the learning curriculum and work environment. Employee resource groups, cultural education programs, and diversity and inclusion training are key components of this effort.

The Bureau’s Diversity and Inclusion Strategic Plan describes our efforts to increase contracting opportunities for diverse businesses including Minority-owned and Women-Owned Businesses (MWOBs). The Bureau’s OMWI and Procurement offices collectively work to increase opportunities for participation by MWOBs. These efforts include actively engaging Bureau business units with MWOB contractors throughout the acquisition cycle, developing a ‘How to Do Business with the CFPB’ series and a supplier diversity guide. These resources are available on the Bureau’s website.



Additionally, in the reporting period, the Bureau participated in four (4) national supplier diversity conferences that help to foster business partnerships between the Federal government, its U.S. prime contractors, minority-owned businesses, and advocacy for women business owners and entrepreneurs. As a result of these efforts, 36.7 percent of the \$49 million in contracts that the Bureau awarded or obligated during the reporting period went to MWOBs. In accordance with the mandates in Section 342(c)(2) OMWI has developed Good Faith Effort (GFE) standards for the collection and assessment of documentation of contractor's workforce and subcontractor diversity practices. These standards were updated in FY 2019 to better align with Federal Acquisition Regulations. The GFE clause has been included in all CFPB contracts since FY 2018.

### ***Legislative Reform***

Chairwoman Waters, in your invitation letter, you asked that I identify any legislative reforms needed to better protect consumers. I know that Servicemembers and military families matter greatly to all of you just as they do to me. Earlier this year, the Bureau requested that Congress provide us with clear legal authority to supervise financial institutions for MLA compliance, and we transmitted proposed legislative language that would achieve this goal. I stand ready to work with members of this Committee to provide us with this authority to assist the Bureau's ongoing efforts to prevent harm to our servicemembers and their families.

### ***Taskforce on Federal Consumer Financial Law***

Last week the Bureau announced the will establish a taskforce to examine ways to harmonize and modernize federal consumer financial laws. The Taskforce on Federal Consumer Financial Law will produce new research and legal analysis of consumer financial laws in the United States, focusing specifically on harmonizing, modernizing, and updating the enumerated consumer credit laws—and their implementing regulations—and identifying gaps in knowledge that should be addressed through research, ways to improve consumer understanding of markets and products, and potential conflicts or inconsistencies in existing regulations and guidance. I believe that a logical and important part of the Bureau's maturation is to evaluate how best to harmonize these laws to ensure their efficient operation for the benefit of consumers.

The Bureau is currently accepting applications from individuals who are interested in serving on the taskforce. The members will have a broad range of expertise in the areas of consumer protection and consumer financial products or services; significant expertise in analyzing consumer financial markets, laws, and regulations; and a demonstrated record of senior public or academic service.

### ***Conclusion***

Since my confirmation, I have met with more than 800 stakeholders in the realm of consumer protection. This outreach is exceptionally valuable in building productive relationships and to hear the fullest possible range of insight and perspective. Building on my March testimony, I remain committed to strengthening the Bureau's ability to use all of the tools provided by Congress to protect consumers. Factoring in all of the input and counsel that I have received, I

remain resolved that the most productive use of Bureau resources is to be focused on preventing harm to consumers. Empowering consumers to protect and further their own interests must be at the core of our mission. I have established and communicated clear priorities to Bureau staff for our work using the authorities provided by Congress. The Bureau's mission is to ensure access to fair, transparent, and competitive markets for consumers. We will work to execute this mandate through: 1) providing "clear rules of the road" to make clear what is lawful and unlawful behavior; and, 2) using supervision to foster a "culture of compliance" and as an opportunity to prevent violations; 3) vigorous enforcement; and 4) robust education efforts that empower consumers to make the best possible financial decisions.

Thank you again for the opportunity to present this Semi-Annual Report of the Bureau's work in support of American consumers.

<sup>1</sup> One recent study of the economic effects of natural disasters on consumers and households estimates that checking account inflows fall by 20 percent and outflows fall by more than 30 percent after a natural disaster. See J.P. Morgan Chase & Co. Institute (2018), "Weathering the Storm: The Financial Impacts of Hurricanes Harvey and Irma on One Million Households." Available at <https://institute.jpmorganchase.com/institute/research/cities-local-communities/report-weathering-the-storm>. Another study finds a general increase in consumers' credit utilization after an event and, for some groups, an increase in bankruptcies. See Tran, B. and T. Sheldon (2018), "Same storm, different disasters: Consumer credit access, income inequality, and natural disaster recovery." Available at <https://www.acaweb.org/conference/2018/preliminary/paper/KaNaAr6t>.

<sup>2</sup> [https://files.consumerfinance.gov/f/documents/cfpb\\_statement-on-supervisory-practices-disaster-emergency.pdf](https://files.consumerfinance.gov/f/documents/cfpb_statement-on-supervisory-practices-disaster-emergency.pdf).

<sup>3</sup> <https://www.consumerfinance.gov/about-us/blog/effective-financial-education-five-principles-and-how-use-them/>.

<sup>4</sup> Separate from the Bureau's obligation to include in this report "a list of the significant rules and orders adopted by the Bureau . . . during the preceding year" 12 U.S.C. 5496(c)(3), the Bureau is required to "conduct an assessment of each significant rule or order adopted by the Bureau" under Federal consumer financial law and issue a report of such assessment "not later than 5 years after the effective date of the subject rule or order," 12 U.S.C. 5512(d). The Bureau will issue separate notices, as appropriate, for each rule and order that qualify as significant for assessment purposes; these notices will seek information required by statute and other information to assist the Bureau in the assessment.

<sup>5</sup> The statutory requirement under 1016(c)(3) calls for the Bureau to report a list of the significant rules and orders adopted by the Bureau. This list includes significant notices of proposed rulemakings.

<sup>6</sup> <https://www.consumerfinance.gov/policy-compliance/rulemaking/rules-under-development/payday-vehicle-title-and-certain-high-cost-installment-loans/>.

<sup>7</sup> <https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/payday-vehicle-title-and-certain-high-cost-installment-loans-delay-compliance-date-correcting-amendments/>.

<sup>8</sup> This list includes less significant rules, and it is not comprehensive. This list may exclude non-major rules, proposed rules, procedural rules, and other miscellaneous routine rules such as annual threshold adjustments. More information about the Bureau's rulemaking activities is available in the Unified Agenda at <https://www.reginfo.gov/public/>, and on the Bureau's public website at <https://www.consumerfinance.gov/policy-compliance/rulemaking/>.

<sup>9</sup> <https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/federal-mortgage-disclosure-requirements-under-truth-lending-act-regulation-z/>.

<sup>10</sup> <https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/amendment-annual-privacy-notice-requirement-under-gramm-leach-bliley-act/>.

<sup>11</sup> <https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/partial-exemptions-from-requirements-of-home-mortgage-disclosure-act-under-regulation-c/>.

<sup>12</sup> <https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/summaries-rights-under-fair-credit-reporting-act-regulation-v/>.

- <sup>13</sup> <https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/home-mortgage-disclosure-regulation-c-adjustment-asset-size-exemption-threshold/>.
- <sup>14</sup> <https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/truth-lending-act-regulation-z-adjustment-asset-size-exemption-threshold/>.
- <sup>15</sup> <https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/civil-penalty-inflation-annual-adjustments/>.
- <sup>16</sup> <https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/technical-specifications-submissions-prepaid-account-agreements-database/>.
- <sup>17</sup> [https://www.consumerfinance.gov/documents/7051/HMDA\\_Disclosure\\_FPG\\_-\\_Final\\_12.21.2018\\_for\\_website\\_with\\_date.pdf](https://www.consumerfinance.gov/documents/7051/HMDA_Disclosure_FPG_-_Final_12.21.2018_for_website_with_date.pdf).
- <sup>18</sup> <https://www.consumerfinance.gov/policy-compliance/notice-opportunities-comment/archive-closed/advance-notice-proposed-rulemaking-residential-property-assessed-clean-energy-financing/>.
- <sup>19</sup> [https://www.consumerfinance.gov/documents/7561/bcfr\\_remittance-rule-assessment\\_report\\_corrected\\_2019-03.pdf](https://www.consumerfinance.gov/documents/7561/bcfr_remittance-rule-assessment_report_corrected_2019-03.pdf).
- <sup>20</sup> [https://files.consumerfinance.gov/f/documents/cfpb\\_ability-to-repay-qualified-mortgage\\_assessment-report.pdf](https://files.consumerfinance.gov/f/documents/cfpb_ability-to-repay-qualified-mortgage_assessment-report.pdf).
- <sup>21</sup> [https://files.consumerfinance.gov/f/documents/cfpb\\_mortgage-servicing-rule-assessment\\_report.pdf](https://files.consumerfinance.gov/f/documents/cfpb_mortgage-servicing-rule-assessment_report.pdf).
- <sup>22</sup> <https://www.consumerfinance.gov/policy-compliance/notice-opportunities-comment/archive-closed/policy-encourage-trial-disclosure-programs/>.
- <sup>23</sup> <https://www.consumerfinance.gov/policy-compliance/notice-opportunities-comment/archive-closed/policy-no-action-letters-and-bcfr-product-sandbox/>.
- <sup>24</sup> <https://www.consumerfinance.gov/start-small-save-up/>.
- <sup>25</sup> <https://www.consumerfinance.gov/data-research/research-reports/suspicious-activity-reports-elder-financial-exploitation-issues-and-trends/>.
- <sup>26</sup> <https://www.consumerfinance.gov/practitioner-resources/youth-financial-education/teach/activities/>.
- <sup>27</sup> [https://files.consumerfinance.gov/f/documents/cfpb\\_ftc\\_memo-of-understanding\\_2019-02.pdf](https://files.consumerfinance.gov/f/documents/cfpb_ftc_memo-of-understanding_2019-02.pdf).
- <sup>28</sup> The Bureau posts many documents relating to compliance and guidance on its website at <https://www.consumerfinance.gov/policy-compliance/guidance/>.
- <sup>29</sup> [https://consumerfinance.gov/f/documents/bcfr\\_supervisory-highlights\\_issue-17\\_2018-09.pdf](https://consumerfinance.gov/f/documents/bcfr_supervisory-highlights_issue-17_2018-09.pdf).
- <sup>30</sup> [https://files.consumerfinance.gov/f/documents/cfpb\\_supervisory-highlights\\_issue-18\\_032019.pdf](https://files.consumerfinance.gov/f/documents/cfpb_supervisory-highlights_issue-18_032019.pdf).
- <sup>31</sup> [https://files.consumerfinance.gov/f/documents/bcfr\\_bulletin-2018-01\\_changes-to-supervisory-communications.pdf](https://files.consumerfinance.gov/f/documents/bcfr_bulletin-2018-01_changes-to-supervisory-communications.pdf).
- <sup>32</sup> [https://files.consumerfinance.gov/f/documents/bcfr\\_statement-on-supervisory-practices\\_disaster-emergency.pdf](https://files.consumerfinance.gov/f/documents/bcfr_statement-on-supervisory-practices_disaster-emergency.pdf).
- <sup>33</sup> [https://files.consumerfinance.gov/f/documents/interagency-statement\\_role-of-supervisory-guidance.pdf](https://files.consumerfinance.gov/f/documents/interagency-statement_role-of-supervisory-guidance.pdf).
- <sup>34</sup> [https://files.consumerfinance.gov/f/documents/cfpb\\_supervision-and-examination-manual\\_prepaid-account-exam-procedures.pdf](https://files.consumerfinance.gov/f/documents/cfpb_supervision-and-examination-manual_prepaid-account-exam-procedures.pdf).
- <sup>35</sup> [https://files.consumerfinance.gov/f/documents/cfpb\\_payday-manual\\_revisions.pdf](https://files.consumerfinance.gov/f/documents/cfpb_payday-manual_revisions.pdf).
- <sup>36</sup> [https://files.consumerfinance.gov/f/documents/cfpb\\_supervision-and-examination-manual\\_fta-exam-procedures\\_2019-03.pdf](https://files.consumerfinance.gov/f/documents/cfpb_supervision-and-examination-manual_fta-exam-procedures_2019-03.pdf).
- <sup>37</sup> [https://files.consumerfinance.gov/f/documents/cfpb\\_supervision-and-examination-manual\\_efta-exam-procedures-incl-remittances\\_2019-03.pdf](https://files.consumerfinance.gov/f/documents/cfpb_supervision-and-examination-manual_efta-exam-procedures-incl-remittances_2019-03.pdf).
- <sup>38</sup> [https://files.consumerfinance.gov/f/documents/cfpb\\_examination-process-section.pdf](https://files.consumerfinance.gov/f/documents/cfpb_examination-process-section.pdf).
- <sup>39</sup> [https://files.consumerfinance.gov/f/documents/cfpb\\_examination-report\\_template.pdf](https://files.consumerfinance.gov/f/documents/cfpb_examination-report_template.pdf).

<sup>40</sup> [https://files.consumerfinance.gov/f/documents/cfpb\\_supervision-and-examination-manual\\_supervisory-letter-template.pdf](https://files.consumerfinance.gov/f/documents/cfpb_supervision-and-examination-manual_supervisory-letter-template.pdf).

<sup>41</sup> [https://files.consumerfinance.gov/f/documents/201703\\_cfpb\\_Scope-Summary-Template.pdf](https://files.consumerfinance.gov/f/documents/201703_cfpb_Scope-Summary-Template.pdf)

<sup>42</sup> A additional activity has occurred with this matter since the end of this reporting period. On August 30, 2019, the Bureau released the Home Mortgage Disclosure Act (HMDA) data along with two Data Point articles. One Data Point article is the second in an annual series of Bureau articles describing mortgage market activity over time. It summarizes the historical datapoints in the 2018 HMDA data, as well as recent trends in mortgage and housing markets. The other Data Point article introduces the new and revised data points in the 2018 HMDA data and provides some initial observations about the nation's mortgage market in 2018 based on those new or revised data points. More information can be found here:  
<https://www.consumerfinance.gov/data-research/research-reports/data-point-2018-mortgage-market-activity-and-trends/> and  
<https://www.consumerfinance.gov/data-research/research-reports/introducing-new-revised-data-points-hmda/>.

<sup>43</sup> A additional activity has occurred with this matter since the end of this reporting period. More information can be found here: [https://files.consumerfinance.gov/f/documents/cfpb\\_consumer-credit-card-market-report\\_2019.pdf](https://files.consumerfinance.gov/f/documents/cfpb_consumer-credit-card-market-report_2019.pdf).

<sup>44</sup> A additional activity has occurred with this matter since the end of this reporting period. More information can be found here: <https://www.consumerfinance.gov/about-us/newsroom/director-kraningers-speech-national-consumer-empowerment-conference/>.

<sup>45</sup> A additional activity has occurred with this matter since the end of this reporting period. Misa adventures in Money Management (MiMM) became available for all active duty Servicemembers on May 23, 2019.

<sup>46</sup> A additional activity has occurred with this matter since the end of this reporting period. More information can be found here: <https://www.consumerfinance.gov/about-us/blog/start-saving-today-our-new-savings-booklet-and-email-boot-camp/>.

<sup>47</sup> More than 700 meetings with consumers, staff, and stakeholders have occurred. Remarks provided to the Bipartisan Policy Center, Washington DC on April 17, 2019, are provided through this link:  
<https://www.consumerfinance.gov/about-us/newsroom/kathleen-kraninger-director-consumer-financial-protection-bureau-bipartisan-policy-center-speech/>  
<https://www.consumerfinance.gov/about-us/newsroom/kathleen-kraninger-director-consumer-financial-protection-bureau-bipartisan-policy-center-speech/>.

<sup>48</sup> A additional activity has occurred with this matter since the end of this reporting period. More information can be found here: <https://www.consumerfinance.gov/about-us/newsroom/bureau-announces-symposia-series/>.

<sup>49</sup> A additional activity has occurred with this matter since the end of this reporting period. More information can be found here: [https://files.consumerfinance.gov/f/documents/cfpb\\_supervision-and-examination-manual\\_ecoa-baseline-exam-procedures\\_2019-04.pdf](https://files.consumerfinance.gov/f/documents/cfpb_supervision-and-examination-manual_ecoa-baseline-exam-procedures_2019-04.pdf).

<sup>50</sup> A additional activity has occurred with this matter since the end of this reporting period. More information can be found here: [https://files.consumerfinance.gov/f/documents/cfpb\\_supervision-and-examination-manual\\_hmda-exam-procedures\\_2019-04.pdf](https://files.consumerfinance.gov/f/documents/cfpb_supervision-and-examination-manual_hmda-exam-procedures_2019-04.pdf).

<sup>51</sup> A additional activity has occurred with this matter since the end of this reporting period. More information can be found here: [https://files.consumerfinance.gov/f/documents/20190627\\_cfpb\\_statement-on-collection-demographic-information.pdf](https://files.consumerfinance.gov/f/documents/20190627_cfpb_statement-on-collection-demographic-information.pdf).

<sup>52</sup> A additional activity has occurred with this matter since the end of this reporting period. More information can be found here: [https://files.consumerfinance.gov/f/documents/201908\\_cfpb\\_automobile-finance-examination-procedures.pdf](https://files.consumerfinance.gov/f/documents/201908_cfpb_automobile-finance-examination-procedures.pdf).

<sup>53</sup> A additional activity has occurred with this matter since the end of this reporting period. More information can be found here: [https://files.consumerfinance.gov/f/documents/cfpb\\_supervisory-highlights\\_issue19\\_092019.pdf](https://files.consumerfinance.gov/f/documents/cfpb_supervisory-highlights_issue19_092019.pdf).

<sup>54</sup> In production at the time of publishing.

<sup>55</sup> <https://www.consumerfinance.gov/about-us/blog/spring-2019-rulemaking-agenda/>.

<sup>56</sup> [https://www.reginfo.gov/public/do/eAgendaMain?operation=OPERATION\\_GET\\_AGENCY\\_RULE\\_LIST&currentPub=true&showStage=active&agencyCd=3170](https://www.reginfo.gov/public/do/eAgendaMain?operation=OPERATION_GET_AGENCY_RULE_LIST&currentPub=true&showStage=active&agencyCd=3170).

- <sup>57</sup> A additional activity has occurred with this matter since the end of this reporting period. In April, the Bureau issued a Request for Information (RFI) on the Remittance Rule seeking comments on measures to consider adopting to address the expiration in July 2020 of the Rule's temporary exception. More information can be found here: <https://www.consumerfinance.gov/about-us/newsroom/cfpb-issues-request-information-remittance-rule/>.
- <sup>58</sup> A additional activity has occurred with this matter since the end of this reporting period. In May 2019, the Bureau issued an Advance Notice of Proposed Rulemaking (ANPR) that solicits comments about the costs and benefits of collecting and reporting the data points the 2015 HMDA Rule added to Regulation C and certain preexisting data points that the 2015 HMDA Rule revised. In June, the Bureau extended the comment period. More information can be found here: <https://www.consumerfinance.gov/about-us/newsroom/bureau-proposes-changes-hmda-rules/> and <https://www.consumerfinance.gov/about-us/newsroom/bureau-extends-comment-period-anpr-hmda-data-points/>.
- <sup>59</sup> A additional activity has occurred with this matter since the end of this reporting period. In May 2019, the Bureau issued a Notice of Proposed Rulemaking (NPRM) to address such issues as communication practices and consumer disclosures. More information can be found here: <https://www.consumerfinance.gov/policy-compliance/rulemaking/rules-under-development/debt-collection-practices-regulation-c/>. Additional Note: The NPRM provided a 90-day comment period that was set to close on August 19, 2019. To allow interested persons more time to consider and submit their comments, the Bureau determined that an extension of the comment period until September 18, 2019, was appropriate.
- <sup>60</sup> A additional activity has occurred with this matter since the end of this reporting period. In May 2019, the Bureau issued a Notice of Proposed Rulemaking to increase the thresholds for reporting data about closed-end mortgage loans and open-end lines of credit. More information can be found here: <https://www.consumerfinance.gov/policy-compliance/rulemaking/rules-under-development/home-mortgage-disclosure-regulation-c/>.
- <sup>61</sup> Policy guidance was issued in December 2018. The Bureau announced in that guidance its intention to conduct a notice-and-comment rulemaking to seek input on the public release of data going forward; that proposal has not yet been issued.
- <sup>62</sup> A additional activity has occurred with this matter since the end of this reporting period. <https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/payday-vehicle-title-and-certain-high-cost-installment-loans-delay-compliance-date-correcting-amendments/>.
- <sup>63</sup> <https://www.consumerfinance.gov/about-us/newsroom/agencies-issue-final-amendments-regulation-c-c-regarding-funds-availability/>. This Rule was finalized after the reporting period (June 2019).
- <sup>64</sup> All data are current through March 31, 2019. This analysis excludes multiple complaints submitted by a given consumer on the same issue and whistleblower tips. The Bureau does not verify all the facts alleged in complaints, but takes steps to confirm a commercial relationship between the consumer and the company. For more information on our complaint process, please refer to the Bureau's website, <https://www.consumerfinance.gov/complaint/process>.
- <sup>65</sup> The prior reporting period—which spanned October 1, 2017, to September 30, 2018—reported 329,000 consumer complaints. See Consumer Fin. Prot. Bureau, Semi-Annual Report Fall 2018 (Feb. 2019), available at [https://www.consumerfinance.gov/documents/7266/cfpb\\_semi-annual-report-to-congress\\_fall-2018.pdf](https://www.consumerfinance.gov/documents/7266/cfpb_semi-annual-report-to-congress_fall-2018.pdf).
- <sup>66</sup> The Bureau referred 14 percent of the complaints it received to other regulatory agencies and found four percent to be incomplete. At the end of this period, 0.5 percent of complaints were pending with the consumer and 0.6 percent were pending with the Bureau. Note: Percentages in this section of the report may not sum to 100 percent due to rounding.
- <sup>67</sup> These reports can be viewed at: <https://www.consumerfinance.gov/data-research/research-reports/>.
- <sup>68</sup> Dodd-Frank Act § 1016(c)(5).
- <sup>69</sup> Dodd-Frank § 1016(c)(3). The Bureau's fair lending rulemaking activity pertaining to HMDA and Regulation C is discussed in Section 3 of the Report.
- <sup>70</sup> The Bureau is using a new measure to identify the number of on-site supervision exams or reviews. See Fiscal Year (FY) 2019 Annual Performance Plan (February 2019). The Spring 2019 Semi-Annual Report update complies with this new measure. Therefore, the number of initiated examination events reported here is not comparable to the

---

number of events reported in the Fall 2018 Semi-Annual Report. For comparison purposes, had the Bureau employed this new measure for initiated supervisory exams for the reporting period reflected in the Fall 2018 Semi-Annual Report, which indicated that the Bureau initiated 13 fair lending supervisory events, would instead have indicated that the Bureau had initiated 12 fair lending supervisory events.

<sup>71</sup> [https://files.consumerfinance.gov/f/documents/bcfp\\_bulletin-2018-01\\_changes-to-supervisory-communications.pdf](https://files.consumerfinance.gov/f/documents/bcfp_bulletin-2018-01_changes-to-supervisory-communications.pdf).

<sup>72</sup> Section 1016(c)(5) of the Dodd-Frank Act requires the Bureau to include in the semi-annual report public enforcement actions the Bureau was a party to during the preceding year, which is April 1, 2018, through March 31, 2019, for this report.

<sup>73</sup> See 15 U.S.C. § 1691e(h) and 15 U.S.C § 1691e(g) and (h).

<sup>74</sup> April 1, 2018, through March 31, 2019.

<sup>75</sup> <https://www.consumerfinance.gov/data-research/research-reports/fv-2018-office-minority-and-women-inclusion-annual-report-congress/>.

<sup>76</sup> [www.consumerfinance.gov/about-us/budget-strategy/strategic-plan](http://www.consumerfinance.gov/about-us/budget-strategy/strategic-plan).

<sup>77</sup> Additional activity has occurred with this matter since the end of this reporting period. More information can be found here: <https://www.consumerfinance.gov/data-research/research-reports/cfbp-diversity-and-inclusion-strategic-plan-update-2019-2022/>.

<sup>78</sup> Additional activity has occurred with this matter since the end of this reporting period. The hiring freeze was lifted in August 2019.



HELPING FINANCE THE AMERICAN DREAM SINCE 1919.

October 11, 2019

The Honorable Maxine Waters  
Chairwoman  
Committee on Financial Services  
2129 Rayburn House Office Building  
Washington, D.C. 20515

The Honorable Patrick McHenry  
Ranking Member  
Committee on Financial Services  
2129 Rayburn House Office Building  
Washington, D.C. 20515

Dear Chairwoman Waters and Ranking Member McHenry:

The Consumer Bankers Association (CBA) submits the following comments for the hearing entitled, "The Consumer Financial Protection Bureau's Semi-Annual Report to Congress." We appreciate the House Financial Services Committee's continued oversight of the Consumer Financial Protection Bureau (CFPB or Bureau) and its activities. CBA is the voice of the retail banking industry whose products and services provide access to credit to millions of consumers and small businesses. Our members operate in all 50 states, serve more than 150 million Americans and collectively hold two-thirds of the country's total depository assets.

**Legislative Recommendations to Improve the CFPB**

*Bipartisan Commission at the Consumer Financial Protection Bureau*

Since its inception, the CFPB has been the center of political and legal debates about the legitimacy of its leadership structure. In fact, this hearing comes as the Supreme Court considers whether to hear a case challenging the structure of the CFPB and whether its single director leadership model is constitutional. We are concerned the *Seila Law v. CFPB* case<sup>1</sup> could result in a Supreme Court ruling that would create a governance structure where the director is removable at-will; inviting increased turmoil at the Bureau by further undermining the mission and operations of the CFPB.

We urge Congress to ensure the CFPB's independence and constitutionality by replacing the single director structure with a five-person, bipartisan commission, as originally intended by the House when it first passed the Dodd-Frank Wall Street Reform and Consumer Protection Act in 2010.<sup>2</sup> It is crucial that appropriate protections, checks and balances are in place given the scope and importance of the CFPB. It is also important to insulate the Bureau from political shifts with each new director that could reduce its ability to impartially ensure a fair and competitive marketplace.

The CFPB director is currently a single officer responsible for leading the CFPB and is the chief decisionmaker on rulemakings, enforcement and supervisory actions that affect millions of Americans' everyday financial lives. A change in that position affects the entire CFPB and laws that affect all Americans. The potential of a court ruling that could install removable at-will director would bring increased confusion to financial services providers who have been asking that Congress inject stability and transparency into the Bureau. An at-will Director, removable

<sup>1</sup> *Seila Law v. Consumer Financial Protection Bureau*, 923 F.3d 680 (9th Cir. 2019), *petition for cert. filed* (U.S. June 28, 2019) (No. 17-56324).

<sup>2</sup> Dodd-Frank Wall Street Reform and Consumer Protection Act, H.R. 4173, 111th Cong. § 4103 (2010).

every four years, or sooner, would leave financial institutions with few assurances that the rules they are complying with today would remain in place. The financial services marketplace thrives in a stable regulatory environment. When regulatory stability is eroded by changing political dynamics, the consumer suffers from financial institutions' inability to rely upon a consistent regulatory environment.

The American people overwhelmingly favor a bipartisan commission at the Bureau. A Morning Consult poll found that by a margin of three to one, registered voters support a bipartisan commission over a sole director, with only 14 percent of those polled stating they prefer to keep the Bureau's current leadership structure.<sup>3</sup> Additionally, two dozen trade associations representing thousands of banks, credit unions, financial institutions, and businesses of all sizes support this urgently needed.

### **Regulatory Actions**

#### *Enforcement and Supervision*

Throughout her tenure, Director Kraninger has emphasized the need to use all of the CFPB's tools to prevent consumer harm. This includes properly educating consumers and establishing clear regulations in addition to ensuring compliance through supervision and holding bad actors accountable through enforcement. A directive to utilize all of the Bureau's facilities marks a departure from how the CFPB has historically emphasized the enforcement process as a regulatory tool and focused a large portion of industry interaction through enforcement actions. CBA appreciates Director Kraninger's charge to use all four of the Bureau's tools to better allow the financial services industry to serve customers while ensuring consumers are protected. However, CBA members continue to raise concerns that the new directive has not worked its way throughout the Bureau, as many CFPB examiners continue to present new issues on previously settled matters of law, lookback periods, and issues remediated by other government agencies through their supervision processes.

Sound supervision can prevent consumer harm while still allowing financial institutions the flexibility to develop new products and services to better serve customers. Examiners need to streamline procedures and work with other regulators to create an efficient supervisory regime that protects consumer interests and establishes clear rules of the road for financial institutions. CBA members still find examiner communication lacking as there seems to be a persistent disconnect from CFPB leadership. The result is more arduous, duplicative and inefficient exams for financial institutions that leave less time and resources to improve policies, procedures and serve our customers.

To this end, we strongly encourage the CFPB to ensure that coordination with other regulatory agencies remain a high priority and do more to streamline exam processes. CBA member banks are often supervised by multiple federal regulators (as well as the state regulatory bodies that supervise state-chartered banks). A single financial services company can be examined by the Federal Reserve, the OCC, the FDIC, and the CFPB, among others. In some cases, more than one agency is examining a bank for similar or related issues, each with a slightly different set of lenses. The same or substantially similar documents are often sought by multiple entities, and repetitive inquiries are often made to the same people inside supervised institutions, requiring additional time and effort to respond to each duplicative inquiry. Better interagency coordination is needed to minimize the cost and burden to financial institutions, allowing them to better serve their customers.

In a similar vein, enforcement can be a multiple agency process, with each agency taking on the same issue and imposing its own penalties for related violations. The Treasury Department, in its 2017 report on financial

---

<sup>3</sup> Morning Consult Poll, May 3, 2017.



services, recognized this as problematic and recommended a single entity act as a traffic cop or coordinator to minimize wasted effort by both public and private entities. CBA supports this approach to increased regulatory coordination.

### **Remittance**

In April of this year the CFPB issued a Request for Information Regarding Potential Regulatory Changes to the Remittance Rule ("Remittance RFI"). In the Remittance RFI, the Bureau sought comment on two aspects on its Remittance Transfer Rule, subpart B of Regulation E (the "Remittance Rule"): (1) the pending July 2020 expiration of a temporary exception that, if certain conditions are met, allows insured depository institutions to estimate the exchange rate and certain fees on remittance transfers, 12 CFR 1005.32(a) ("Temporary Exception"); and (2) the Remittance Rule's 100-transfer safe harbor that provides an exemption from the Remittance Rule for institutions that send 100 or fewer annual remittance transfers, 12 CFR 1005.30(f)(2). CBA appreciates the Bureau's willingness to work with industry participants to find a solution to this impending problem. Bank-provided remittance transfers are an important service for bank customers. Without action by the Bureau, the Temporary Exception expiration will have the perverse effect of reducing consumer choice, forcing bank customers to use less convenient or more expensive services, and leave some consumers without alternative means of sending transfers that they send today through their banks. Accordingly, CBA requests that the Bureau:

- Recognize the distinct segment of the remittance transfer market that is served by banks; and
- Utilize its existing authority to permit banks to provide estimated disclosures so that they can continue providing remittance transfer services to their customers with the same worldwide reach that their customers are accustomed to today.

The Remittance Rule implementing section 1073 of the Dodd-Frank Act (codified at section 919 of the Electronic Fund Transfer Act ("EFTA")) established a comprehensive consumer protection system for consumers sending remittance transfers from the United States to individuals and businesses in foreign countries. The Remittance Rule requires consumer disclosures that include the price of a remittance transfer (including most fees and the exchange rate), the amount of currency to be delivered to the recipient, and the date the funds will be available to the recipient.

Although disclosures are generally required to be exact, Congress included in section 1073 of the Dodd-Frank Act a time-limited exception allowing insured depository institutions that satisfy specified conditions to estimate certain fees and the exchange rate. The Remittance Rule incorporated this exception. Congress initially set the exception to last for five years, until July 2015, and authorized the Bureau to extend the exception further, to July 2020, if the expiration "would negatively affect the ability of [insured institutions] . . . to send remittances." In 2014, the Bureau made such a determination and extended the exception to July 21, 2020. In doing so, the Bureau explained insured institutions were, for some transfers, unable to disclose exact exchange rates or fees and that the Bureau did not expect solutions to this problem to emerge before July 2020.

Recently, the Bureau assessed the Remittance Rule ("Assessment"). The Assessment found that, in 2017, bank and credit union-initiated remittance transfers made up less than 5 percent of the total volume of remittance transfers but accounted for 28.2 percent of the total value of remittance transfers. The Assessment also found that, although the percentage of banks using the Temporary Exception dropped since the Remittance Rule took

effect 11.6 percent of banks reported using the Temporary Exception in 2017 for 10.2 percent of their transfers (or 6.4 percent of all bank remittance transfers).

#### ***Small-Dollar Bank Lending***

On February 6, 2019, the CFPB issued a proposed rule to revise its controversial November 2017 small-dollar loan rule (2017 Rule). The proposal would effectively rescind the 2017 Rule's requirement that lenders determine a borrower's ability to repay prior to extending small-dollar and certain other types of covered loans. The CFPB has also finalized a delay of the compliance date for the 2017 Rule's existing ability to repay provisions to November 19, 2020. According to the proposal, the CFPB believes that the 2017 Rule's ability to repay provisions would have the effect of eliminating lenders willing to participate in the market, thereby decreasing consumer's access to credit and competition in credit markets. We agree with the Bureau's assessment of the 2017 rule and applaud the proposal that will help depository institutions offer short term credit products.

The proposed rescissions would substantially decrease the significant burdens on lenders that would be imposed by the existing ability to repay requirement. The 2017 Rule would require lenders to obtain extensive information about a consumer's finances and use the information to project whether the consumer will be able to make payments for his or her existing payment obligations and the payments under the covered loan and still meet basic living expenses for a period of thirty days. The changes in the proposed rule may encourage lenders previously discouraged by the requirements under the 2017 Rule to engage in small-dollar, short-term loans.

Lenders would still be subject to the 2017 Rule's payment provisions, which require a lender to obtain a new customer authorization to attempt to withdraw funds from a consumer's account following two consecutive failed attempts to withdraw payments from that account. The provisions also require lenders to provide consumers with a written notice prior to a first attempt to withdraw payment from a checking, savings, or prepaid account and before subsequent attempts to withdraw payments if the payment amounts, dates, or payment channels differ from the first attempt.

We greatly appreciate the Bureau's interest in revisiting the rule to ensure consumers have options in the marketplace for small dollar credit needs. Because we expect the rulemaking will likely identify other problems with the Final Rule, we have urged the Bureau to grant an immediate extension of the compliance date for the entire 2017 Rule. Without an immediate extension, banks will expend resources unnecessarily to achieve compliance with a rule the Bureau is reconsidering and may materially change.

The Bureau's small dollar rule has greater impact on products outside of the short-term lending space. The Bureau should strongly consider exempting traditional consumer loan products, which do not raise consumer protection concerns, and which this rulemaking was not intended to address. In the 2017 Rule, the Bureau expansively defined "covered loans" — i.e., the loans subject to the Final Rule's restrictions — without regard to the loan's amount or duration. Consequently, the 2017 Rule captures many loans that are not short-term, small dollar loans, including some wealth management products and bridge loans just to give a few examples. To address this concern, the Bureau should also clarify the financing of any product or service in connection with a purchase money loan is included in the Rule's exemption for these loans and thus avoid restricting access to open-end lines of credit.

#### ***Separation of Ombudsman and Office of Students Role***

For several years, the CFPB Student Loan Ombudsman also led the Office of Students. These are incompatible roles: an ombudsman should be impartial and serve in a confidential capacity, while a division leader is a

policymaker, enacting rules and recommending enforcement by the agency. Combining these roles creates an inherent conflict of interest and CBA strongly recommends the Bureau separate the positions.

***No-Action Letters & the Office of Innovation's Project Sandbox***

Financial services innovation benefits consumers by promoting financial security, inclusion, and well-being. New and innovative financial products and services can greatly expand access to credit for all consumers, while providing improved access to important financial information, and increased customer safeguards. Congress recognized the great utility financial services innovation has for consumer protection in Title X of Dodd-Frank when it charged the CFPB with ensuring "markets for consumer financial products and services operate transparently and efficiently to facilitate access and innovation".<sup>4</sup>

The Bureau's finalized innovation policies within the Office of Innovation are vital steps in ensuring financial institutions are able to best serve their customers innovative products and services require a flexible and accessible regulatory environment, of which the CFPB plays a key role in developing and regulating for adherence to consumer protection laws.

The recently finalized changes to the No-action letter (NAL) process will open the door for more financial institutions to innovate to better serve and protect their customers, as well as bring new, financially underserved customers into the fold. The CFPB's previous NAL process, established in 2016, did little to alleviate regulatory concerns many financial institutions have when developing new financial services, hence why only one firm has applied for no-action relief under the program. The Bureau's finalized changes to the NAL and trial disclosures policies, as well as its establishment of a Compliance Assistance Sandbox, will help more consumers attain financial security and stability by allowing financial institutions to develop new products and services that comply with well-established financial regulations. CBA also recognizes the Bureau's commitment to regulatory coordination through the creation of the American Consumer Financial Innovation Network (ACFIN), which is intended to enhance coordination among federal and state regulators to facilitate financial innovation.

CBA strongly supports the Bureau's finalized innovation policies and creation of ACFIN and believes this regulatory framework is absolutely necessary to the Bureau's commitment to increase innovation while better protecting consumers.

***Debt Collection***

CBA recognizes the important role the collection of debt plays in the proper functioning of the consumer credit markets, as it reduces creditors' losses from non-repayment and promotes the availability and affordability of consumer credit. We support the Bureau's goals of updating the Fair Debt Collection Practices Act (FDCPA), modernizing its communication standards, and generally enhancing consumer protections.

As the Bureau has acknowledged, the FDCPA is limited to third-party debt collectors and does not provide a valid legal basis for regulating creditors enforcing their loan agreements with borrowers. Congress clearly enacted the FDCPA to establish ethical guidelines for the collection of consumer debt by third-party debt collectors, and it never intended nor designed the Act to cover the collection practices of creditors. In that same vein, CBA strongly opposes placing FDCPA-like restrictions and requirements on creditors. They are unwarranted and incongruent with the lender-borrower relationship, which is usually a long standing one motivated by strong business incentives on the part of creditors to help borrowers successfully repay their debt obligations.

---

<sup>4</sup> 12 U.S.C. § 5511(b)(5) (2012).

One example of why revisions to the FDCPA should apply only to third-party debt collectors are contact frequency limits. “One size fits all” call frequency limit could create significant consumer harms if applied to creditors collecting their own debts. Of chief concern, “one size fits all” call frequency limits do not recognize the differences between individual consumers and different portfolios and will negatively impact consumers that need financial assistance. “One size fits all” call frequency limits placed on creditors will likely result in late fees, negative credit reporting, account closure, repossessions, foreclosures, litigation, and fewer consumers benefitting from hardship programs, and as such, should not be applied to creditors.

We strongly urge Congress and the CFPB to work with industry to establish debt collection regulations for third-party debt collectors that strike the right balance between consumer protection and consumer engagement.

#### ***Home Mortgage Disclosure Act***

Our members are dedicated to responsibly and fairly serving the housing needs of their communities and are committed to the purposes of the HMDA, which are to: “1. help determine whether financial institutions are serving the housing needs of their communities; 2. assist public officials in distributing public-sector investment so as to attract private investment to areas where it is needed; and 3. assist in identifying possible discriminatory lending patterns and enforcing antidiscrimination statutes.”<sup>5</sup>

The Dodd-Frank Act mandated expanding the information collected under Regulation C, HMDA’s governing regulation. In 2015, then-Director Cordray used the Bureau’s discretionary authority to increase the number of loan-level HMDA data fields reported and publicly disclosed, further increasing the complexity and costs of HMDA reporting beyond those fields mandated by Dodd-Frank. This new data set, collected for the first time in 2018, was reported to the government on March 1, 2019.

Expanded data collection and reporting poses serious risk to consumer privacy by introducing even more sensitive loan data into the public domain.<sup>6</sup> Specifically, the expanded set of publicly available HMDA data provides ample data scraping opportunities for companies to piece together information related to the loan and borrower to “re-identify” the consumer and engage in unsolicited targeted marketing. There is no mechanism for consumers or lenders to opt-out of or protect disclosure of this sensitive personal and financial information from entering the public domain.

CBA has long been concerned about the sensitive nature of HMDA data and believes the discretionary data fields added by the CFPB in 2015 pose privacy risks to consumers while also mandating extraordinarily high annual compliance costs. CBA applauds the CFPB’s decision to revisit the 2015 rule to closely review the data fields that will be collected, stored and ultimately made available to the public. CBA encourages the CFPB to eliminate those discretionary data fields that are not required by statute, that are unduly onerous to collect and report, that provide present marginal value in furthering HMDA’s objectives, and that create or contribute risk of consumer re-identification.

<sup>5</sup> CFPB Bulletin 2013-11 “Home Mortgage Disclosure Act (HMDA) and Regulation C – Compliance Management; CFPB HMDA Resubmission Schedule and Guidelines; and HMDA Enforcement” (October 9, 2013) [http://files.consumerfinance.gov/f/201310\\_cfpb\\_hmda\\_compliance-bulletin\\_fair-lending.pdf](http://files.consumerfinance.gov/f/201310_cfpb_hmda_compliance-bulletin_fair-lending.pdf)

<sup>6</sup> If a consumer wishes to purchase a home, he/she must provide confidential financial data that lenders in turn must report for HMDA purposes; most of which the CFPB releases to the public.

### ***Complaint Database***

CBA supports recent initiatives driven to make the CFPB complaint database more usable for the public and industry. Efforts to clearly disclose complaints which are unverified are a helpful first step in level-setting data contained in the database. Further, encouraging consumers to work with their financial institution prior to submitting a complaint will lead to more consumer issues resolved in a timely and efficient manner. Establishing tools to contextualize complaint data that recognizes the massive amount of complaints that are redressed by financial institutions will leave consumers informed while allowing financial institutions better positioned to combat consumer issues.

Banks and credit unions have strong incentives to maintain deep, well-informed, mutually satisfactory relationships with customers. Our members have robust complaint management procedures outside of the CFPB's database to ensure they are resolving disputes as quickly as possible. Furthermore, every depository institution is examined regularly by the federal regulatory agencies to ensure a strong and effective complaint management system.

CBA urges the Bureau to continue its review of consumer complaint data for accuracy and validity before its publication. We believe this will help ensure consumer privacy and prevent the dissemination of misleading information.

### ***Section 1071 Small Business Rulemaking***

CBA strongly supports a cautionary approach to rulemaking under Section 1071 of the Dodd-Frank Act, which amends the Equal Credit Opportunity Act ("ECOA") to require financial institutions to compile, maintain, and report information concerning credit applications made by women-owned, minority-owned, and small businesses. Under the section, every financial institution must inquire of any business applying for credit whether the business is a small business, or a women- or minority-owned business, maintain a record of the information separate from the application, and report the information along with related information about the application to the CFPB. The information must be made public on request in a manner to be established by regulation and will be made public annually by the Bureau.

CBA and its member institutions strongly believe that the CFPB should keep top of mind that although Section 1071 mandates this rule, it is not as simple as data collection efforts undertaken on other lending products such as residential mortgages. The notion that business lending parallels residential mortgage lending is misplaced. The use of Home Mortgage Disclosure Act ("HMDA")-like reporting for business lending activity to ferret out potential discrimination is, in our opinion, a tremendously flawed premise because the two types of transactions differ inherently in many key aspects:

- Residential lending all shares the same type of collateral. Business lending may not be secured at all, and when secured, the type of collateral varies tremendously. Therefore, comparing terms between loans is problematic.
- Mortgage loan applicants reported under HMDA are all consumers. Business lending involves loans to all types of applicants, ranging from mom-and-pop businesses to sophisticated corporate structures; from sole-proprietors to corporations.
- Business loans are often renewals rather than new loans. These renewals are not akin to refinances in the residential world.

- Business loans often have much shorter and varied durations, where mortgages tend to be more uniform.
- The appropriate property address for a business loan to use for reporting and analysis can be debated with no easy or right answer.
- Capturing business loan applicants for reporting and analysis can be debated with no easy or right answer given the various ownership and structures.

We believe the CFPB must be keenly aware that the dissimilar nature of business lending when trying to construct this rule presents two-fold challenges:

- 1) Determining which data fields to require collection for, developing standard values to be reported, and proposing workable rules for collecting and reporting the data will be tremendously difficult, if the goal is to have a thoughtful, achievable rule that yields useful data.
- 2) Constructing fair lending analysis approaches that will yield meaningful and appropriate conclusions for business lending is even more challenging.

In light of these issues and the need to streamline the credit process in order to extend credit with greater speed to qualified applicants, CBA and its member institutions cannot stress enough the importance of well-balanced rules under Section 1071 in order to avoid overly burdensome data collection requirements that could stifle small business lending, greatly increase compliance costs for small business lenders, and open the door to costly litigation. Key to this rulemaking will be the ability for lenders to address 1071 reporting compliance with already existing reporting systems (e.g., Community Reinvestment Act, FinCEN Beneficial Ownership Rules, etc.) in order to ensure as little disruption in the market as possible. These systems will need to be automated and accurate. Adherence to systems already in place will allow lenders streamline the collection process.

#### ***Consumer Advisory Boards***

Dodd-Frank established various advisory boards at the Bureau to “provide information on emerging practices in the consumer financial products or services industry”, and the Consumer Advisory Board (CAB) has often been the leader on many of these initiatives. However, despite its mission outlined Dodd-Frank and under the CAB’s charter, very few financial institutions serve on the CAB. Financial institutions are often the experts on emerging consumer financial practices, products and services, yet their voice is often muted at these important CAB functions. For the advisory boards to live up to their statutorily mandated purpose, more financial institution representation is necessary to give a more rounded and full opinion on the vital issues the CAB attempts to address.

Similarly, the Taskforce on Federal Consumer Financial Law announced on Friday, October 11, 2019, presents a good opportunity for the Bureau to conduct an objective, holistic review of consumer financial laws and eliminate outdated, redundant and wasteful red tape. This would allow the CFPB to focus its resources where consumer protections are most needed and remain alert for new and emerging threats. For this process to succeed it is essential that the Bureau engage retail banking experts within the taskforce, and we look forward to working with the Director on this promising initiative.

### ***Qualified Mortgage***

CBA appreciates the Bureau's reconsideration of the Qualified Mortgage ("QM") rules in a data-driven way. We agree current underwriting policies and maintaining a customer's ability to replay should be closely reviewed as the Bureau considers updating this rule.

CBA and its member institutions strongly believe the Bureau should be extremely careful not to disrupt the mortgage market or limit a credit-worthy borrower's access to mortgage credit with the expiration of the QM Patch. The current version of QM rules needlessly restrict access to credit for qualified borrowers. We encourage the Bureau to review its current definition of QM and the accompanying Appendix Q to identify a more reasonable method of providing mortgage access to qualified consumers.

With the patch set to expire January 2021, CBA supports the Bureau's continued efforts to make appropriate adjustments to the QM rule and ensure a smooth introduction to the home loan market.

### ***Conclusion***

Improving the financial lives of consumers is a goal that unites lawmakers, regulators and industry. Achievement of this shared goal occurs when there is a stable and even-handed regulatory framework that produces clear and reasonable rules of the road to protect consumers and allow for a robust financial services market.

Regulatory stability and transparency will not be realized until the Bureau's governance structure allows for the debate and deliberation of multiple stakeholders with diverse experiences and expertise. A bipartisan commission of five, Senate-confirmed commissioners would provide a balanced and deliberative approach to supervision, regulation, and enforcement of rules and regulations that oversee the financial services sector and provide consumers needed safeguards.

CBA stands ready to work with Congress and the CFPB to implement the suggested legislative and regulatory improvements to the Bureau, and we appreciate the opportunity to submit this statement for the record.

Sincerely,



Richard Hunt  
President and CEO  
Consumer Bankers Association

**Chairwoman Waters Questions for Director Kathy Kraninger  
Consumer Financial Protection Bureau Semi-Annual Report to Congress  
October 16, 2019**

**Committee Report on Recent CFPB Settlements**

One of the settlements you approved as director of the Consumer Financial Protection Bureau (Consumer Bureau or CFPB) was with Enova, a payday lender whom the Bureau found illegally took \$2.6 million from consumers' bank accounts without authorization. The settlement did not require Enova to return any of the money it illegally took from consumers. The Committee's staff report revealed that your political appointee overruled the recommendations of career enforcement attorneys and non-partisan senior management officials to require Enova to provide consumer redress. The political appointee rejected not only the recommendation of career attorneys but also the opinion of the Consumer Bureau's legal division that returning the money illegally debited was appropriate.

1. Director Kraninger, is it your position that consumers are not entitled to refunds when an entity withdraws money from their bank accounts without authorization?

**Response:** *The Bureau is committed to seeking all appropriate relief for consumers, and considers whether redress or restitution may be appropriate in each case on the facts presented and in light of applicable law. In the Enova matter, the Bureau determined that the appropriate resolution in light of the company's conduct included imposition of a \$3.2 million civil money penalty and injunctive relief to benefit consumers.*

2. Director Kraninger, in signing the consent order you disregarded the recommendation of the career enforcement attorneys and the opinion of the Consumer Bureau's own legal division in favor of a decision made by a political appointee. Do you agree that enforcement of federal consumer protection law, including the appropriate remedies, should be based on the law and the facts?

**Response:** *As I stated in my testimony to this Committee, under my leadership, the Bureau will seek the appropriate relief based on the facts and circumstances of each particular matter.*

3. Should enforcement decisions be free from political interference?

**Response:** *The decision to bring an enforcement action or to settle an enforcement action is one I make as the Director of the Bureau. This has been the case throughout the Bureau's history, including under prior Bureau leadership. As previously stated in my testimony to this Committee, under my leadership, the Bureau will seek the appropriate relief based on the facts and circumstances of each particular matter.*

4. Did the Legal Division conclude that requiring Enova to pay restitution was appropriate under the law?

**Response:** *I am not going to comment on internal legal advice.*



5. Were you aware that Eric Blankenstein overruled the recommendation of career staff to provide compensation for consumers harmed by Enova's illegal debiting of accounts?

**Response:** *The decision to settle an enforcement action is made by myself as the Director of the Bureau. In so doing, I consider the recommendations of Bureau staff.*

6. Did Enova offer to pay redress to consumers?

**Response:** *The Bureau engaged in a series of settlement discussions with Enova that at times contemplated different combinations of restitution, civil money penalties, and other relief.*

#### **Placing Burden on Consumers Before Getting Relief from CFPB Settlement**

On August 28, 2019, the Consumer Bureau announced a settlement with the debt collector Asset Recovery.<sup>1</sup> The Bureau found that the company misrepresented to consumers that the company would file lawsuits against them, file liens on their houses, garnish their wages or bank accounts, or cause them to be arrested. Under the terms of the consent order which you signed, only consumers who affirmatively complained about the company's misrepresentations are eligible to receive redress.<sup>2</sup>

7. Director Kraninger, are you aware of any prior settlements entered by the Consumer Bureau that require a consumer subjected to illegal debt collection practices to have previously complained to be eligible for relief?

**Response:** *The Bureau weighs many factors to determine the precise mix of restitution, penalties, and injunctive relief appropriate in each case. Generally, when analyzing remediation, the Bureau considers all relevant facts and circumstances and seeks to make consumers whole for losses caused by a party's illegal conduct. While the Bureau is committed to seeking all appropriate relief for consumers, not every case lends itself to restitution for all potentially affected consumers, particularly in the context of a negotiated settlement. The evidence available may impact the Bureau's ability to identify harmed consumers and obtain all appropriate relief for those harmed customers.*

8. Do you agree that some consumers may not take the time to register a complaint when they are harmed by the illegal conduct of providers of financial services and products?

**Response:** *The Bureau is committed to seeking all appropriate relief for customers and considers whether redress or restitution may be appropriate in each case on the facts presented and in light of applicable law. The Consumer Financial Protection Act authorizes the Bureau to seek redress for consumers in appropriate cases as a matter of discretion. Particularly in the context of a negotiated settlement, the Bureau may choose to pursue the relief it determines best serves the public interest.*

<sup>1</sup> <https://www.consumerfinance.gov/about-us/newsroom/bureau-settles-asset-recovery-associates/>

<sup>2</sup> [https://files.consumerfinance.gov/f/documents/cfpb\\_asset-recovery-associates\\_consent-order\\_2019-08.pdf](https://files.consumerfinance.gov/f/documents/cfpb_asset-recovery-associates_consent-order_2019-08.pdf)

9. Should the burden be placed on consumers to proactively complain when they are cheated by debt collectors, banks, credit card companies, or other financial service providers in order to get relief?

**Response:** *See previous answer.*

10. Is it your intention to make sure there is full public access to the Bureau's complaint database?

**Response:** *On September 18, 2019, I announced the continued publication of complaints through the Bureau's Consumer Complaint Database, with enhanced data and context that will benefit consumers and users of the database.*

*The Bureau will continue the publication of consumer complaints, data fields and narrative descriptions while making several enhancements to the information available to users of the database. The completed enhancements include: modified disclaimers to provide better context to the published data; integrating financial information and resources into the complaint process to help address questions and better inform consumers before they submit a complaint; and encouraging, but not requiring, consumers to contact the financial company to get answers to their specific questions before submitting a complaint. Additionally, the Bureau will work to provide enhanced features for the database that include dynamic visualization tools based on recent complaint data.*

11. Is it your intention to follow the Consumer Bureau's statutory mandate, to collect, respond & publish information related to consumers financial complaints?

**Response:** *The Bureau will follow its statutory mandate to collect, investigate, and respond to consumer complaints about financial products and services, and publish reports about consumers' financial complaints as required by the Dodd-Frank Wall Street Reform and Consumer Financial Protection Act.*

#### **Decline in Supervisory and Enforcement Activity**

One of the Consumer Bureau's primary functions is to supervise large banks and credit unions in addition to certain non-banks for compliance with Federal consumer financial law. According to Consumer Bureau's responses to Questions for the Record (QFRs) submitted after the March 7, 2019 Hearing, the Consumer Bureau opened 174 supervisory events in FY 2016, 171 in FY 2017, and only 146 in FY 2018. Additionally, the responses indicated that Consumer Bureau opened 32 fair lending supervisory events in FY 2016, 27 in FY 2017, and only 22 in FY 2018.<sup>3</sup>

12. How many supervisory events did the Consumer Bureau open in FY 2019?

**Response:** *131 total supervisory events were opened in FY 2019.*

13. How many fair lending supervisory events did the Consumer Bureau open in FY 2019?

<sup>3</sup> See pages 40-41 of CFPB QFR responses to House Committee on Financial Services *Putting Consumers First? A Semi-Annual Review of the Consumer Financial Protection Bureau* 3/7/19.

**Response:** 24 fair lending supervisory events (out of 131 total supervisory events) were opened in FY 2019.

14. How many supervisory events did the Consumer Bureau open in FY 2019 against student loan servicers?

**Response:** The information requested constitutes confidential supervisory information.

15. How many supervisory events are planned for FY 2020?

**Response:** 135 total supervisory events are planned for FY2020.

16. How many fair lending supervisory are planned for FY 2020?

**Response:** 21 fair lending supervisory events (out of 135 total supervisory events) are planned for FY2020.

17. How many supervisory events of student loans servicers are planned for FY 2020?

**Response:** The information requested constitutes confidential supervisory information.

18. In FY 2019, how many matters were referred to the Consumer Bureau's Action Review Committee (ARC)? How many of those matters were referred at least in part to the Office of Enforcement?

**Response:** In FY 2019, there were 37 ARC decisions. Seven of those ARC decisions referred a matter to the Office of Enforcement.

19. How many investigations did the Office of Enforcement open in FY 2019?

**Response:** Enforcement is an essential tool Congress gave the Bureau. The Office of Enforcement has opened a number of investigations in fiscal year 2019. The specific number is confidential information.

20. How many of the investigations opened in FY 2019 by the Office of Enforcement were of depository institutions?

**Response:** The Office of Enforcement has opened a number of investigations of depository institutions in fiscal year 2019. The specific number is confidential information.

21. How may Fair Lending investigations did the Office of Enforcement open in FY 2019 of potential HMDA violations?

**Response:** The Office of Enforcement has opened a number of investigations of potential HMDA violations in fiscal year 2019. The specific number is confidential information.

22. How many Fair Lending investigations did the Office of Enforcement open in FY 2019 of potential ECOA violations?

**Response:** *The Office of Enforcement has opened a number of fair lending investigations of potential ECOA violations in fiscal year 2019. The specific number is confidential information.*

23. How many of the enforcement actions announced in FY 2019 were against depository institutions?

**Response:** *The Bureau announced 22 public enforcement actions in FY2019, of which 2 were against depository institutions.*

**New Student Loan Ombudsman**

On August 16, 2019 you announced that you had hired Robert Cameron to serve as the Consumer Bureau's student loan ombudsman. He previously served as Deputy Chief Counsel for Pennsylvania Higher Education Assistance Agency (PHEAA), one of the largest servicers of federal student loans. Massachusetts in 2017 sued PHEAA for its servicing practices, including how it treated borrowers seeking public student loan forgiveness. This month the New York Attorney General sued PHEAA alleging that it engaged in deceptive, unfair, and abusive practices related to the Public Student Loan Forgiveness Program. In addition, PHEAA is currently engaged in litigation with the CFPB.

24. Director Kraninger, Section 1035 of the Dodd-Frank Act gives the Treasury Secretary responsibility of designating the student loan ombudsman in consultation with you. Can you describe the process on how Treasury consulted with the Consumer Bureau in selecting Mr. Cameron for this position?

**Response:** *The Deputy Chief of Staff of the Department of Treasury served on the second interview panel for the Private Education Loan Ombudsman position with Brian Johnson, CFPB Deputy Director. The Deputy Secretary of the Department of Treasury also met with Robert Cameron prior to a final interview with the CFPB Director.*

25. Did you or someone from the Consumer Bureau recommend Mr. Cameron to Treasury before he was appointed for this position?

**Response:** *Mr. Cameron was appointed into the career civil service through a competitive process. As the process was coming to a close, pursuant to Dodd-Frank Act requirements, I recommended the designation of Robert Cameron to serve as the Private Education Loan Ombudsman. I met with the Treasury Deputy Secretary and Robert Cameron for a final interview prior to his official designation.*

26. Who was the most senior Consumer Bureau official, besides you, involved with recommending a candidate for the student loan ombudsman position?

**Response:** *Brian Johnson, CFPB Deputy Director.*

27. Who was designated the hiring manager for the student loan ombudsman position?

**Response:** *I was the designated hiring manager for the Private Education Loan Ombudsman position.*

28. Who at the Consumer Bureau participated in any interviews conducted relating to the student loan ombudsman position?

**Response:** *Jenice Goffe, Deputy Section Chief Investigations; Kristen Evans, Section Chief for Students; Patricia Scherschel, Student Lending Program Manager; Brian Johnson, Deputy Director; and I participated in the interviews for the Private Education Loan Ombudsman.*

29. Was there a panel of career Consumer Bureau employees that interviewed potential candidates for the position of student loan ombudsman?

**Response:** *Yes.*

30. If yes, did that panel interview any internal candidates, and did that panel recommend Robert Cameron for the position of student loan ombudsman?

**Response:** *Yes, the first-round interview panel consisted of career CFPB employees, and that panel interviewed one internal candidate. That panel met with Deputy Director and provided feedback regarding each candidate.*

31. Was the slate of candidates considered for this position diverse? Please provide the demographics of the candidate slate.

**Response:** *There were 49 applicants who met minimum eligibility requirements:*

- *Women: 16*
- *Hispanic: 1*
- *Black or African American: 19*
- *Unidentified: 17*

32. Does Mr. Cameron's appointment present a conflict of interest?

**Response:** *No, Mr. Cameron's appointment does not present a conflict of interest. Bureau employees are expected to conduct themselves with the highest level of integrity, and the Bureau has a robust government ethics program. Mr. Cameron has been diligent about ensuring compliance with his ethics obligations and has completed the Bureau's full required ethics training and consulted individually with the ethics officials in the Bureau's Legal Division. Finally, Mr. Cameron received specific guidance from ethics officials with respect to his obligations to recuse himself from particular matters involving specific parties related to PHEAA, absent a specific waiver.*

33. Has Mr. Cameron received any ethics waivers since commencing his employment at the Consumer Bureau?

**Response:** No.

34. Do you think his appointment will erode confidence in the Consumer Bureau as being on the side of consumers instead of unscrupulous student loan companies?

**Response:** *Mr. Cameron is eminently qualified for the position he holds. He not only brings a wealth of professional experience and skill to the Bureau, but in the short time that I have had the privilege of working with him, I am impressed by the diligence and care with which he is approaching his work on behalf of the American people. Since assuming the Ombudsman role, Mr. Cameron has met with a variety of stakeholders to build relationships and receive feedback on the role, met with Congressional staff, and issued the 2019 Private Education Loan Ombudsman Annual Report. Professionalism and integrity are two essential qualities I sought in an individual to fill the Ombudsman role, and I found them in Mr. Cameron.*

#### **Student Loan Ombudsman Report Recommendations**

On October 16, 2019, the day you testified before our hearing, the Consumer Bureau released its Annual Report of the Student Loan Ombudsman analyzing complaints submitted by consumers with student loans as required by the Dodd-Frank Act. The Report indicated that the Consumer Bureau handled 7,200 federal student loan complaints for the year ending August 31, 2018 and 6,600 for the year ending in 2019. For both 2018 and 2019, the number one issue identified by consumers filing complaints about federal student loans was problems with their lender or servicer.

35. What efforts is the Consumer Bureau undertaking to address problems with the servicing of federal student loans?

**Response:** *The Bureau is actively utilizing its education, supervision, and enforcement tools as well as monitoring the market and managing consumer complaints in the student loan servicing space. The Bureau is also working closely with the Department of Education on the front end of the process to help students determine whether to enter into loans in the first place and to assist them in understanding what it means once they do. Further, the Bureau is in ongoing discussions with the Department on the MOUs. On October 15, 2019, the Bureau sent to the Department of Education a copy of an MOU intended to ensure coordination in providing assistance to borrowers seeking to resolve student loan complaints. The Department of Education responded and discussions are ongoing. The Bureau hopes to reach an agreement as soon as possible. The Bureau is also engaged in discussions with the Department of Education to re-establish an MOU regarding supervision of student loan servicing, and those conversations are ongoing.*

This report by the Consumer Bureau's new student loan ombudsman was the first annual report on student loan complaints in two years. This included recommendations to policymakers to crack down on scams affecting student loan borrowers. One of those recommendations from the report states:

With respect to developing and sharing data analytic tools that support civil and criminal enforcement actions, and particularly with regard to the data that those tools rely upon, Policymakers should consider providing limited exceptions to existing statutes which would then enable increased flexibility in changing data

elements collected in complaints so that such data elements and complaints may be more reflective of, and responsive to, the changing environment.

36. Do you agree with this recommendation?

**Response:** *I agree in principle because there is relevant complaint information that is reflective of the changing environment (i.e. changing tactics, techniques and procedures of unscrupulous actors) that is found in the narrative field of complaints – the narrative field does not easily lend itself to the same type of analysis that data elements do. Also, it is important to closely coordinate with other agencies to ensure regulators have adequate information to monitor markets and carryout deliberate balancing while weighing the risks and benefits to consumers, particularly in an evolving environment.*

37. Can you please explain what this recommendation means?

**Response:** *This recommendation refers to the Paperwork Reduction Act. Exceptions would include limiting statutory requirements that otherwise lengthen the time periods regarding making changes to the collection of relevant data as the markets and issues evolve and change.*

According to the Annual Report of the Student Loan Ombudsman, one of the statutory functions of the Ombudsman is establishing a memorandum of understanding between the Consumer Bureau and the Department of Education “to ensure coordination in providing assistance and serving borrowers seeking to resolve complaints related to their private education loans or federal student loans.” There is no mention of a memorandum of understanding between the Consumer Bureau and the Department of Education regarding supervision and oversight of student loan servicers. In August of 2017, the Secretary of Education terminated a January 9, 2014 Memorandum of Understanding Concerning Supervisory and Oversight Cooperation and Related Information Sharing between the U.S. Department of Education and the Consumer Bureau.

38. What efforts is the Consumer Bureau taking to reestablish the MOU with the Department of Education on information sharing with respect to the supervision and oversight of student loan servicers?

**Response:** *The Bureau is engaged in discussions with the Department of Education to re-establish an MOU regarding supervision of student loan servicing, and those discussions are ongoing.*

#### **Student Loan Servicing**

According to the Federal Reserve, Americans owe more than \$1.6 trillion in student loan debt, the vast majority of which is federal student loan debt.<sup>4</sup> The 2017 Annual Report from the Consumer Bureau Student Loan Ombudsman found that 71% of the approximately 12,900 federal student loan complaints handled by the Consumer Bureau between August 2016 and September 2017 were issues related to dealing with the lender or servicer.<sup>5</sup> The Consumer Bureau has the authority to examine student loan servicers to make sure they are complying with the law and treating

<sup>4</sup> Board of Governors of the Federal Reserve System (FRB), Consumer Credit – G.19, June 2019 (released Aug. 7, 2019), <https://www.federalreserve.gov/releases/g19/current/>.

<sup>5</sup> CFPB Student Loan Ombudsman, *Annual report of the CFPB Student Loan Ombudsman*, pp.8, October 2017.

borrowers fairly. However, in an April 23, 2019 letter to Senator Warren, you revealed that since December 2017, student loan servicers, based on Department of Education guidance, have refused to provide the Consumer Bureau examiners with any information related to Federal Direct Loans or Federal Family Education Loans held by the Department of Education.<sup>6</sup>

39. In FYs 2018 and 2019 did the Consumer Bureau conduct any examinations of a student loan servicer that included the review of federal student loans?

**Response:** *The Bureau did not conduct any new examinations of student loan servicers that included the review of federal student loans in FY2018 and FY2019 because of the limitations you describe in your question; during that time, the Bureau conducted certain follow-up work related to previous exams that included the review of federal student loans.*

40. In FYs 2018 and 2019, did the Office of Supervision Examinations or the Office of Supervision Policy at the Consumer Bureau request and receive federal student loan information and data from student loan servicers?

**Response:** *The Office of Supervision Examinations (OSE) requested federal student loan information and data from student loan servicers in FYs 2018 and 2019. OSE only received information requested for certain follow-up work related to previous exams that included the review of federal student loans.*

41. Director Kraninger, how can the Consumer Bureau protect student loan borrowers if servicers refuse to provide information about the student loans they service?

**Response:** *Resolving this issue is one of my top priorities and we are taking steps to resolve it as noted below. We have devoted resources to reviewing information about private student loans and privately-owned Federal Family Education Loans, and this work is also important to protect student loan borrowers.*

42. What are you doing to make sure that servicers turn over information to the Consumer Bureau?

**Response:** *The Bureau is in negotiations with the Department of Education concerning the reestablishment of two MOUs between our agencies concerning student loan servicing supervision and the sharing of student loan complaint data.*

43. Have you specifically asked the Department of Education to direct servicers to produce information to the Consumer Bureau about federal loans?

**Response:** *The Bureau is working to negotiate new MOUs with the Department of Education as noted above. Additionally, my staff has specifically asked the Department of Education to direct servicers to produce information to the Bureau about federal loans.*

---

<sup>6</sup> <https://www.npr.org/documents/2019/may/042319-letter.pdf>.



44. In the Consumer Bureau's recent lawsuit against Navient, a court ordered Navient to produce student loan borrower documents, rejecting the argument that the Consumer Bureau had to obtain permission from the Department of Education.<sup>7</sup> Director Kraninger, why hasn't the Consumer Bureau taken any legal action to force servicers to turn over documents about federal student loans?

*Response: Resolving this issue is one of my top priorities and we are taking steps to resolve it by negotiating new MOUs with the Department of Education, as noted above. Negotiating a resolution with the Department of Education is a more efficient and cost-effective way of achieving this goal.*

#### **Racial Disparities in Student Loan Debt**

Recent data released by the Federal Reserve Bank of New York revealed the racial disparities in student loan debt. Based on data from the country's ten most segregated metropolitan areas, majority minority neighborhoods have significantly higher student loan default rates. For example, in Milwaukee the default rate in majority minority neighborhoods is four times greater than the rate in majority white neighborhoods.<sup>8</sup> The Consumer Bureau's 2017 Fair Lending report indicated that the Bureau prioritized student loan servicing, but its most recent Fair Lending Report for 2018 issued under your leadership indicated that the Consumer Bureau did not identify student loan servicing as a priority.

45. Director Kraninger, given the significant racial disparities in student loans, why is student loan servicing no longer a fair lending priority? What is the Bureau doing to address the racial disparities in student loans?

*Response: As part of the prioritization process, the Bureau identifies emerging developments and trends by monitoring key consumer financial markets. If this market intelligence identifies fair lending risks in a particular market that require further attention, that information is incorporated into the prioritization process to determine the type and extent of attention required to address those risks.*

*The Bureau's prior monitoring highlighted potential steering risks in student loan servicing, which resulted in the prioritization of this market in our supervisory work in 2017. Based on the work done to date, the market concentration, and as a result of the Bureau's prioritization process, the Bureau did not continue to prioritize student loan servicing in our fair lending supervisory work. Instead, the Bureau plans to address potential fair lending risk in the private student loan originations market.*

#### **CFPB's Independence**

Director Kraninger, in September 2019 you indicated in a filing with the Supreme Court in *Seila Law LLC v. Consumer Financial Protection Bureau* that you now agreed with the position of the Trump administration that Consumer Bureau's independent structure, regarding the President's

<sup>7</sup> [https://www.courtlistener.com/recap/gov.uscourts.pamd.110329/gov.uscourts.pamd.110329.103.0\\_2.pdf](https://www.courtlistener.com/recap/gov.uscourts.pamd.110329/gov.uscourts.pamd.110329.103.0_2.pdf)

<sup>8</sup> [https://www.booker.senate.gov/?p=press\\_release&id=994](https://www.booker.senate.gov/?p=press_release&id=994).

authority to remove a Director solely “for cause,” was unconstitutional. Yet a month before, the CFPB, consistent with its long-standing position, filed a brief in another case defending the constitutionality of its structure. The Consumer Bureau’s general counsel signed both the September Supreme Court filing stating that the Consumer Bureau would no longer defend the constitutionality and the August brief asserting the exact opposite.

46. What factors did you consider in your analysis? What is your reasoning and legal basis for now saying that the CFPB structure is unconstitutional?

**Response:** *I determined that the removal provision of the CFPA was unconstitutional as it unduly interferes with the President’s authority under Article II of the Constitution. I am pleased that the Supreme Court has agreed to hear this issue as I believe that resolution of the issue, by Congress or the Supreme Court, will allow the Bureau to pursue its mission proactively. The Bureau’s legal position is set forth in the government’s brief in *Seila Law*.*

Director Kraninger, on September 17, 2019, you notified the Speaker of the House Nancy Pelosi that the Consumer Bureau would no longer defend the constitutionality of its structure. In that letter you stated that, “[m]y determination that the for-cause removal provision is unconstitutional does not affect my commitment to fulfilling the Bureau’s statutory responsibilities. I will continue to carry out the Bureau’s duties under the CFPA and to defend the Bureau’s actions.” Director Kraninger, since your announcement that the CFPB will no longer defend the constitutionality of its structure, a judge in the Eastern District of New York put a hold on the Bureau’s lawsuit against a debt collection law firm until the Supreme Court decides to grant cert in the *Seila* case.<sup>9</sup>

47. Director Kraninger, does this demonstrate that your decision has impeded the CFPB’s ability to fulfill its statutory mandate to enforce federal consumer financial law?

**Response:** *From the Bureau’s earliest days, parties have raised constitutional challenges to the Bureau’s enforcement actions (and other actions it has taken in pursuit of its mission), and those challenges have caused significant delays in the Bureau’s pursuit of its mission. I am pleased that the Supreme Court has decided to address the constitutionality of the removal provision, and I am hopeful that a decision by the Supreme Court will finally put an end to these challenges so that the Bureau can carry out its important mission proactively.*

48. Director Kraninger, as recently as April 25, 2019 you signed a decision and order rejecting the argument that an entity should not have to comply with the Consumer Bureau’s civil investigative demand because the Bureau’s structure is unconstitutional.<sup>10</sup> Are you concerned that your change in position will result in entities refusing to comply with the Consumer Bureau’s civil investigative demands?

**Response:** *Entities refused to comply with the Bureau’s civil investigative demands before the Bureau changed its position on the constitutionality of the removal provision. Indeed, *Seila Law* is a case filed in 2017 in which a company refused to comply with an investigative demand on the ground that the removal restriction is unconstitutional. I believe that this sort of resistance to the Bureau’s investigation and enforcement efforts will not end until the constitutional question is*

<sup>9</sup> <https://www.americanbanker.com/news/kraningers-stance-on-cfpb-constitutionality-puts-rules-in-limbo>.

<sup>10</sup> [https://files.consumerfinance.gov/f/documents/cfpb\\_petition-to-modify\\_candy-kern-fuller-and-howard-e-sutter\\_decision-and-order.pdf](https://files.consumerfinance.gov/f/documents/cfpb_petition-to-modify_candy-kern-fuller-and-howard-e-sutter_decision-and-order.pdf).

*resolved either by Congress or the Supreme Court, and I am pleased that the Supreme Court has decided to hear the case.*

#### **Disparate Impact**

A recent study from professors at UC Berkeley found that digital underwriting discriminates against equally qualified borrowers of color.<sup>11</sup> Do you agree that discrimination can happen even with lending or other decisions are made by computers, algorithms or big data? What is the Consumer Bureau doing to ensure that these practices do not lead to digital redlining?

49. Do you share Acting Director Mulvaney's view on the application of disparate impact at the Consumer Bureau?

***Response:** The Bureau continues to evaluate the use of disparate impact under the Equal Credit Opportunity Act (ECOA) on a case-by-case basis based on the specific facts and circumstances of each matter. The Bureau is currently considering its next steps on the application of the disparate impact doctrine under the ECOA. In anticipation, the Bureau is gathering information and discussing this issue with stakeholders. In April 2019, the Bureau announced that it plans to hold a symposium on disparate impact and the ECOA. The symposium is part of a series exploring consumer protections in today's dynamic financial services marketplace.*

*Preventing redlining continues to be a priority for the Bureau. Our supervisory and enforcement efforts in this space have been supported by analyses of lending patterns (applications and originations) as well as marketing efforts, including digital marketing or marketing using newer technologies.*

50. Do you believe the Consumer Bureau can't enforce against disparate impact due to the disapproval of the indirect auto lender rule? If so, please explain why. If not, please articulate how your opinion differs from the opinion of Mr. Mulvaney?

***Response:** On May 21, 2018, the President signed a joint resolution passed by Congress disapproving the Bureau's Bulletin titled "Indirect Auto Lending and Compliance with the Equal Credit Opportunity Act" (Bulletin), which had provided guidance about ECOA and its implementing regulation, Regulation B. Consistent with the joint resolution, the Bulletin has no force or effect. The ECOA and Regulation B are unchanged and remain in force and effect, and the Bureau continues to work to ensure compliance with their requirements. The Bureau also continues to administer prior fair lending enforcement actions, monitor the market generally, and investigate, as appropriate, information and complaints that come to the Bureau. The Bureau continues to evaluate the use of disparate impact under ECOA on a case-by-case basis based on the specific facts and circumstances of each matter.*

#### **Discrimination**

The Consumer Bureau's new compliance sandbox policy allows participants to apply for and be granted regulatory approval for their new product or service as being compliant with ECOA and protection from ECOA liability without any public knowledge or input or any reporting requirements while participating in the sandbox.

<sup>11</sup> <https://newsroom.haas.berkeley.edu/minority-homebuyers-face-widespread-statistical-lending-discrimination-study-finds/>.

51. How will the Bureau be able to prevent harm to consumers if they will not be supervising these products or requiring reporting to ensure they are not causing harm?

**Response:** *The Bureau's Compliance Assistance Sandbox Policy includes provisions to prevent harm to consumers. The Policy requires recipients to report information to the Bureau about the effects of offering or providing the described aspects of the product or service, including with respect to complaint patterns, default rates, or similar metrics that will enable the Bureau to identify material increase in any risk of injury to consumers. The Policy also states that, where appropriate, an approval will be conditioned on the recipient's commitment to compensate consumers for actionable substantial injury, as defined in the Dodd-Frank Act, which is caused by the recipient's offering or providing the described aspects of the product or service.*

*Even if approval is granted for a product or service, the Bureau would retain its full spectrum of information gathering powers under its supervision and enforcement authority.*

*The Policy also provides that approvals are expected to be made public, including information on: (i) the identity of the recipient; (ii) the described aspects of the product or service to which the approval applies; (iii) the approval's specified duration, basis, and legal authority; and (iv) in appropriate cases, a version of the summary of the application.*

52. Do you believe that discrimination in lending is a problem? Why or why not? If so, could you provide us with your viewpoints on how to address discrimination in areas in lending, including housing/redlining and subprime lending markets?

**Response:** *Protecting consumers from discrimination is one of the primary objectives laid out in the Dodd-Frank Act—an objective that the Bureau takes very seriously. The Bureau continues to enforce fair lending laws in our jurisdiction and stands on guard against unlawful discrimination in credit.*

*Congress provided the Bureau with various tools to support our mission, including education, regulation, supervision, and enforcement, each of which serves an important component in the Bureau's execution of its statutory responsibilities. We make careful decisions, based on a variety of factors, about which tools to utilize in pursuit of our mission to enforce the law and protect consumers from illegal discrimination. These decisions are made on a case by case basis.*

*I believe that the best application of these tools is to focus on prevention of harm to consumers and that includes protecting consumers from unfair, deceptive and abusive acts or practices as well as from discrimination. The Bureau's very purpose is to ensure that all consumers have access to consumer financial products and services which is based on having fair, transparent, and competitive markets.*

53. Despite the Congressional Review Act repealing the Consumer Bureau's guidance on Indirect Auto-Lending, the Bureau retains responsibility to enforce fair lending laws. How

will you do this with regard to the use of lender pricing schemes based on discretionary dealer markups where there is well-documented evidence of racial discrimination?

**Response:** *In 2011, the Bureau set indirect auto finance as one of several fair lending priorities based on data from other regulators and agencies, market research, and consumer advocate groups. Since that time, we have examined over a dozen of the nation's largest auto lenders and achieved important market awareness and movement.*

*Because the Consumer Bureau is responsible for overseeing so many products and so many lenders, we must re-prioritize our work from time to time, to make sure that we are focused on the areas of greatest risk to consumers. Accordingly, in 2017, we shifted our focus from auto lending in order to increase our focus on other markets or products that also present substantial risk of credit discrimination for consumers, including redlining, mortgage and student loan servicing, and small business lending.*

*We continue to monitor the auto finance market through our supervision program, however, and will address issues as we encounter them. For example, the first edition of Supervisory Highlights under my tenure, the Winter 2019 edition, released in March 2019, provides information to the public about the Bureau's recent supervisory observations in automobile loan servicing.*

#### **MRAs and MOUs related to Supervision**

According to the Consumer Bureau's Spring 2019 Semi Annual Report, the Bureau issued fewer matters requiring attention (MRAs) or memoranda of understanding (MOUs) related to Fair Lending Supervisory events than in the prior period."<sup>12</sup> MRAs and MOUs direct entities to take corrective actions and are monitored by the Bureau through follow-up supervisory events.

54. How many MRAs or MOUs did the Consumer Bureau issue in FY 2019 with respect to Fair Lending supervisory events?

**Response:** *The information requested constitutes confidential supervisory information.*

55. How many MRAs or MOUs did the Consumer Bureau issue in FY 2019 with respect to supervisory events?

**Response:** *In FY 2019, the Consumer Bureau issued 433 total MRAs as a result of supervisory events.*

#### **Staffing Levels at the Consumer Bureau**

The Consumer Bureau's Fall 2017 Semi Annual Report (the last report covering the Consumer Bureau under the leadership of Director Cordray) indicated that the Bureau had 1,645 employees as of September 30, 2017. According to the Consumer Bureau's Spring 2019 Semi Annual Report, the Bureau had 1,452 employees by the end of March 31, 2019. An August 27, 2019 Wall Street Journal Article, the Consumer Bureau lifted a hiring freeze that had been in place since Mick

<sup>12</sup> CFPB, Spring 2019 Semi-Annual Report of the Bureau of Consumer Financial Protection at 49.

Mulvaney became acting Director in November 2017.<sup>13</sup> In a September 9, 2019 letter to Chairwoman Waters and Chairman Green of the Subcommittee on Oversight and Investigations, Director Kraninger informed the Committee that an agreement had been reached between the Consumer Bureau and the National Treasury Employees Union (NTEU) regarding the consolidation of Bureau staff from 1990 K Street to 1700 G Street.

56. How many employees did the Consumer Bureau have at the end of Fiscal Year 2019?

**Response:** *As of pay period 19 (the last full pay period of the fiscal year, ending 9/28/2019) there were 1,424 employees.*

57. What is the target headcount for Fiscal Year 2020?

**Response:** *I approved the Staffing Plan on August 12, 2019. This set a staffing target of 1,612 positions.*

58. Given the space constraints created by the consolidation of staff from 1990 K Street to 1700 G Street, how can the Consumer Bureau hire additional employees beyond its current headcount, specifically for those position with duty stations in Washington DC?

**Response:** *As part of planning the consolidation of DC-based staff, the Bureau evaluated the current headcount in comparison to workspace that is available at the 1700 G Street location. This assessment has been repeated several times over the last 18 months to ensure adequate workspace is available for Bureau staff, contractors, and others. Based on these past assessments, the Bureau estimates there will be enough vacant seats after the consolidation of DC-based staff to support the additional headcount that was approved on August 12, 2019.*

#### **CFPB Employee Morale**

The dedicated public servants of the Consumer Bureau have had to deal with two years of efforts to diminish their work. This has included a lack of support from their leadership, belittlement from the current administration, the winding down of ongoing consumer protection investigations, and an overall lack of direction. It is understandable why morale of for these dedicated and hardworking employees is at an all-time low. According to a government-wide annual survey published in December 2018 that was conducted by the nonprofit, nonpartisan Partnership for Public Service, the Consumer Bureau experienced the largest decline in employee morale for a government agency of its size. A workplace with low morale undermines, among other things, the agency's ability to hold bad actors accountable when they harm consumers.

59. Director Kraninger, what steps are you taking to boost employee morale at the Consumer Bureau?

**Response:** *The staff of the Bureau are highly committed to the Bureau's mission and care deeply about the organization. I respect them, I take their views and opinions seriously, and their input is integral to my decision-making. Further, I am committed to leading a*

<sup>13</sup> <https://www.wsj.com/articles/consumer-watchdog-starts-hiring-after-15-staff-drop-under-trump-11566929922>.

*diverse, productive, effective workforce.*

*After I was sworn in as Director, it was important for me to hear input from staff directly. I made it a priority during the first months of my tenure to go on a “listening tour” and visit as many Bureau staff as possible, both at Headquarters and in all four of our regional locations. I have continued to engage with employees through Bureau-wide all-hands sessions, regular meetings with Division and Office teams, and weekly “office hours” to provide updates on Bureau priorities, recognize individual and team efforts and achievements, and continue to gather staff feedback. The Bureau also regularly surveys staff, including through our Annual Employee Survey.*

*Here are specific actions I have taken in response to some employee feedback as well as initiatives that reflect my approach to leadership and management:*

- *Early on, I outlined my approach to addressing the hiring freeze and empowering senior managers to determine skill and resource needs to address the Bureau's mission priorities. During the listening tour, I made clear that I was open to, and had granted, many exceptions to the hiring freeze in response to requests by managers who demonstrated a critical mission need. Subsequent to that, in May 2019, I launched the FY2020 Staffing Plan process with a goal of moving the Bureau towards a more sustainable and disciplined practice of identifying and hiring the staff needed to accomplish the Bureau's mission priorities. In August 2019, I announced to staff that I had approved an FY2020 Staffing Plan for the Bureau and lifted the hiring freeze.*
- *As a precursor to the FY2020 Staffing Plan process, I approved a number of initiatives designed to help determine optimal staffing levels for the long term. These initiatives include better aligning resources with my top policy priorities, improving how cross-Bureau legal functions are performed, and enhancing how administrative and operational functions are performed across the Bureau.*
- *I established a Workforce Effectiveness Committee to ensure that the Bureau takes a holistic, consistent approach to considering workforce-related plans and initiatives with a particular view towards improving workforce effectiveness, employee engagement, and diversity and inclusion efforts.*
- *I created a Customer Experience Office to focus on improving our internal staff experience through enhanced operational services enabling the workforce to be more effective and efficient in meeting the Bureau's mission.*
- *I have continued to strongly promote diversity and inclusion by refreshing the Bureau's Diversity and Inclusion Strategic Plan, enhancing the focus on strong engagement with employees, and utilizing an integrated approach to education, training, and engagement programs that incorporate diversity and inclusion concepts into the learning curriculum and work environment. Employee Resource Groups, which are networks of Bureau employees with similar interests, backgrounds, or experiences, cultural education programs, and diversity and inclusion training are key components of this effort.*

- *I presented the Director's Mission Achievement Award to recognize staff leadership and team contributions towards the Bureau's mission. The award is CFPB's highest honor. In accordance with my priorities, this year I recognized both leadership excellence and outstanding team contributions. Twenty leaders and over 200 team members across 29 teams were nominated by a joint committee of representatives from the union and CFPB management.*
- *I promoted the Bureau's focus on data and information governance and management by creating a new Office of the Chief Data Officer, combining it with related functions such as Records, FOIA and Privacy, and elevating it to report directly to the Chief Operating Officer;*
- *I opened a regional office in Atlanta, Georgia so that the Bureau's Southeast Region can collaborate more effectively with other partner financial regulators who also have their regional office in Atlanta; the Southeast Regional Office will feature a regional learning and development center for Bureau examiners and federal and state partners; and*
- *I launched the consolidation of all Washington, DC-based staff from two office buildings into one to increase the effectiveness of the organization and to significantly improve the collaboration across all teams and divisions. Moves are underway and planned to be completed in January 2020.*

#### **Recent Senior Leadership Hires**

On September 25, 2019 you announced that Bryan A. Schneider will serve as Associate Director in the Supervision, Enforcement and Fair Lending Division (SEFL). Mr. Schneider formerly served as the Secretary of the Illinois Department of Financial and Professional Regulation. You also announced on the same day that Jason Brown will serve as Assistant Director for Research. Mr. Brown formally served as the Associate Commissioner in Office of Research, Evaluation, and Statistics at the Social Security Administration.

60. Who was the hiring manager for the position of Associate Director for SEFL?

**Response:** *Brian Johnson, CFPB Deputy Director was the hiring manager.*

61. Who participated in the interviews conducted by the hiring manager for the Associate Director of SEFL?

**Response:**

*First Round of Interviews:*

- *David Bleicken – Deputy Associate Director, SEFL and Acting Associate Director, SEFL at the time*
- *Paul Sanford – Assistant Director, Supervision Examinations*
- *Peggy Twohig – Assistant Director, Supervision Policy*
- *Cara Petersen – Deputy Assistant Director, Enforcement and Acting Assistant Director, Enforcement*



*Second Round of Interviews:*

- *Brian Johnson – CFPB Deputy Director*
- *Kate Fulton – Chief Operating Officer*

*Final Interview:*

- *Kathleen Kraninger – CFPB Director*

62. Was the slate of candidates considered for this position diverse? Please provide the demographics of the candidate slate.

***Response:***

*There were 33 applicants who met minimum eligibility requirements:*

- *Female: 6*
- *Male: 27*
- *Asian: 2*
- *Black or African American: 6*
- *Hispanic: 1*
- *Multiple Race: 1*
- *Unidentified Race: 16*

63. How many current Consumer Bureau employees applied for the position of Associate Director for SEFL?

***Response:*** *Two current CFPB employees applied for the Associate Director SEFL position.*

64. Was there a panel of career Consumer Bureau employees that interviewed potential candidates for the position of Associate Director for SEFL? If yes, did that panel interview any internal candidates? If yes, did that panel recommend Bryan A. Schneider for the position of Associate Director for SEFL?

***Response:*** *The first panel of career CFPB employees interviewed six candidates, including two internal candidates. The Deputy Director and Chief Operating Officer also interviewed all six applicants during a separate interview. The first panel of career CFPB employees provided feedback on each applicant after the interviews were completed.*

65. How many individuals did the hiring manager interview for the position of Associate Director for SEFL? How many of these individuals were current Consumer Bureau employees?

***Response:*** *The hiring manager interviewed six applicants, which included two current CFPB employees, for the Associate Director, SEFL position.*

66. Who was the hiring manager for the position of Assistant Director for Research?

**Response:** *David Silberman, Associate Director Research Markets and Regulations, was the hiring manager for the Assistant Director Research.*

67. Who participated in the interviews conducted by the hiring manager for the position of Assistant Director for Research?

**Response:**

*Four interview panels met with each of the candidates who was interviewed. The members of those panels were:*

*Staff Panel:*

*Judith Ricks, Economist*

- *Dustin Beckett, Economist*
- *Christa Gibbs, Economist*
- *Scott Fulford, Economist*
- *Joseph Remy, Senior Research Analyst*

*Managers Panel:*

- *Jonathan Lanning, Supervisory Economist*
- *Brian Bucks, Supervisory Economist*
- *Jason Dietrich, Supervisory Economist*
- *Melissa Knoll, Supervisory Research Scientist*
- *Shaista Ahmed, Research Chief of Staff*

*Executives Panel:*

- *Janneke Ratcliffe, Assistant Director, Financial Education*
- *Karla Carnemark, Deputy Chief of Staff*
- *Grady Hedgespeth, Assistant Director, Small Business Lending Markets*
- *Dan Sokolov, Deputy Associate Director, RMR*
- *Susan Singer, Deputy Assistant Director, Research and Acting Assistant Director, Research at the time*

*Senior Leadership Panel:*

- *Tom Pahl, Policy Associate Director, RMR*
- *David Silberman, Associate Director, RMR*

*The finalists were then interviewed by:*

- *Kathleen Kraninger, CFPB Director*

68. How many current Consumer Bureau employees applied for the position of Assistant Director for Research?

**Response:** *Two current CFPB employees applied for the Assistant Director Research position.*

69. Was there a panel of career Consumer Bureau employees that interviewed potential candidates for the position of Assistant Director for Research? If yes, did that panel interview any internal candidates? If yes, did that panel recommend Jason Brown for the position of Assistant Director for Research?

**Response:** *The staff and manager panels, comprised of career Bureau employees, interviewed five candidates, including two internal candidates. Those panels provided feedback on each candidate to the Associate Director, RMR, who is a career employee. The third panel, comprised of four career Bureau employees and one political appointee, interviewed all five candidates, including the two internal candidates. The third panel also provided feedback on each candidate to the Associate Director, RMR. The Associate Director, RMR, who is a career employee, and the Policy Associate Director, RMR, who is a political appointee, also interviewed all candidates interviewed by the first, second, and third panels.*

*While you did not request the information for this pool, there were 33 candidates who met minimum eligibility requirements:*

- *Female: 7*
- *Male: 26*
- *Hispanic: 3*
- *African American or Black: 2*
- *Asian American: 8*
- *Unidentified Race: 5*

70. How many individuals did the hiring manager interview for the position of Assistant Director for Research? How many of these individuals were current Consumer Bureau employees?

**Response:** *The hiring manager interviewed five applicants, including the two current CFPB employees, for the Assistant Director Research position.*

#### **Problematic Behavior by Political Appointees at the CFPB**

Tom Pahl, Policy Associate Director for Research, Markets and Regulation at the Consumer Bureau wrote in his staff bio, “I am a proud native Minnesotan, and my family was one of the first to settle in the state in the 1830s. My great-grandfather was a settler who helped put down the Great Sioux uprising of 1862, after which the US government moved the Sioux (including a young brave named Sitting Bull) further west to the Dakota’s.” Apparently, his biography was recently updated to remove this information.

71. Ms. Kraninger, do you see anything problematic in Mr. Pahl’s description?

**Response:** *I did not review the background information that Mr. Pahl provided about himself. Such information contained in Mr. Pahl’s bio does not impact his ability to successfully perform the duties of his position.*

72. Do you think it is appropriate for Mr. Pahl to write about the plight of Native Americans in this manner?

**Response:** I defer to Mr. Pahl regarding matters of his family history, which have no relevance to his work at the Bureau. With respect to content on Bureau systems, I have asked the Chief Operating Officer and the relevant executives to assess our policies on content owners and content management.

The current Director of the Office of Innovation, Paul Watkins, formerly worked as senior legal counsel at the Alliance Defending Freedom, an organization designated as a hate group by the Southern Poverty Law Center. According to the Southern Poverty Law Center, the organization supported the recriminalization of homosexuality in the U.S. and criminalization abroad, defended state-sanctioned sterilization of trans people abroad, linked homosexuality to pedophilia, and claims that a “homosexual agenda” will destroy Christianity and society.<sup>14</sup> In an August 16, 2019 email obtained by the Advocate to Employee Resource Group leaders you stated that you were committed “to upholding all applicable laws and policies, including the Bureau’s own EEO and Non-Discrimination policy . . . At the same time, I want to emphasize that it is how people behave in the workplace that matters. All employees at the Bureau have a right to their own personal views and they do not owe anyone an acknowledgement of what their views are or a justification for holding them, whatever they might be.”<sup>15</sup>

73. Given Mr. Watkins’ prior alliance with a known hate group, how can you be assured that he will treat all Consumer Bureau employees especially LGBTQ+ employees?

**Response:** The CFPB has no tolerance for workplace discrimination, harassment, or retaliation. The CFPB takes all allegations of discrimination, harassment, and retaliation seriously. In February 2019, I re-issued the Bureau’s Policy Statement on Equal Employment Opportunity (EEO) and Workplace Harassment and the Bureau’s Annual Notice on the No FEAR Act and Whistleblower Protection Laws/Prohibited Personnel Practices. I have publicly expressed my personal commitment to vigorously enforce EEO protections under the law and to promote diversity and ensure an inclusive workplace for all Bureau employees.

74. Mr. Watkins has the authority under the Compliance Assistance Policy to exempt companies from liability from consumer protection laws such as ECOA. How can you be assured that he will protect all consumers from illegal discrimination?

**Response:** The Bureau recently issued a Policy on the Compliance Assistance Sandbox, which does not include such exemptions. Therefore Mr. Watkins does not have such authority.

The Committee’s recently released majority staff report revealed that a political appointee overruled the recommendations of career enforcement attorneys and non-partisan senior management officials that consumer redress was warranted in two case. Director Kraninger, in May you announced that Brian Johnson will serve as Deputy Director of the Consumer Bureau. Mr. Johnson first came to the Consumer Bureau as Mick Mulvaney’s first political hire. Mr. Johnson previously worked for the former Chairman of this Committee who was an outspoken critic of the Consumer Bureau.

<sup>14</sup> <https://www.splcenter.org/fighting-hate/extremist-files/group/alliance-defending-freedom>.

<sup>15</sup> *Id.*

75. What role does Mr. Johnson have in overseeing and approving the recommendations of career attorneys in the Office of Enforcement?

*Response: The Director authorizes Enforcement staff to take public enforcement actions, including authorizing settlement parameters, based on recommendations from Bureau staff. A number of internal stakeholders, including the Deputy Director, review and weigh in on recommendations seeking authority to take public enforcement actions before those recommendations are submitted to the Director.*

76. What authority does he have over enforcement in terms of whether to seek redress for consumers in a matter?

*Response: See previous response.*

#### **Financial Literacy and Education Commission**

The Financial Literacy and Education Commission (FLEC) was established under the Fair and Accurate Credit Transactions Act of 2003 and is tasked to develop a national financial education web site (MyMoney.gov) and a national strategy on financial education. It is chaired by the Secretary of the Treasury and the vice chair is the Director of the Bureau of Consumer Financial Protection. The Commission is coordinated by the Department of the Treasury's Office of Consumer Policy.

77. Can you please provide us with the dates of each FLEC meeting that occurred during your time in charge of the Consumer Bureau?

*Response: The Chair has not called for a meeting of the FLEC since I was confirmed by the Senate in December 2018. The last meeting of the FLEC was on October 4, 2018. Since that time, the Department of the Treasury issued recommendations to reform FLEC efforts and is seeking to implement those reforms and finalize new FLEC governance provisions.*

78. Can you please provide a list of all attendees for each FLEC meeting that occurred during your time in charge of the Consumer Bureau?

*Response: There has not been a meeting of the FLEC since I was confirmed by the Senate in December 2018.*

79. During your time in charge of the Consumer Bureau, was every FLEC meeting open to the public?

*Response: There has not been a meeting of the FLEC since I was confirmed by the Senate in December 2018.*

#### **Rollback of HMDA Rule**

The Home Mortgage Disclosure Act (HMDA) requires the collection, reporting, and disclosure of information about mortgage lending that can be used to detect potential discrimination. In 2015 the Consumer Bureau amended Regulation C implementing HMDA to require mortgage lenders to report additional data, including the credit scores of applicants, as required by Dodd-Frank. A

2019 Consumer Bureau report found that “Black and Hispanic White applicants are on average denied at a higher rate than non-Hispanic White applicants, even if they are within the same credit score range.”<sup>16</sup>

The CFPB issued a final rule to, among other things, implement a harmful provision of S. 2155 from the 115<sup>th</sup> Congress that drastically rolled back HMDA reporting requirements for a number of financial institutions.<sup>17</sup>

80. Given the Consumer Bureau’s own research indicating that additional data required by the 2015 HMDA amendments can help identify potential discrimination, why would you not only implement these harmful changes, but seek to go further by potentially drastically raising various HMDA reporting thresholds?

**Response:** *Section 104(a) of the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA) amended HMDA by adding partial exemptions from HMDA's requirements for certain insured depository institutions and insured credit unions. The Bureau issued an interpretive and procedural rule on August 31, 2018, to implement and clarify these statutory partial exemptions. The Bureau's final rule issued on October 10, 2019 incorporates these partial exemptions into Regulation C and addresses additional questions related to the EGRRCPA. The Bureau's proposal to increase the thresholds for collecting and reporting data on closed-end mortgage loans and open-end lines of credit, respectively, if finalized would provide relief to smaller community banks and credit unions while still providing federal regulators and other stakeholders with information needed to further the purposes of HMDA.*

Director Kraninger, the Bureau’s Spring 2019 Report to Congress stated that the Bureau wants to ensure that the data collection and reporting requirements established in the 2015 HMDA Rule, “appropriately balance the benefits and burdens associated with data collection and reporting.”<sup>18</sup>

81. Do you agree that robust HMDA data is essential to the Consumer Bureau’s enforcement of fair lending laws?

**Response:** *HMDA data is an informative element in prioritizing the Bureau's fair lending work. Expanded HMDA data points enhance the Bureau's ability to screen for possible fair lending problems. The Bureau's stewardship of HMDA takes into account the purposes of the law to provide the public with loan data that can be used: (i) to help determine whether financial institutions are serving the housing needs of their communities; (ii) to assist public officials in distributing public-sector investment so as to attract private investment to areas where it is needed; and (iii) to assist in identifying possible discriminatory lending patterns and enforcing antidiscrimination statutes. At the same time, it is important to bear in mind that there are costs associated with collecting and reporting HMDA data which can impact the cost and availability of credit so that the costs and benefits must be carefully balanced to achieve HMDA's purposes.*

82. How can you protect consumers from discriminatory lending practices if you reduce transparency and the amount of information mortgage lenders have to disclose?

<sup>16</sup> [https://files.consumerfinance.gov/f/documents/cfpb\\_new-revised-data-points-in-hmda\\_report.pdf](https://files.consumerfinance.gov/f/documents/cfpb_new-revised-data-points-in-hmda_report.pdf) at 53.

<sup>17</sup> [https://files.consumerfinance.gov/f/documents/cfpb\\_hmda\\_final-rule-2019.pdf](https://files.consumerfinance.gov/f/documents/cfpb_hmda_final-rule-2019.pdf).

<sup>18</sup> CFPB, Spring 2019 Semi-Annual Report of the Bureau of Consumer Financial Protection at 23-34.

**Response:** *In the 2015 HMDA Rule, the Bureau exercised its discretionary authority to require “such other information as the Bureau may require” to add 14 data points, in addition to the 13 new data points added to HMDA by the Dodd-Frank Act. Since issuing the 2015 HMDA Rule, the Bureau has heard concerns about the burden associated with reporting certain of the new or revised data points relative to the value of the information in serving HMDA’s purposes. Although the Bureau explained that it sought to balance the benefits of each data point in furthering the purposes of HMDA against the burden of collecting and reporting the data point, we are now reviewing certain policy decisions made by the Bureau’s 2015 HMDA Rule, including whether the Bureau struck the appropriate balance in adding these additional data points not required by the statute. This consideration will also take into account the relief from collecting most of the new data points that some institutions received through EGRRCPA.*

83. How is this proposed rollback a balanced approach, as you describe?

**Response:** *The Bureau issued an Advance Notice of Proposed Rulemaking in May 2019 seeking information on data collection and reporting requirements to ensure that the data requirements established in the 2015 HMDA Rule appropriately balance the benefits and burdens associated with data reporting. The Bureau is carefully considering the public’s input as it determines whether to formulate a proposed rule relating to changing any of the data collection and reporting requirements. This consideration will also take into account the relief from collecting most of the new data points that some institutions received through EGRRCPA.*

84. What did career staff recommend with respect to reducing specific data collection and reporting requirements?

**Response:** *In accordance with its long-standing practice, staff presented the Director with a set of options and an analysis of the competing considerations implicated by each option with respect to the proposal to increase the reporting thresholds and with respect to the issuance of an Advanced Notice of Proposed Rulemaking regarding certain data points. The Bureau is actively considering the comments and per the Fall Regulatory Agenda, the Bureau anticipates issuing a Notice of Proposed Rulemaking in the Summer of 2020.*

85. Did you follow the recommendation of career staff with respect to data collection and reporting requirements?

**Response:** *The Bureau’s notice of proposed rulemaking regarding reporting thresholds and advance notice of proposed rulemaking that seeks information on data collection and reporting requirements reflects several considerations presented in total by Bureau staff and reflecting the initial decisions I made. It is important to note that the Bureau follows the valuable notice and comment procedures of the APA and maintains an open mind prior to finalizing any proposed rules.*

#### **HMDA Reporting Threshold**

A number of industry commenters are seeking a larger exemption from basic, pre-crisis reporting on their closed-end mortgage lending. Your agency has recommended a 50-loan or 100-loan

threshold for reporting, and many bank and credit union commenters are seeking an even higher threshold, exempting far more institutions in small and rural communities from having to report on who is applying for and being denied home mortgages. Your notice of proposed rulemaking opened the door for an even higher threshold.

86. Director Kraninger, what lessons from the financial crisis, in your view, justify even more banks and potentially more non-banks being exempt from basic mortgage data they all had to report before the financial crisis?

**Response:** *The Bureau believes the loan-volume coverage thresholds should appropriately balance the benefits of the HMDA data reported by lower-volume lenders in furthering HMDA's purposes with the burden on such institutions associated with reporting data and the impact that those burdens can have on the cost and availability of credit. The closed-end coverage threshold should not be so high as to impair HMDA's ability to achieve its purposes; however, the threshold should not be so low that institutions bear the burden of reporting data that would be of limited value and potentially adversely impact consumers. The Bureau is considering the comments received in response to the notice of proposed rulemaking in order to determine what adjustments to the coverage threshold, if any, are appropriate to achieve such a balance.*

87. What loan threshold did career staff recommended with respect to reporting?

**Response:** *In accordance with its long-standing practice, staff presented the Director with a set of options and an analysis of the competing considerations implicated by each option.*

88. Did you follow the recommendation of career staff with respect to loan threshold for reporting?

**Response:** *The proposed adjustments to the loan-volume thresholds for reporting reflect several considerations presented in total by Bureau staff and reflecting the initial decisions I made. It is important to note that the Bureau follows the valuable notice and comment procedures of the APA and maintains an open mind prior to finalizing any proposed rules.*

#### **Public Access to HMDA Data and API Explorer**

Novice and many intermediate users of HMDA data who have accessed the mortgage lending data on-line through the Consumer Bureau's HMDA Explorer website and through lender disclosure reports available at the FFIEC website, are reporting that the new HMDA Data Browser for 2018 is missing key data filters and functionality. For example, specific lender disclosure reports have been available in the past, not just aggregate data reports on an entire market.

89. Director Kraninger, what is the agency doing to facilitate public access to better HMDA data filters and better understanding of the HMDA Data Browser tool?

**Response:** *In connection with the public release of the 2018 HMDA data, the Bureau published two reports, one analyzing the preexisting data points and the second comprehensively examining the new data points. The Bureau also has been obtaining feedback from stakeholders to determine what improvements to make in the HMDA Data Browser tool going forward.*



90. Director Kraninger, the Consumer Bureau has discontinued the HMDA application programming interface (API) with the release of the 2018 data. What tool are you planning to build that can replace this API and allow access to the HMDA data by outside developers?

**Response:** *The Bureau developed the HMDA Platform (<https://ffiec.cfpb.gov/>), which has been online since January 2018, using open source technologies to allow for greater transparency. Program code and APIs developed by the Bureau to collect, store, and publish HMDA data is available for public review, and for use by financial institutions, software vendors, and stakeholders. The Bureau has used cutting edge technologies to allow the HMDA collection, processing, and publication to be flexible and forward looking, and is supported by a dedicated technical team that provides continual enhancement and improvements to HMDA filers and to the public.*

*The previous Bureau HMDA Explorer and API that will be retired (but currently remains available for prior data) had been designed to support a previous generation of HMDA data and was not able to accommodate the expanded data points in the 2018 collection that were added pursuant to the 2015 HMDA Rule. A new query tool, the HMDA Data Browser, is being developed and has an API data set that can be accessed and utilized by the public. The Data Browser API documentation can be found here: <http://cfpb.github.io/hmda-platform/#data-browser-api>.*

91. As an example, the U.S. Census maintains a robust API architecture that allows developers to build services that use the Census data. Will you be following their model?

**Response:** *Yes. The HMDA Platform is entirely API driven and utilizes the most advanced abilities to deliver services and data to users through API development. Furthermore, the program has built these technologies in the open and transparently, with live API documentation available to technical users here: <https://cfpb.github.io/hmda-platform/#hmda-api-documentation>. New capabilities continue to be added to the HMDA Platform, including the HMDA Data Browser filtering tool and Application Programming Interface (API).*

92. Will you commit to the public disclosure of the new data points added to HMDA pursuant to the Dodd-Frank Act? Will you commit to retaining the full range of data collection laid out in the CFPB's 2015 rule?

**Response:** *Through the Dodd-Frank Act, Congress directed the Bureau to develop regulations that modify HMDA data prior to public release in order to protect the privacy interests of mortgage applicants and borrowers and specifically identified credit score and age as two data points for which modification may be appropriate. Under the balancing test adopted in the 2015 HMDA Final Rule to determine whether and how HMDA data should be modified prior to its disclosure to the public, the Bureau must balance the importance of publishing the data to accomplish HMDA's public disclosure purposes against the potential harm to an applicant or borrower's privacy interest that may result from the release of the data without modification. In policy guidance issued in December 2018, the Bureau applied this balancing test regarding the loan-level HMDA data to be made available to the public beginning in 2019. The policy*

*guidance provides that the Bureau intends to modify the public HMDA data only when the disclosure of the unmodified data creates risks to applicant and borrower privacy interests that are not justified by the benefits of such disclosure to the public in light of HMDA's purposes.*

*On May 2, 2019, the Bureau issued its Advance Notice of Proposed Rulemaking (ANPR) on the Home Mortgage Disclosure Act (HMDA) Data Points and Coverage. The ANPR sought comments, data, and information relating to whether to make changes to the data points that the Bureau's October 2015 final rule implementing HMDA added to Regulation C or revised to require additional information. The ANPR also solicited comments relating to the requirement that institutions report certain business- or commercial-purpose transactions under Regulation C. The Bureau is carefully reviewing those comments to determine whether to issue a proposed rule.*

#### **Women and Minority-Owned Businesses and Small Businesses**

Section 1071 of Dodd Frank amended ECOA to require financial institutions to collect and report on information regarding credit application from women or minority-owned businesses, and by small businesses. The purpose of this provision is to facilitate enforcement of fair lending laws and to help identify the needs of women or minority-owned businesses, and small businesses. In April 2011, the Consumer Bureau issued guidance that financial institutions did not have to comply with this provision until Bureau issued implementing regulations, which it has not done yet despite it being a mandatory requirement of federal law. The Consumer Bureau's Spring 2019 rulemaking agenda stated "[t]he Bureau decided to pause work on section 1071 in 2018 in light of resource constraints and the priority accorded to various HMDA initiatives. The Bureau expects that it will be able to resume pre-rulemaking activities on the section 1071 project within this next year.

93. In an April 2019 speech at the Bipartisan Policy Center, you said, "Where Congress directs the CFPB to promulgate rules or address specific issues through rulemaking, we will comply with the law." Director Kraninger, why is the Consumer Bureau pausing work on a provision of law that you are required to implement?

**Response:** *The Bureau is not pausing work on Section 1071 of the Dodd-Frank Act. I am committed to implementing this statutorily mandated provision of law. As the Bureau's Unified Agenda reflects, this is now in pre-rule status and has been since last Spring when the Bureau reclassified the Section 1071 project from long-term status to pre-rule status.*

94. Do you believe you have the authority to not comply with Section 1071 of Dodd-Frank and not implement it?

**Response:** *I am committed to implementing Section 1071 of the Dodd-Frank Act. As the Bureau's Unified Agenda reflects, this is now in pre-rule status and has been since last Spring when the Bureau reclassified the Section 1071 project from long-term status to pre-rule status. We are moving forward on implementing Section 1071.*

95. In a response to a question for the record asked by Representative Garcia after you last appeared before this Committee, your Spring 2019 Report to Congress, you stated, "Director Kraninger will announce a symposia series that explores consumer protection in today's dynamic financial services marketplace." The Consumer Bureau has conducted symposia so far on abusiveness and behavioral economics. What took so long for you to

announce this symposia series on Section 1071, a topic that should have been a priority to you?

**Response:** *When the Bureau announced that it would be holding a symposium series, it announced that one of the topics would be small business lending data collection. The Bureau held that symposium on November 6, 2019. As our third symposium, the 1071 symposium was aimed at stimulating a proactive and transparent dialogue to assist the Bureau in its policy development as it works toward implementation of Section 1071. The symposium consisted of two panels of leading academic, think tank, consumer advocate, industry, and government experts in the small business lending arena. The first panel focused on the evolution in the estimated \$1.4 trillion small business lending marketplace. The discussion touched on various policy issues related to small business lending including new business models, delivery mechanisms, regulatory burden, new types of partnerships, and the general availability of credit and potential consumer harm, as well as emerging concerns in the marketplace. The second panel included a discussion surrounding the implementation of Section 1071, including issues raised in response to the Bureau's Request for Information. It also explored ways to mitigate potential costs and burdens for reporters. A recording of the event, along with written statements from the panelists, is available on the Bureau's website at <https://www.consumerfinance.gov/about-us/events/archive-past-events/cfpb-symposium-section-1071-dodd-frank-act/>.*

96. What will be the next steps in further issuing a rule implementing section 1071?

**Response:** *As part of its rulemaking process, the Bureau is exploring potential ways to implement Section 1071 in a balanced manner with a goal of providing small business lending data that achieves the statutory objectives without unnecessarily affecting the cost or availability of credit to small businesses. In promulgating regulations, the Bureau is required to follow the procedures set forth in the Regulatory Flexibility Act (RFA), including the special RFA requirements imposed by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), the Administrative Procedure Act (APA) and section 1022 of the Dodd-Frank Act. Accordingly, as the Bureau recently announced in its Fall Agenda, the next formal phase in implementing Section 1071 of the Dodd-Frank Act will be the release of materials in advance of convening a SBREFA panel, in conjunction with the Office of Management and Budget and the Small Business Administration's Chief Counsel for Advocacy, to consult with representatives of small businesses that may be affected by the rulemaking. Under this plan and consistent with the Bureau's special statutory obligations, the Bureau intends to release by November 2020 a detailed SBREFA outline of the proposals it is considering. The outline will describe how the Bureau is considering implementing Section 1071, discuss other alternatives the Bureau has considered, and identify the potential impact that the proposals under consideration might have on small entities.*

97. How many Consumer Bureau staff are working on issuing a rule implementing section 1071?

**Response:** *Bureau staff within its Division of Research, Markets and Regulations (RMR), including the Office of Small Business Lending that was established to support this rulemaking, are actively working on Section 1071. These RMR staff collaborate closely with staff in other*

offices within the Bureau, such as the Office of Equal Opportunity and Fairness, and Legal Division.

**Payday Lending and Payday Rule**

The Consumer Bureau found that more than four out of five of payday loans are re-borrowed within a month and the average borrower income is around \$25,000. In other words, these loans trap financially vulnerable borrowers in a vicious cycle of debt where their income is not enough to pay off the loan.

98. Do you believe that the Consumer Financial Protection Bureau has a responsibility to protect consumers from payday loan debt traps?

***Response:** Under the Dodd-Frank Act, the Bureau's purpose is to ensure that consumers have access to consumer financial products and services and that the markets for those products and services are fair, transparent, and competitive. The Act authorizes the Bureau to exercise its authorities to achieve a number of objectives, including ensuring that consumers are protected from unfair, deceptive, or abusive acts and practices and from discrimination and that markets for consumer financial products and services operate transparently and efficiently to facilitate access and innovation.*

The Consumer Bureau's recent proposals to delay and rescind part of the 2017 consumer protection rule regarding payday loans stated that the OMB control number related to that rule was not active because OMB had not approved the Paperwork Reduction Act. [84 Fed. Reg. at 4305] Specifically, the Bureau has stated that the payment provisions of the rule are going into effect in August 2019. Central to those provisions are disclosure requirements incorporated into the PRA request. Core parts of the ability to repay provisions also are tied to the PRA request, and the Bureau has at least suggested that it has not made a final decision to delay those provisions.

99. Isn't it true that OMB approval can be inferred when OMB does not act on a final rule within 60 days, and thus the Consumer Bureau can consider its PRA request approved?

***Response:** My understanding of OMB's regulations and process is that an agency generally cannot conduct or sponsor a collection of information absent a currently valid OMB control number. There is a provision to request that OMB issue a control number if OMB has not acted on an information collection within the time limits that are established in the rules, but though OMB must provide a control number, the duration for the information collection is within OMB's discretion.*

100. Are you taking the position that approval is not inferred here, and if so, what is your justification for that? If you believe some other CFPB action is required, what is your justification for not taking that action?

***Response:** Please see response to question 99. It is not yet clear whether or when the mandatory underwriting provisions and payments provisions of the 2017 Payday Rule will become operative, for reasons unrelated to the PRA. The Bureau would expect to coordinate with OMB if any of the collections of information in these provisions were to become operative, in order to ensure compliance with the PRA.*

101. What are the implications of that interpretation, and are you saying that companies do not have to implement key parts of the rule, regardless of what happens with your delay proposal?

**Response:** Please see response to question 99. Entities are not currently required to implement the mandatory underwriting provisions and payment provisions of the 2017 Payday Rule for reasons unrelated to the PRA, namely, the court stay and the rule delaying the mandatory underwriting provisions' compliance date.

The Consumer Bureau found that payday loan borrowers have an average income of around \$25,000<sup>19</sup> and that more than 80% of payday loans are re-borrowed within a 30-day cycle.<sup>20</sup> In other words, payday loans regularly trap financially vulnerable borrowers in a vicious cycle of debt. In 2017, after more than five years of extensive study and public engagement, the Consumer Bureau issued a payday rule to rein in these debt traps. Notably, the core of the rule was the common-sense requirement that lenders verify prospective borrowers' ability to repay the loan. However, under Mr. Mulvaney's leadership, the Consumer Bureau announced it would delay and potentially modify the rule. On February 6, 2019, under your leadership, the Consumer Bureau announced proposals to eliminate the "ability-to- repay" provision from the payday rule, and to delay the current August 19, 2019 compliance date for the mandatory underwriting provisions of the 2017 final rule to November 19, 2020.<sup>21</sup> On June 6, 2019, the CFPB issued a final rule delaying the compliance date.

The February press release announcing the Consumer Bureau's proposal to roll back the payday rule included an odd section. It stated that "in October 2018, under the leadership of then-Acting Director Mulvaney, the Bureau announced that it would issue Notice of Proposed Rulemakings (NPRMs) to reconsider the rule's mandatory underwriting requirements and to address the rule's compliance date. The proposals the Bureau is releasing today fulfill that commitment."

102. Director Kraninger, what briefings did you receive on the research regarding the Consumer Bureau's proposal to repeal the ability to repay provision of the payday rule?

**Response:** I was briefed appropriately by Bureau staff regarding the Bureau's proposal to rescind certain provisions of the payday rule, in accordance with the Bureau's internal deliberative processes. All actions undertaken by the Bureau under my leadership are evaluated carefully and designed to promote the Bureau's statutory mission of protecting consumers.

103. Director Kraninger, who briefed you on the research regarding the Consumer Bureau's proposal to repeal the ability to repay provision of the payday rule?

**Response:** I was briefed by the Division of Research, Markets and Regulations and the Legal Division.

<sup>19</sup> [https://files.consumerfinance.gov/f/201304\\_cfpb\\_payday-dap-whitepaper.pdf](https://files.consumerfinance.gov/f/201304_cfpb_payday-dap-whitepaper.pdf).

<sup>20</sup> <https://www.consumerfinance.gov/about-us/newsroom/cfpb-finalizes-rule-stop-payday-debt-traps/>.

<sup>21</sup> <https://www.consumerfinance.gov/about-us/newsroom/consumer-financial-protection-bureau-releases-notice-proposed-rulemaking-payday-lending/>.

104. Director Kraninger, are you simply rubber stamping a plan put in place by Mr. Mulvaney to gut the payday rule?

**Response:** *I made an independent determination to issue the Notice of Proposed Rulemaking. I will determine what action to take with respect to that proposal once the Bureau's review of the comments is complete.*

105. Why is the Consumer Bureau, under your leadership, trying to fulfill Mr. Mulvaney's commitments?

**Response:** *See prior response.*

106. The CFPB has not provided any evidentiary basis for repealing the ability-to-repay provisions of the payday rule. Is there new research or evidence that provides a basis for this change in position?

**Response:** *As explained in the Notice of Proposed Rulemaking (NPRM), the Bureau based its proposal on a reevaluation of the evidentiary basis on which the 2017 Payday Rule relied on and on the interpretation and application of the relevant legal standards. Among other things, the Bureau preliminarily concluded, for the reasons explained in the NPRM, that the evidentiary support that the 2017 Payday Rule relied upon for certain key findings was not sufficiently robust and reliable to support a Rule which would have the dramatic consequences that the Rule was projected to have.*

*The Bureau is currently considering approximately 190,000 comments regarding its proposal to rescind the mandatory underwriting provisions. As the Bureau stated in its June 2019 delay rule, the Bureau remains open to the possibility that those comments may reveal other data, research, or arguments to confirm or refute the Bureau's proposed rescission of the mandatory underwriting provisions.*

107. Does the Consumer Bureau plan to conduct additional research to support its recent proposal to rollback the payday rule?

**Response:** *The Bureau does not itself plan to conduct any such additional research before deciding whether to finalize the proposal to rescind the mandatory underwriting provisions of the 2017 Payday Rule.*

108. Does the Consumer Bureau plan to hire outside contractors to conduct research to support its recent proposal to rollback the payday rule?

**Response:** *The Bureau has not hired and does not plan to hire outside contractors to conduct research with respect to its proposal to rescind the mandatory underwriting provisions of the payday rule.*

109. Before you made the announcement to weaken the CFPB payday lending rule, did you, CFPB staff, or Mr. Mulvaney meet with or communicate—through telephone, email, or

other forms of communications—with anyone from the payday lending industry? If the answer is yes, please describe those conversations and what impact these conversations with predatory lenders have on your decision to weaken the rule?

**Response:** Bureau staff regularly meet with a wide variety of stakeholders, including representatives of consumer groups and industry, for the purpose of monitoring markets for consumer financial products and services and in connection with potential rulemakings. Between November 27, 2017 when Acting Director Mulvaney assumed office and February 6, 2019 when the proposal to rescind the mandatory underwriting provisions of the 2017 Payday Rule was issued, Bureau staff took part in meetings or calls coordinated or attended by the Office of Financial Institutions and Business Liaison or the Consumer Credit, Payments, and Deposit Markets (fka Consumer Lending, Reporting, and Collections Markets) including those with Dennis Shaul, Robert Batson, Chris Vergonis, Community Financial Services Association (CFSA); Ed D' Alessio, Allen Denson, Financial Service Centers of America (FiSCA); Mary Jackson, Michael Day, Lisa McGreevy, the Online Lenders Alliance (OLA); Patrick O'Shaughnessy, Jamie Fulmer, Advance America; Jay Shipowitz, Eric Norrington, Ace Cash Express; Cary Silverman, Waldo General; Doug Clark, Access Financial; Lynn De Vault, Check Into Cash; Ian MacKechnie, Fraser MacKechnie, Amscot; Jennifer Robertson, Pacific Rim Alliance; Dan Gwaltney, Payday Loan, LLC; Ted Saunders, Rob Greiser, David Schwartz, Community Choice Financial Services; Kirk Chartier, Enova; Don Gayhardt, Melissa Soper, CURO; and Jeff Silverman, MS Management. This list may not be exhaustive, as the Bureau does not maintain a single comprehensive list of all meetings attended by all personnel. Two of these individuals also participated in an industry roundtable comprised of a diverse group of 26 nonbank trade associations - which was one of multiple introductory meetings that Acting Director Mulvaney attended.

I, along with Bureau staff, also took part in meetings with consumer advocates, civil rights groups, and faith-based organizations to discuss the payday rule. Specifically, on January 22, 2019, I held two roundtable discussions – one with faith groups and another with consumer advocates and civil rights organizations – where payday lending was discussed.

While outreach meetings provided stakeholders with an opportunity to make requests of and recommendations to the CFPB, the Bureau does not share with stakeholders its internal deliberations with respect to a potential or ongoing rulemaking.

110. Did career staff recommend the delay in the compliance date announced by the Consumer Bureau n June 6, 2019?

**Response:** In accordance with its long-standing practice, staff presented me with a set of options and an analysis of the competing considerations implicated by each option with respect to the proposal to delay the compliance date and with respect to the decision to finalize that proposal.

#### **Military Lending Act Supervision**

Under Mr. Mulvaney's prior leadership, the Consumer Bureau decided to suspend Military Lending Act (MLA) compliance examinations. At your last hearing before this committee in March, you asked that Congress grant the CFPB "clear authority" to examine lenders for MLA

Compliance. Congress has already granted “clear authority” for the Consumer Bureau to supervise lenders for compliance with the Military Lending Act, and the Consumer Bureau is neglecting its duties by not supervising lenders and protecting our servicemembers. This view is underscored by legal analysis from a former Consumer Bureau senior counsel.<sup>22</sup> In addition, a bipartisan coalition of 33 state Attorneys General came to a similar conclusion in writing Mr. Mulvaney to resume MLA supervision.<sup>23</sup> Retired Army Colonel Paul Kantwill, who previously ran the Consumer Bureau’s Office of Servicemember Affairs, wrote that the policy to not conduct MLA exams is, “akin to removing your sentries from guarding posts on military compounds. It will result in the bad guys getting in.”<sup>24</sup>

The U.S. House of Representatives affirmed these views about CFPB’s authority to conduct MLA examinations when we passed H.R. 1500, the Consumers First Act, earlier this year. That legislation included a sense of Congress that stated, in part, “The Consumer Bureau, now under a new Director, should promptly reverse all anti-consumer actions taken during Mr. Mulvaney’s tenure, including the actions identified by this legislation, to ensure that the agency is fully complying with its statutory purpose, objectives, and functions to protect all consumers, including communities of color and vulnerable populations.... [A] demonstration of this would be for the Consumer Bureau to immediately resume supervision of its regulated entities for compliance with the Military Lending Act to ensure for the most robust and efficient protection of active-duty servicemembers and their families.”

111. Director Kraninger, in your March testimony you stated. “I am committed to protected service members.” If that is the case, why is the Consumer Bureau not protecting our servicewomen and men from unlawful lending practices when in fact there is clear authority for the Consumer Bureau to supervise lenders for MLA violations?

**Response:** *The Bureau is committed to the financial well-being of America's servicemembers. This commitment includes ensuring that lenders subject to our jurisdiction comply with the Military Lending Act (MLA), so our servicemembers and their families are protected under the law. One way the Bureau promotes MLA compliance is by using its enforcement tool, which include investigations, civil investigative demands, and litigation. While the Bureau does not have explicit supervisory authority, I submitted a legislative proposal to Congress on January 17, 2019 to grant the Bureau authority to supervise for compliance with the MLA by amending the Consumer Financial Protection Act. The requested authority would complement the work the Bureau currently does to enforce the MLA. Furthermore, the Bureau has worked with members of Congress as well as military and veterans advocacy groups to develop legislative language to amend the MLA to give the Bureau explicit supervisory authority.*

*The Bureau's Office of Servicemember Affairs has also published literature to inform servicemembers directly about their rights under the MLA. This material also explains to servicemembers that they can submit a complaint to the Bureau if they have an issue with a financial product or service.*

<sup>22</sup> [https://consumerfed.org/press\\_release/new-report-cfpb-allows-predatory-lenders-to-target-the-nations-military-personnel/](https://consumerfed.org/press_release/new-report-cfpb-allows-predatory-lenders-to-target-the-nations-military-personnel/).

<sup>23</sup> [https://ag.ny.gov/sites/default/files/mla\\_letter\\_to\\_cfpb.pdf](https://ag.ny.gov/sites/default/files/mla_letter_to_cfpb.pdf).

<sup>24</sup> <https://www.militarytimes.com/opinion/commentary/2018/09/05/commentary-feds-moving-in-wrong-and-dangerous-direction-on-military-consumer-protection/>.



112. How many complaints has the CFPB received from servicemembers in FY 2019?

**Response:** *There were a total of 34,563 complaints. Of those reporting an affiliation:*

*Active Duty: 3,131*

*Guard/Reserve: 1,486*

*Retired: 3,758*

*Veteran: 16,287*

*Affiliation not specified: 9,901*

113. Why was there no reference whatsoever to MLA compliance in your Spring 2019 Report to Congress?

**Response:** *As provided in the response to question 111, the Bureau is committed to the financial well-being of service members including through enforcement of the MLA. I submitted a legislative proposal to Congress on January 17, 2019, to explicitly grant the Bureau authority to supervise for compliance with the MLA by amending the Consumer Financial Protection Act. The requested authority would complement the work the Bureau currently does to enforce the MLA. Furthermore, the Bureau has worked with members of Congress as well as military and veterans advocacy groups to develop legislative language to amend the MLA to give the Bureau explicit supervisory authority.*

#### **CFPB's New Debt Collection Rule**

In May 2019, the Consumer Bureau released a proposed debt collection rule that would impact an estimated 71 million American consumers. Consumer experts, including a coalition of over 230 consumer, civil and human rights, labor, community and legal services organizations from all 50 states and the District of Columbia, issued a letter to you stating that this rule provides numerous gifts to debt collectors with limited new protections for consumers. Your proposed rule would allow debt collectors to send consumers unlimited text messages and emails without receiving affirmative consent for such a method of communication. Especially problematically, the rule allows for collectors to satisfy their disclosure requirements with a hyperlink embedded in an email that takes consumers to a description about how they can dispute a debt.

The Federal Trade Commission in 2013 issued guidelines related to online disclosures with respect to advertising. The FTC's guidance emphasized that hyperlinks should not be used for disclosures that are "integral" or "inseparable" from the claim. Furthermore, a recent ruling in the U.S. Court of Appeals for the 7th Circuit – *Lavallee v. Med-1 Solutions LLC* – indicated that a hyperlinked disclosure was insufficient in most situations. Also, government agencies have spent decades educating consumers about the dangers of clicking on links from unfamiliar sources, which can lead to phishing attacks or malware being downloaded. Debt collectors, therefore, could gain an advantage as consumers would decide against clicking on a link from an unfamiliar source.

114. Director Kraninger, do you believe that the required disclosures are integral when debt collectors communicate with consumers through email?

**Response:** The Bureau is aware of concerns about consumers accessing disclosures through hyperlinks; the NPRM states that “[f]ederal agencies have advised consumers against clicking on hyperlinks provided by unfamiliar senders”<sup>25</sup> and cites to two FTC articles and an FDIC publication on this topic. Because of these concerns, proposed § 1006.42(d) of the NPRM describes consumer notice-and-opt-out processes meant to ensure that, before a debt collector sends a required disclosure by hyperlink, the consumer expects to receive it and does not object to such receipt. By helping the consumer identify the sender in advance, a notice-and-opt-out process may also reduce the risk that the consumer will treat an email containing a hyperlink as spam. The Bureau requested comment on the use of hyperlinks to deliver disclosures and is reviewing those comments now. The Bureau is also closely following case law related to topics covered by the proposed debt collection rule. The Bureau will continue to consider feedback and other information in reviewing the proposed rule’s interventions as it moves forward towards a final rule.

The debt collection industry estimates that it contacts consumers more than one billion times per year. Repeated, harassing phone calls are a frequent source of complaints from consumers. For example, data obtained by FOIA from the FTC indicates that, in 2017, more than 200,000 consumers complained about repeated calls from debt collectors.

115. Do you think it is important to impose stringent limits on the number of times collectors can call? Once a consumer has said they cannot afford to pay a debt, is there any reason other than harassment for the collector to call again that same week?

**Response:** Proposed § 1006.14(b) of the NPRM would impose limits on placing telephone calls and on engaging any person in a telephone conversation. Under proposed § 1006.14(b)(2), a debt collector would be in violation if it placed a telephone call to a particular person in connection with the collection of a particular debt within a period of seven consecutive days after having had a telephone conversation with the person in connection with the collection of such debt or if it placed more than seven telephone calls to a particular person in connection with the collection of a debt in a period of seven consecutive days. Thus, under the proposed rule, a debt collector would be in violation if it placed another call to a consumer within a seven-day period after having spoken to the consumer about that debt. The Bureau requested and has received many comments on the proposed telephone cap and is carefully reviewing and considering all comments.

Also, if a consumer notifies the debt collector in writing that the consumer refuses to pay a debt or wants the debt collector to cease further communication, it is illegal for the debt collector to communicate or attempt to communicate further with the consumer, subject to narrow exceptions. That protection and the narrow exceptions are in section 805(c) of the FDCPA and in our proposed rule at § 1006.6(c).

116. Could it be unduly harassing if debt collectors are allowed to leave an unlimited number of messages, emails or texts without any of the protections of the FDCPA – including potentially to the wrong person who does not owe the debt?

**Response:** The Bureau’s proposed debt collection rule does not allow for unlimited emails or text messaging. Since 1977, the FDCPA has prohibited debt collectors from engaging in harassment,

<sup>25</sup> Debt Collection Practices (Regulation F), 84 Fed. Reg. 23363 (May 21, 2019).

*abuse, and unfair practices regardless of method of communication, including emails and text messages. Those protections are also in proposed §1006.14(a) but because the protections are statutory, they will exist without regard to whether that section (or the proposal as a whole) is finalized. In particular, even though the proposed rule does not include a specific limit on the number of emails or texts a debt collector could send, if the rule were adopted a debt collector who sends too many would still violate the FDCPA. Further, the proposed rule would give consumers the power to stop future texts or emails as soon as they receive the first message. The proposed rule sought comment on these issues and the Bureau is carefully reviewing and considering all comments.*

117. What do you think are the most important issues facing consumers with respect to debt collection and how do you propose to address these problems?

**Response:** *The Bureau's proposed debt collection rule focuses on debt collection communications and disclosures, as well as addressing related practices by debt collectors. The FDCPA established certain consumer protections, but interpretive questions have arisen since its passage. The Bureau's proposal would provide consumers with clear protections against harassment by debt collectors and straightforward options to address or dispute debts. If finalized, the Bureau's proposal would set clear, bright-line limits on the number of calls debt collectors may place to reach consumers on a weekly basis; clarify how collectors may communicate lawfully using newer technologies, such as voicemails, emails and text messages, that have developed since the FDCPA's passage in 1977; and require collectors to provide additional information to consumers to help them identify debts and respond to collection attempts. The Bureau's proposed debt collection rule aims to bring clarity to the rules of the road for consumers and collectors alike.*

#### **Consumer Advisory Boards**

The purpose of the Consumer Advisory Board is to bring together external consumer experts, industry representatives, community leaders, and advocates to discuss consumer protection issues, financial products and services, civil rights, and underserved communities. Your predecessor Mr. Mulvaney shockingly dissolved and effectively gutted the Advisory Board. Director Kraninger, earlier this month, the Consumer Bureau finally announced the appointment of members to the Consumer Advisory Board.<sup>26</sup>

118. The Consumer Advocacy Board currently has only four women on the board, of which only one is a minority. Are you committed to having a diverse group of board members at the board?

**Response:** *I am fully committed to ensuring that the Bureau's advisory committee program is diverse and a useful tool for improving the agency's work to protect consumers in the financial marketplace. The current Consumer Advisory Board (CAB) comprises 12 highly qualified members, of which 6 seats come at recommendation of the regional Federal Reserve Bank Presidents, on a rotating basis (Dodd-Frank, Section 1014(b)). The Bureau strives to ensure membership of the CAB reflects balanced points of view, aligns with statutory membership requirements laid out in the Dodd-Frank Act, and represents a highly qualified pool that is also geographically and demographically diverse, and offers broad socio-economic perspectives. The current CAB has eight men and four women. The Bureau's Office of Minority and Women*

<sup>26</sup> <https://www.housingwire.com/articles/cfbp-announces-new-members-for-advisory-committees/>.

*Inclusion (OMWI) has an active role on the cross-Bureau Selection Committee, which is tasked with identifying highly qualified candidates for the Bureau's four advisory committees for recommendation of appointment to the Bureau's Director. While you only mentioned the CAB, the Bureau has three other advisory committees that strive for diversity in all facets, as well. In total, of the 35 advisory committee members, there are 21 men and 14 women.*

**Property Assessed Clean Energy Financing**

On March 4, 2019 the Consumer Bureau announced Advance Notice of Proposed Rulemaking (ANPR) on residential Property Assessed Clean Energy (PACE) financing.

119. Can you confirm that PACE loans satisfy the definition of credit under TILA?

**Response:** *Public comments the Bureau received in response to its advance notice of proposed rulemaking on PACE financing, issued on March 4, 2019, reflect divergent perspectives regarding whether PACE financing constitutes credit under TILA. The Bureau has not taken a position on whether PACE is credit under TILA and is carefully reviewing and considering all the comments received.*

**House Committee on Financial Services**

Hearing: Who Is Standing Up for Consumers? A Semi-Annual Review of the Consumer Financial Protection Bureau

Questions for the Record from U.S. Representative Ted Budd (R-NC.)

**Witness:** The Honorable Kathy Kraninger, Director, Consumer Financial Protection Bureau

- 
- 1.) I wrote to the Bureau earlier this year about the CFPB's suit against The National Collegiate Master Student Loan Trust and over the summer CFPB settled a number of ongoing cases. Is the Bureau open to a settlement in this case?

**Response:** *It would be inappropriate for me to comment on ongoing litigation.*

2. The CFPB is currently in litigation with The National Collegiate Master Student Loan Trust and I'm concerned this case may have far-reaching consequences for market and consumers. Does the CFPB plan to reconsider this case?

**Response:** *It would be inappropriate for me to comment on ongoing litigation.*

3. Earlier in the year I wrote to you about the CFPB v. NCSLT. I'm concerned the uncertainty this case injects into the market that will likely result in securitization investors requiring higher risk premiums or reducing their participation in the securitization market, which in turn can result in higher interest rates for student borrowers. Has the Bureau decided how to move forward with this case?

**Response:** *It would be inappropriate for me to comment on ongoing litigation.*

Hearing: October 16, 2019, Full Committee Hearing with CFPB Director Kathy Kraninger  
Requesting Member: Congressman Bill Foster (IL-11)

Witnesses: The Honorable Kathy Kraninger

Question for the Record: Director Kraninger, as you know, I Chair the Task Force on Artificial Intelligence and serve as a Co-Chair of the New Dems' Future of Work Taskforce. I understand that via its review of the QM Patch, the CFPB may consider what to do with the income verification rules under Appendix Q that do not take into account the new ways in which Americans earn wages today, including those in the gig economy.

My colleague Congressman Emmer and I have introduced a bipartisan bill, the *Self-Employed Mortgage Access Act*, that would address this issue. This legislation would permit lenders to move away from the outdated, static requirements of Appendix Q and instead document borrower income and debt through government-approved methodologies that take into account the different ways in which Americans make money today.

To be absolutely clear, I believe it is of the utmost importance that we retain strong underwriting standards and avoid a repeat of the housing bubble from the 2000s. But I don't want to unfairly keep our "new economy" borrowers from being able to show that they have the requisite ability to repay a mortgage using common sense, objective, and reliable forms of documentation. In other words, we should not be prioritizing form over substance.

Director Kraninger, do you share these concerns with Appendix Q as currently written? Do you think that income verification rules that are currently accepted at the FHA, VA, USDA, or the GSEs can better reflect the new ways in which Americans are earning their wages, without creating looser underwriting standards?

**Response:** *The Bureau understands the concerns that Appendix Q is too limiting, especially when it comes to self-employed consumers. A provision of the Ability-to-Repay/Qualified Mortgage Rule (ATR-QM), known as the GSE patch, currently allows creditors to obtain Qualified Mortgage (QM) status for a loan by establishing eligibility for purchase or guaranty by the GSEs. A creditor may establish this by, among other things, demonstrating that the loan satisfies GSE underwriting requirements, including GSE standards for the consideration and verification of a borrower's income and debt obligations. The Bureau's General QM definition currently allows use of Appendix Q verification standards only. The Bureau released an advance notice of proposed rulemaking (ANPR) in July, noting that it plans to allow the patch to expire in January 2021, or after an extension to facilitate a smooth and orderly transition from the patch. In the ANPR, the Bureau requested comments about possible amendments to the definition of Qualified Mortgage in the ATR/QM Rule, and in particular about whether the*

*Bureau should revise or replace the verification requirements in Appendix Q, in light of the expiration of the patch.*

**Representative Anthony Gonzalez**

**HMDA:** Director Kraninger, although the Dodd-Frank Act authorized expansion of mortgage data fields collected under the Home Mortgage Disclosure Act (HMDA), prior to your tenure, the Bureau added several data elements that were not required by statute, a number of which have proven to be difficult to collect and/or irrelevant to understanding lending patterns across all segments of the population and all geographies. You issued an ANPR to seek information on the burdens of the expanded HMDA data set relative to the benefits provided by the information.

Given that the lending community is already expending substantial resources to satisfy the expanded HMDA data set requirement, I'd like to know your timeframe for evaluating this problem through your review of the public comments and/or other means AND, more importantly, your timeframe for taking action to adjust the regulation, as necessary?

Is this work considered a priority for CFPB, given that the industry must continue to dedicate resources to the expanded data collection until the Bureau makes a change?

**Response:** *On May 2, 2019, the Bureau issued its Advance Notice of Proposed Rulemaking (ANPR) on the Home Mortgage Disclosure Act (HMDA) Data Points and Coverage. The ANPR sought comments, data, and information relating to whether to make changes to the data points that the Bureau's October 2015 final rule implementing HMDA added to Regulation C or revised to require additional information. The ANPR also solicited comments relating to the requirement that institutions report certain business- or commercial-purpose transactions under Regulation C. The comment period for the ANPR was initially set to close on July 8, 2019. After receiving multiple requests for an extension from both industry and consumer group stakeholders, the Bureau extended the comment period from July 8, 2019 to October 15, 2019. The Bureau is carefully reviewing and considering all the comments received and, if it determines that it is appropriate to do so, the Bureau expects to issue a Notice of Proposed Rulemaking on data points in summer 2020.*



**2019-10-16 Rep. Trey Hollingsworth FC CFPB QFR**

Director Kraninger: I, along with several of my colleagues, sent a letter regarding the overly broad drafting of the 2017 Payday, Vehicle Title, and Certain High-Cost Installment Loans Final Rule (Rule) which captured everyday consumer financial products in addition to small dollar loans as intended. What is the Bureau doing to prevent unintended products and services from being swept into the Rule?

***Response:*** *The Bureau's Payday Reconsideration proposal focuses on the Bureau's reconsideration of the Mandatory Underwriting Requirements of the 2017 Final Rule. The Bureau is currently considering new information it received over the course of its reconsideration of the mandatory underwriting provisions, including arguments from financial service providers that they should be exempt from the Rule's coverage. As the Bureau has conveyed previously in the preamble for the reconsideration NPRM, though these issues are outside of the scope of its current proposal, the Bureau will examine these issues and "if the Bureau determines that further action is warranted, the Bureau will commence a separate rulemaking initiative (such as by issuing a request for information or an advance notice of proposed rulemaking)."*

**Financial Services Full Committee Hearing, “Who is Standing Up for Consumers? A Semi-Annual Review of the Consumer Financial Protection Bureau”**

**Wednesday, October 16, 2019, 10:00am, 2128 Rayburn**

**Rep. Posey Statement and Questions**

- Thank you, Madam Chair. I appreciate your and Mr. McHenry’s leadership in holding this hearing.
- I believe we all share a deep commitment to assuring that our consumers are protected in matters of credit, and that discrimination does not constrain access to lending.
- I want to welcome Ms. Kraninger back to the committee for her second report. We appreciate your work and service.

**(Protection of Securitization Investors in CFPB Actions)**

- Ms. Kraninger, while I understand that you cannot discuss the details of ongoing litigation, I’d like to ask you about the principles for how the interests of investors in securitization trusts ought to be protected in settlements or actions taken by the Bureau.
- As several of us on this committee wrote to you in August, a settlement agreement was negotiated in a case involving loan collections for the National Collegiate Student Loan Trusts. It appears that this agreement was negotiated without the participation of the primary parties in the loan securitizations including the Trusts, the investors, the noteholders, the Indenture Trustees, and the Owner Trustee, all of whose interests and contractual rights will be materially and adversely impacted by the settlement.
- My concerns are that by leaving these parties out we risk setting a precedent that upsets investor expectations, creates uncertainties, and distorts investor incentives in all debt securitization markets – not just those in student loans. The erosion of investor rights could pose a serious threat to the important contribution that securitization makes to credit access and availability.

**Securitization Questions: (Ask both questions at once) –**

- Ms. Kraninger, is it reasonable to project that leaving the investors out of these negotiations could pose a potential threat to the willingness of investors to participate in securitization? And, what provisions for protecting investor interests do you believe CFPB should make in negotiating settlement agreements and in making regulatory decisions about debt collection complaints in general?

***Response:*** *The Bureau takes various interests into account in reaching settlements, as appropriate. It would be inappropriate for me to comment on the specifics of any particular case.*

**(Fair Lending Practices)**

- Ms. Kraninger, at a recent hearing on debt collection practices, we discussed the significant progress you are making in modernizing the implementation the Fair Debt Collection Practices Act (FDCPA). I commended your efforts then and while we have you here in person, please let me commend you personally for that contribution.
- I'm confident that the public review and comments under your rulemaking will complement the Bureau's efforts. I know you will turn out a great final rule.
- Ms. Kraninger, we have before us today a bill, H.R. 166, the *Fair Lending for All Act*. This bill has some troubling proposals. So, I will be asking you to help us with this legislation.

**Fair Lending Practices and Other Questions**

- **Question 1:** – The *Fair Lending for All Act* would create something called the Office of Fair Lending Testing within the Bureau. This office would be staffed with people who would pose as loan applicants to test whether financial institutions are violating the Equal Credit Opportunity Act. Potential violators could be referred to the Justice Department. Ms. Kraninger, could you please comment on how the federal government enforces the Equal Credit Opportunity Act (ECOA) now, and whether we need to go to this length to assure compliance?

**Response:** *The law mandates that the Bureau, among other federal agencies including the Department of Justice, the Federal Trade Commission, and the Federal Reserve, enforce ECOA. The Bureau's primary tools for enforcing ECOA are supervisory examinations, which assess compliance with ECOA at banks and non-banks over which the Bureau has supervisory authority, and the Bureau's enforcement function, which allows the Bureau to file a complaint through its administrative enforcement process or in federal court.*

*Testing is also a tool that the Bureau employs in its enforcement investigative activity. Testing is a particularly useful investigative tool when looking at discriminatory practices not captured in company policies and procedures. Testing has the ability to uncover a number of different types of differential treatment, including steering to particular products or geographic locations, providing less counseling or assistance, raising estimated loan costs, and discouraging lending in neighborhoods based upon their racial or ethnic makeup.*

*Additionally, in accordance with law, the Bureau is mandated to refer matters to the Justice Department when it has reason to believe that a creditor has engaged in a pattern or practice of lending discrimination in violation of ECOA.<sup>27</sup> The Bureau also may refer other potential ECOA violations to the Justice Department, at its discretion.<sup>28</sup>*

---

<sup>27</sup> 15 U.S.C. § 1691e(g).

<sup>28</sup> *Id.*

- **Question 2:** – The *Fair Lending for All Act* would also impose criminal penalties for violations of the ECOA. An individual violation of the Act could bring a \$50,000 fine, and up to one year in prison. Someone convicted of creating a pattern of violations could be fined \$100,000 and imprisoned up to 20 years. For officers or board members the penalty could be a fine equal to their salaries and compensation including stock options and up to 5 years in prison. Ms. Kraninger, could you contrast these proposals with the current penalties for violations – civil fines or whatever – and whether this approach is proportional to the violations and needed for deterrence?

**Response:** *The Consumer Financial Protection Act (CFPA) provides three tiers of statutory civil penalties for violations of Federal consumer financial laws, which include ECOA. 12 U.S.C. § 5565(c)(2); 12 U.S.C. § 5481(12)(D), (14). Effective January 15, 2019, those amounts are up to \$5,781 for ordinary violations, \$28,906 for reckless violations, and \$1,156,242 for knowing violations. 12 U.S.C. § 5565(c)(2); 12 C.F.R. § 1083.1. The CFPA requires the Bureau and courts to consider the following mitigating factors when determining the appropriate penalty amount: the size of the institution's financial resources and any demonstrated good faith; the gravity of the violation or failure to pay; the severity of the risks to or losses of the consumer, which may take into account the number of products sold or services provided; the history of previous violations; and other matters as justice requires. 12 U.S.C. § 5565(c)(3).*

- **Question 3:** – The proposed Act would also direct the Consumer Financial Protection Bureau to review loan applications looking for violations of the Equal Credit Opportunity Act and would also direct the Bureau to take appropriate actions which I assume could range to referral for prosecution under the new criminal penalties proposed. Ms. Kraninger, does the Bureau need to review loan applications to assure we comply with the ECOA, or do current methods of taking complaints suffice?

**Response:** *ECOA prohibits discrimination “against any applicant, with respect to any aspect of a credit transaction.” In order to determine whether or not there is an ECOA violation, the Bureau may review loan applications as part of a supervisory exam or an enforcement investigation. Not every exam or investigation requires loan application review.*

- **Question 4:** – You may recall that I asked you on your last appearance about whether you might be able to consider implementing a system where those regulated by the Consumer Financial Protection Bureau could seek advisory opinions on credit practices. Have you been able to make any progress in this regard?

**Response:** *Bureau policymakers are currently considering the development of an advisory opinion program. If we decide to move forward with that program, we will release the details to the public.*

**Congressman Bryan Steil (WI-1)**

Questions for the Record for the Hearing Entitled “Who is Standing Up for Consumers? A Semi-Annual Review of the Consumer Financial Protection Bureau”

- 1) I have learned that the CFPB is implementing a provision from the Telemarketing Sales Rule (TSR) for credit repair organizations (CROs), which would require the industry to wait 6 months after all services are completed before charging customers. I am also aware that the primary law regulating the credit repair industry since 1997 has been the Credit Repair Organization Act, which only requires the CRO to charge after services without mandating a 6-month delay. As you stated in your opening remarks, regulated industries should have clear rules of the road. Can you please detail what guidance was given to the credit repair organizations by the CFPB before enforcing the TSR billing requirement?

**Response:** *The Telemarketing Sales Rule was issued by the FTC pursuant to the Telemarketing and Consumer Fraud and Abuse Prevention Act. The CFPB does not have rulemaking authority under that Act. The CFPB does share enforcement authority with the FTC and the CFPB has exercised that authority in accordance with guidance that the FTC has provided. The Bureau shares enforcement authority of the TSR with the FTC and state attorneys general, but the FTC and state attorneys general have enforcement authority of the CROA, exclusive of the Bureau.*

- 2) There are major concerns held by credit reporting organizations that conflicting regulations between the FTC and CFPB make it very difficult, at best, to comply with service fee requirements. The Credit Repair Organization Act, which was passed by Congress and implemented in 1997 to regulate the credit repair industry, has been seen as the main regulation governing credit repair organizations since its passage. It states that CROs can charge after services are rendered. The Telemarketing Sales Rule (an administrative rule promulgated in 1996) adds an extra stipulation of 6 months after all services are completed before billing can start. Can you explain how a CRO is able to comply with both the TSR rule and the CROA law?

**Response:** *The FTC issued the TSR in 1995 and subsequently amended it several times. The FTC has the authority to prescribe rules prohibiting deceptive or abusive telemarketing acts or practices under the Telemarketing and Consumer Fraud and Abuse Prevention Act. When prescribing a rule that relates to the provision of a consumer financial product or service that is subject to the Consumer Financial Protection Act of 2010, the FTC must consult with the Bureau, but the Bureau does not have rulemaking authority with respect to the TSR. The Bureau shares enforcement authority of the TSR with the FTC and state attorneys general. Credit repair companies are required to comply with all applicable laws, including the TSR and the CROA.*

Representative Timmons

1. In your appearance before the Financial Services Committee we discussed the timing of the small-dollar rule being finalized. During your answer you said the Bureau is busy going through all of the public comments but you also said the Bureau is working through, “additional research that has come to bear.”
  - If possible, could you please describe this new research and how/if it is affecting the rule finalization process?

**Response:** *As explained in the Notice of Proposed Rulemaking (NPRM), the Bureau based its proposal on a reevaluation of the evidentiary basis on which the 2017 Payday Rule relied on and on the interpretation and application of the relevant legal standards. Among other things, the Bureau preliminarily concluded, for the reasons explained in the NPRM, that the evidentiary support that the 2017 Payday Rule relied upon for certain key findings was not sufficiently robust and reliable to support a Rule which would have the dramatic consequences that the Rule was projected to have.*

*The Bureau is currently considering approximately 190,000 comments regarding its proposal to rescind the mandatory underwriting provisions. As the Bureau stated in its June 2019 delay rule, the Bureau remains open to the possibility that those comments may reveal other data, research, or arguments to confirm or refute the Bureau's proposed rescission of the mandatory underwriting provisions.*

2. At the hearing we also discussed the CFPB's role in insurance regulation, which I was glad to hear you agree is not allowed under Dodd-Frank. That said, a keyword search of the consumer complaint database shows thousands of complaints regarding insurance.
  - What does the Bureau do with the insurance complaints when they are filed in your database? Do you send these complaints elsewhere? Are these resolved or examined internally?

**Response:** *The Bureau's complaint submission process is designed to centralize the collection of, monitoring of, and response to complaints about consumer financial products and services.<sup>29</sup> The Bureau's complaint process is not designed to collect complaints about insurance products and services and it does not send complaints to bona fide insurance companies for response. A keyword search of the public, Consumer Complaint Database for terms related to insurance will return complaints that the Bureau has sent to financial companies for response, such as complaints about a mortgage servicer's handling of a consumer's escrow account or a title insurance agent's handling of a real estate loan closing.*

---

<sup>29</sup> See Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, Pub. L. No. 111-203 (Dodd-Frank Act), Section 1013(b)(3)(A).

*When consumers submit complaints online or over the phone, the Bureau asks them to identify the consumer financial product or service with which they have a problem, the type of problem they are having with that product or service, and the company about which they are submitting the complaint. This submission process does not provide consumers with options to submit complaints about a bona fide insurance company. In 2018, more than 86% of the complaints submitted to the Bureau were submitted by consumers through the Bureau's website (81.5%) and by calling the Bureau's toll-free telephone number (4.9%). If consumers call with questions about insurance companies or attempt to submit a complaint about an insurance company over the phone, the Bureau's contact center agents direct consumers to contact their state insurance commissioner.*

*The Bureau also receives complaints through referral from the White House, congressional offices, other federal and state agencies (8.1%), mail (3.5%), fax (1.9%), and email (<0.1%). In the rare instances that the Bureau receives a complaint about an insurance company through one of these channels, the Bureau notifies the consumer that it cannot process the complaint and that the Bureau has added the complaint to the Consumer Sentinel Network, a secure online database operated by the Federal Trade Commission for civil and criminal law enforcement authorities.*

