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Description of document: Consumer Financial Protection Bureau (CFPB)
Correspondence with Congress, 2013

Request date: 29-December-2013

Released date: 23-January-2014

Posted date: 06-July-2015

Note: Image quality as received limits effectiveness of optical
character recognition

Source of document: Consumer Financial Protection Bureau
Attention: Chief FOIA Officer
1700 G Street, NW
Washington, DC 20552
Email: FOIA@cfpb.gov

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RE: FOIA Request #CFPB-2014-082-F

January 23, 2014

This letter is in final response to your Freedom of Information Act (FOIA) request dated December 29, 2013. Your request sought a copy of all correspondence between the Consumer Financial Protection Bureau (CFPB) and Congress, to include committees and subcommittees, from July 10, 2013 to present.

Attached to this letter, please find our response to your request, which consists of 305 pages that are granted in full. No deletions or exemptions have been claimed on these records.

Provisions of the FOIA allow us to recover part of the cost of complying with your request. However, since this information was previously provided in response to another FOIA request, there is no charge.

For questions concerning our response, please feel free to contact CFPB's FOIA Service Center by email at FOIA@cfpb.gov or by telephone at 1-855-444-FOIA (3642).

Sincerely,

A handwritten signature in black ink, appearing to read "M. Michalosky", with a long horizontal flourish extending to the right.

Martin Michalosky
FOIA Manager
Operations Division

BILL NELSON, FLORIDA, CHAIRMAN

BON VANDEN, OREGON
HERBERT F. CASEY JR, PENNSYLVANIA
CLAIRE McCASKILL, MISSOURI
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KIRSTEVE GILLIBRAND, NEW YORK
JOE MANCHINI IV, WEST VIRGINIA
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JOE DONNELLY, INDIANA
ELIZABETH WARREN, MASSACHUSETTS

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RANKING MEMBER

BOB CORKER, TENNESSEE
ORRIN HATCH, UTAH
MARK KIRK, ILLINOIS
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JEFF FLAKE, ARIZONA
KELLY AYOTTE, NEW HAMPSHIRE
TOM SCOTT, SOUTH CAROLINA
TED CRUZ, TEXAS

United States Senate

SPECIAL COMMITTEE ON AGING

WASHINGTON, DC 20510-5400

(202) 224-5364

July 10, 2013

The Honorable Richard Cordray
Director
Consumer Financial Protection Bureau
1700 G Street NW
Washington, DC 20552

Dear Mr. Cordray:

This letter serves as an invitation for you or your designee to testify before the Senate Special Committee on Aging at our upcoming hearing, "Payday Loans: Short-Term Solution or Long-Term Problem?" The hearing is scheduled to take place on Wednesday, July 24, 2013, at 2:00 p.m. in Room 562 of the Dirksen Senate Office Building.

In order to leave sufficient time for follow-up questions and discussion, we ask that the oral statement be limited to no more than five minutes. Of course, the written statement will be printed in full in the record of the hearing. Guidance on submitting testimony and a description of Committee practices can be found in the enclosed witness information sheet.

If you have any questions regarding the hearing, please contact Matthew T. Lawrence, Chief Clerk/System Administrator, at matt_lawrence@aging.senate.gov or 202-224-5364. Thank you for your participation. We look forward to your testimony.

Sincerely,



Bill Nelson
Chairman



Susan M. Collins
Ranking Member

United States Senate

WASHINGTON, DC 20510

July 11, 2013

The Honorable Richard Cordray
Director
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20220

The Honorable Seth Harris
Acting Secretary
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, DC 20410

Dear Director Cordray and Acting Secretary Harris,

We write to express our concern about the fees and practices associated with prepaid "payroll cards" and to urge the Consumer Financial Protection Bureau (Bureau) and Department of Labor (Department) to take swift action to protect American workers. As highlighted in the June 30, 2013 New York Times story, "Paid via Card, Workers Feel Sting of Fees," millions of American workers now receive their wages via prepaid cards instead of a traditional paycheck. For businesses, these cards can help make it easier to set up and manage payroll systems. But for workers, these cards sometimes pose real risks to their financial well-being. It is shocking to learn that, according to the New York Times report, some workers incur so many fees in the course of using their payroll cards that their net income ends up below the minimum wage.

We strongly believe that your agencies have the capability to protect workers from at least some of the excessive fees and harmful practices associated with payroll cards. Accordingly, we respectfully request that your agencies take a closer look at whether workers adequately understand these fees, what effect these fees have on employee income in the aggregate, and whether particular fees might violate Regulation E, which implements the Electronic Funds Transfer Act (EFTA), or the Fair Labor Standards Act (FLSA). We ask that you respond in writing detailing the supervisory tools available to the Bureau under Regulation E, the Department under the FLSA, or any other federal laws to ensure that various fees — for ATM use, balance inquiry, swipe purchases, overdraft, and "inactivity," among other charges — do not harm employees or violate the law. To the extent that you lack relevant data, we urge you, in coordination with other relevant agencies, to undertake a study that examines the scope of these fees, the impact they have on workers, and whether the existing payroll card market provides for adequate competition.

Perhaps even more worrying than the fees associated with these cards is the possibility that employees might be coerced or inappropriately pressured into using them in the first place. Every employee should have the right not to use such a card and to instead receive their pay via a paper check or direct deposit. For employees without a bank account, we recognize that these cards may sometimes be a more affordable alternative to check cashing services. Still, it is important both for employees to know their rights and for employers to understand their

obligations under federal law. This is especially true given the patchwork of state laws governing payroll systems.

In particular, Director Cordray, we ask that you clarify for employees and employers — both in your formal response to this letter and through future rulemakings, guidance, and other communications — what options employers must provide to their employees under Regulation E. Are employers unequivocally in violation of Regulation E if they deliver all salaries through a single payroll card and offer no other option? Our view is that mandating the use of a particular payroll card, with no available alternative, seems clearly to violate federal law. Furthermore, would an “opt-out” program, whereby employees must affirmatively remove themselves from a payroll card service, be compliant with Regulation E? What requirements are there under Regulation E to provide the option of a paper check?

We believe it would go a long way toward protecting workers if the Bureau would clearly and specifically state its view on what is and is not allowed under Regulation E, and we urge the Bureau to use the full extent of its authority under Regulation E to ensure that employees are provided a meaningful choice with respect to the manner in which they are paid. Similarly, Acting Secretary Harris, we ask you to clarify what role the Department plays in overseeing these types of payroll programs and invite you to comment on the Department’s authority under the FLSA over these types of payroll programs.

It is important to emphasize that the vast majority of employers make a good faith effort to comply with the law in paying their employees, and we ought to give them the clear, bright lines they need to set up and maintain their payroll systems. Where systematic abuses are clear, however, we urge the Bureau to use the full extent of its authority under Regulation E and other federal laws and regulations to carry out appropriate enforcement actions. We must send a loud and clear signal that we will not tolerate financial products that take advantage of vulnerable, low-income workers.

We must also ensure that workers are provided with adequate disclosures about their rights under federal law and the fees associated with particular cards. For that reason, we would appreciate a better understanding from the Department of Labor of what disclosures employers are currently required to provide to their employees and whether or not the evidence suggests that employers are complying with these requirements. We urge you to consider additional rulemakings in this area — such as standardized, public workplace notices — so that all employees have the information they need to make sound decisions about their paychecks.

Finally, there are a number of additional areas of concern. It is highly concerning that some employers — as reported by the New York Times — receive commissions for each employee they sign up to a particular payroll card. This situation creates an obviously perverse incentive structure in which employers could be rewarded for steering their own employees toward high-fee products. It is also problematic if companies that operate through franchises do not adequately supervise the payroll-card practices of their franchisees. Finally, as mentioned above, opt-out contracts that steer employees toward particular prepaid cards worry us greatly. On these matters, as well as the others discussed in this letter, we would appreciate guidance from the

Bureau and the Department as to the state of current law on these issues as your agencies understand them.

In many aspects of our economic lives – from paychecks to student loans to Social Security benefits – prepaid cards are becoming more prevalent. It is precisely because of the growing prevalence of these cards that the Bureau, and Department as appropriate, must act quickly to educate consumers, crack down on unscrupulous practices, and stop future abuses before they occur. We believe addressing the issues raised in this letter would be an important first step in this effort.

Thank you very much for your prompt attention to this matter.

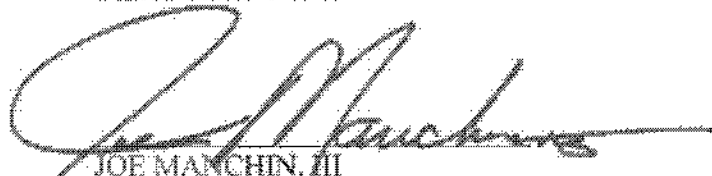
Sincerely,



RICHARD BLUMENTHAL
United States Senate



CHARLES E. SCHUMER
United States Senate



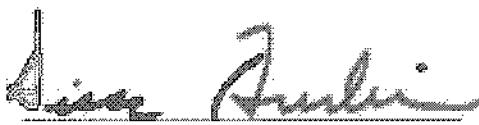
JOE MANCHIN, III
United States Senate



TOM HARKIN
United States Senate



BARBARA BOXER
United States Senate



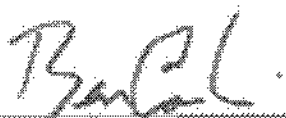
RICHARD J. DURBIN
United States Senate



DEBBIE STABENOW
United States Senate



ROBERT MENENDEZ
United States Senate



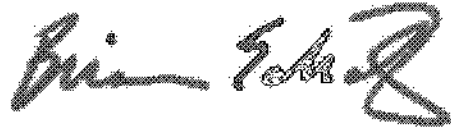
BENJAMIN L. CARDIN
United States Senate



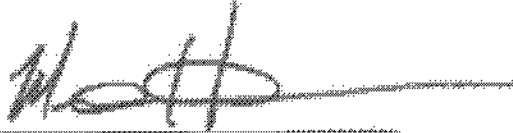
ROBERT P. CASEY, JR.
United States Senate



JEFFREY A. MERKLEY
United States Senate



BRIAN SCHATZ
United States Senate



MARTIN HEINRICH
United States Senate



ELIZABETH WARREN
United States Senate



MARK R. WARNER
United States Senate



AL FRANKEN
United States Senate

United States Senate

WASHINGTON, DC 20510

July 11, 2013

Arne Duncan, Secretary
Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

Edith Ramirez, Chairwoman
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

Richard Cordray, Director
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

Dear Secretary Duncan, Chairwoman Ramirez, and Director Cordray:

We write to call your attention to the recent National Consumer Law Center (NCLC) report "Searching for Relief: Desperate Borrowers and the Growing Student Loan 'Debt Relief' Industry." We are deeply concerned by the report's findings, which indicate that some private companies are mischaracterizing federal student loan repayment programs as their own and charging exorbitant fees to enroll people in free government programs.

As you are aware, student loan debt stands at an overwhelming \$1 trillion, and is currently second only to mortgage loan debt. The vast majority of this debt is owed to or guaranteed by the federal government. Over the years, Congress has created borrower assistance programs, such as Income-Based Repayment, loan consolidation, and forbearance options, to help borrowers manage their debt.

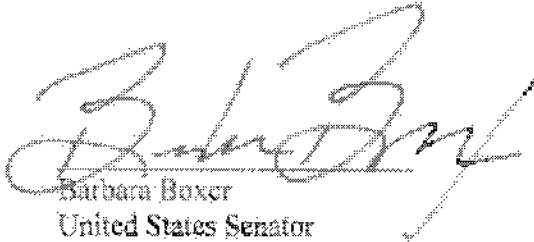
The government provides these tools to student loan borrowers for free. Yet, the NCLC report finds that a growing number of private companies are exploiting student loan borrowers to make a profit, charging up to \$1,600 up front and \$20-\$50 in monthly fees to participate in free federal repayment programs. This is simply unacceptable.

In addition to charging money for free government programs, the report found that companies are falsely implying an affiliation with the Department of Education or other government agencies, failing to safeguard consumer financial information, and possibly violating the Credit Repair Organizations Act and the Telemarketing Sales Rule by requiring payment before providing any assistance.

We urge you to look closely at all of these issues. Existing law should be enforced, and new rules should be considered where appropriate. We owe it to student loan borrowers – and to taxpayers – to ensure that unscrupulous businesses are not taking advantage of the student debt crisis.

Federal student loan repayment should be manageable and free from misinformation. We look forward to collaborating with you to protect student loan borrowers and their families from financial exploitation and abuse.

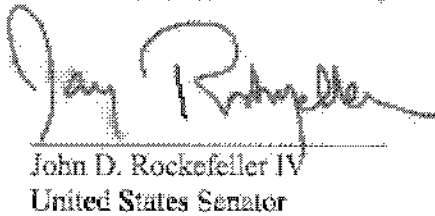
Sincerely,



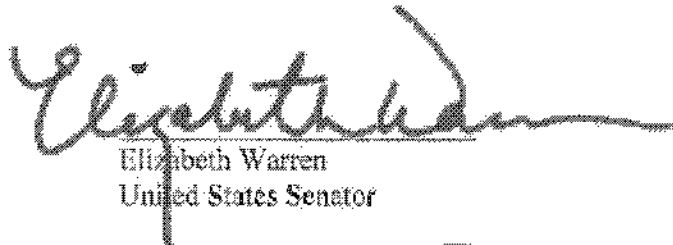
Barbara Boxer
United States Senator



Tom Harkin
United States Senator



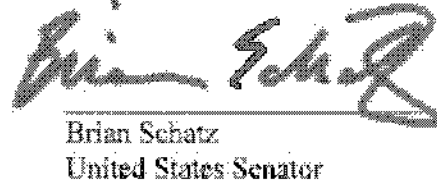
John D. Rockefeller IV
United States Senator



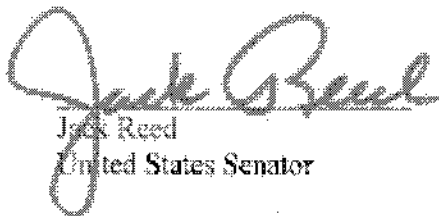
Elizabeth Warren
United States Senator



Kirsten E. Gillibrand
United States Senator



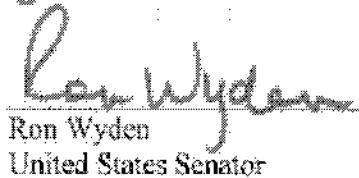
Brian Schatz
United States Senator



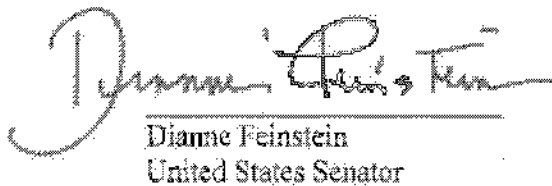
Jack Reed
United States Senator



Richard Blumenthal
United States Senator



Ron Wyden
United States Senator



Dianne Feinstein
United States Senator



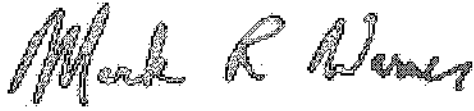
Benjamin L. Cardin
United States Senator



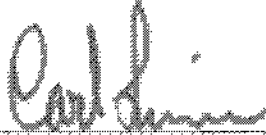
Al Franken
United States Senator



Patty Murray
United States Senator



Mark R. Warner
United States Senator



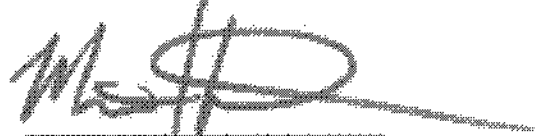
Carl Levin
United States Senator



Heidi Heitkamp
United States Senator



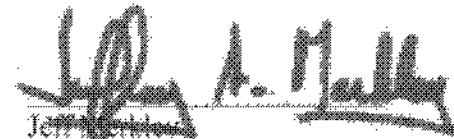
Mark Udall
United States Senator



Martin Heinrich
United States Senator



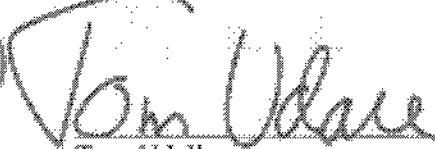
Debbie Stabenow
United States Senator



Jeff Merkley
United States Senator



Claire McCaskill
United States Senator



Tom Udall
United States Senator



Barbara A. Mikulski
United States Senator



Consumer Financial
Protection Bureau

1700 G Street, N.W., Washington, DC 20552

July 16, 2013

Hon. Nick Barborak
State Representative
5th Ohio House District
77 South High Street
Columbus, Ohio 43215-6111

RE: Rural Counties Definition

Dear Representative Barborak,

Thank you for your recent letter expressing your concern that consumers in Columbiana County should not lose access to mortgages with balloon payments and other specialized financing.

As a threshold matter, I note that your letter expresses concern over access to financing “of acreage” and for businesses. Please be assured that when the Consumer Bureau adopted new requirements in January, those requirements do not apply to credit transactions primarily for a business, commercial, or agricultural purpose or to credit extended to other than a natural person.

The financial reform law that Congress enacted in 2010, known as the Dodd-Frank Act, sets certain product-feature and underwriting requirements for qualified mortgages. The statutory criteria generally do not permit loans with balloon payments to be qualified mortgages. Yet Congress did authorize the Bureau to write rules that could take into account this kind of lending when it is performed in “rural or underserved” areas.

In January, the Bureau exercised this authority to allow certain balloon-payment mortgages to be designated as qualified mortgages if they are originated and held in portfolio by small creditors that operate predominantly in rural or underserved areas. The Bureau defined “rural” to be generally based on current Urban Influence Codes (UICs) established by the United States Department of Agriculture Economic Research Service.

After adopting this rule, we heard feedback, similar to the viewpoint you are expressing, that the definition of “rural” in the rule was too narrow for some areas with many rural characteristics. The Bureau responded to these concerns by adopting a further provision on May 29, 2013, which

provides an additional two-year transition period during which small creditors, including ones that do not operate predominantly in rural or underserved areas (as well as those that do), can offer balloon-payment mortgages that they hold in portfolio, among other conditions, which will be deemed as qualified mortgages under the rule.

This provision directly addresses the concerns you have raised on behalf of lenders and consumers in Columbiana County and it now extends to January 2016. During this time, the Bureau intends to revisit the definition of "rural or underserved" and to decide whether and how it should be adjusted further. We also will be working with small creditors to understand how other lending products that meet the broader definition of a "qualified mortgage," such as adjustable-rate mortgages, might be made available to meet the needs of borrowers in these areas. Comments like yours -- by someone I know and respect from our public service together in Ohio -- are very helpful to this process, and we will take care to fully understand the concerns you expressed as we work toward a fuller resolution of these issues.

Sincerely,



Richard Cordray
Director

CC: Sen. Portman; Sen. Brown; Congressman Bill Johnson; Columbiana County Bd. Of Commissioners; Nick Kennedy; David Vollnogle



Consumer Financial
Protection Bureau

July 18, 2013

The Honorable John Boehner
Speaker
United States House of Representatives
H-232 United States Capitol
Washington, DC 20515

Dear Speaker Boehner:

I am pleased to present the Financial Literacy Annual Report of the Consumer Financial Protection Bureau (CFPB), as required under Section 1013 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

Please feel free to contact me at 202-435-7960 if I can be of assistance.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Galicis'.

Catherine Galicis
Assistant Director for Legislative Affairs



Consumer Financial
Protection Bureau

July 18, 2013

The Honorable Mike Crapo
Ranking Member
U.S. Senate Committee on Banking, Housing, and Urban Affairs
534 Dirksen Senate Office Building
Washington, DC 20510

Dear Senator Crapo:

I am pleased to present the Financial Literacy Annual Report of the Consumer Financial Protection Bureau (CFPB), as required under Section 1013 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

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Sincerely,

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Catherine Galicia
Assistant Director for Legislative Affairs



Consumer Financial
Protection Bureau

July 18, 2013

The Honorable Jeb Hensarling
Chairman
U.S. House Committee on Financial Services
2129 Rayburn House Office Building
Washington, DC 20515

Dear Representative Hensarling:

I am pleased to present the Financial Literacy Annual Report of the Consumer Financial Protection Bureau (CFPB), as required under Section 1013 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

Please feel free to contact me at 202-435-7960 if I can be of assistance.

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Catherine Galicia
Assistant Director for Legislative Affairs



Consumer Financial
Protection Bureau

July 18, 2013

The Honorable Ruben Hinojosa
Co-Chair
Financial and Economic Literacy Caucus
2262 Rayburn House Office Building
Washington, DC 20515

Dear Representative Hinojosa:

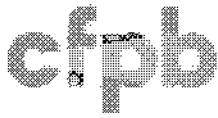
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Catherine Galicia
Assistant Director for Legislative Affairs



Consumer Financial
Protection Bureau

July 18, 2013

The Honorable Tim Johnson
Chairman
U.S. Senate Committee on Banking, Housing, and Urban Affairs
534 Dirksen Senate Office Building
Washington, DC 20510

Dear Senator Johnson:

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Catherine Galicia
Assistant Director for Legislative Affairs



Consumer Financial
Protection Bureau

July 18, 2013

The Honorable Mitch McConnell
Republican Leader
United States Senate
S-230 United States Capitol
Washington, DC 20510

Dear Senator McConnell:

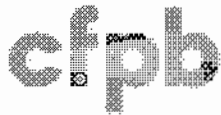
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Catherine Galicia
Assistant Director for Legislative Affairs



Consumer Financial
Protection Bureau

July 18, 2013

The Honorable Nancy Pelosi
Democratic Leader
U.S. House of Representatives
H-204, United States Capitol
Washington, DC 20515

Dear Leader Pelosi:

I am pleased to present the Financial Literacy Annual Report of the Consumer Financial Protection Bureau (CFPB), as required under Section 1013 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

Please feel free to contact me at 202-435-7960 if I can be of assistance.

Sincerely,

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Catherine Galicia
Assistant Director for Legislative Affairs



Consumer Financial
Protection Bureau

July 18, 2013

The Honorable Harry Reid
Majority Leader
United States Senate
S-212 United States Capitol
Washington, DC 20510

Dear Senator Reid:

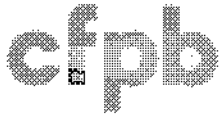
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Catherine Galicis
Assistant Director for Legislative Affairs



Consumer Financial
Protection Bureau

July 18, 2013

The Honorable John D. Rockefeller IV
Chairman
U.S. Senate Committee on Commerce, Science, and Transportation
254 Russell Senate Office Building
Washington, DC 20510

Dear Senator Rockefeller:

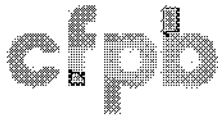
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Catherine Galicia
Assistant Director for Legislative Affairs



Consumer Financial
Protection Bureau

July 18, 2013

The Honorable Steve Stivers
Co-Chair
Financial and Economic Literacy Caucus
1022 Longworth House Office Building
Washington, DC 20515

Dear Representative Stivers:

I am pleased to present the Financial Literacy Annual Report of the Consumer Financial Protection Bureau (CFPB), as required under Section 1013 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

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Sincerely,

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Catherine Galicia
Assistant Director for Legislative Affairs



Consumer Financial
Protection Bureau

July 18, 2013

The Honorable John Thune
Ranking Member
U.S. Senate Committee on Commerce, Science, and Transportation
560 Dirksen Senate Office Building
Washington, DC 20510

Dear Senator Thune:

I am pleased to present the Financial Literacy Annual Report of the Consumer Financial Protection Bureau (CFPB), as required under Section 1013 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

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Catherine Galicia
Assistant Director for Legislative Affairs



Consumer Financial
Protection Bureau

July 18, 2013

The Honorable Fred Upton
Chairman
U.S. House Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, DC 20515

Dear Representative Upton:

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Catherine Galicia
Assistant Director for Legislative Affairs



Consumer Financial
Protection Bureau

July 18, 2013

The Honorable Maxine Waters
Ranking Member
U.S. House Committee on Financial Services
B301-C Rayburn House Office Building
Washington, DC 20515

Dear Representative Waters:

I am pleased to present the Financial Literacy Annual Report of the Consumer Financial Protection Bureau (CFPB), as required under Section 1013 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

Please feel free to contact me at 202-435-7960 if I can be of assistance.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Galicia'.

Catherine Galicia
Assistant Director for Legislative Affairs



Consumer Financial
Protection Bureau

July 18, 2013

The Honorable Henry Waxman
Ranking Member
U.S. House Committee on Energy and Commerce
2322-A Rayburn House Office Building
Washington, DC 20515

Dear Representative Waxman:

I am pleased to present the Financial Literacy Annual Report of the Consumer Financial Protection Bureau (CFPB), as required under Section 1013 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

Please feel free to contact me at 202-435-7960 if I can be of assistance.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Galicia'.

Catherine Galicia
Assistant Director for Legislative Affairs

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United States Senate

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

WASHINGTON, DC 20510-6075

July 29, 2013

Committee Office (202) 224-3043
Federal Building, 1775 G Street, NW, Room 3000, DC, VA

Mr. Corey Stone
Assistant Director, Office of Deposits, Cash, Collections, and Reporting Markets
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, D.C. 20552


Dear Assistant Director Stone:

Thank you for testifying before the Committee on Banking, Housing, and Urban Affairs Subcommittee on Financial Institutions and Consumer Protection at our hearing on July 17, 2013 entitled *Shining a Light on the Consumer Debt Industry*. In order to complete the hearing record, we would appreciate your answers to the enclosed questions as soon as possible. When formatting your response, please repeat the question, then your answer, single spacing both question and answer. Please do not use all capitals.

Send your reply to Ms. Dawn L. Ratliff, the Committee's Chief Clerk. She will transmit copies to the appropriate offices, including the Committee's publications office. Due to current procedures regarding Senate mail, it is recommended that you send replies via e-mail in a MS Word, WordPerfect or .pdf attachment to Dawn.Ratliff@banking.senate.gov.

If you have any questions about this letter, please contact Ms. Ratliff at (202)224-3043.

Sincerely,


Tim Johnson
Chairman

TJ/dr

Congress of the United States
Washington, DC 20515

July 30, 2013

The Honorable Richard Cordray
Director
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

Dear Director Cordray:

We write concerning small-dollar lenders that operate within the state of Ohio and the millions of Ohio and American consumers who depend on their services. We urge the Consumer Financial Protection Bureau (CFPB) to carefully evaluate any new regulation of this industry so as not to adversely impact consumers' use of financial products offered by these neighborhood financial service providers. In order to accomplish this, we urge the CFPB to create a Small Dollar Credit Advisory Council to provide insight and advice on regulatory issues and rules contemplated by the CFPB.

We have concerns and do not support the CFPB's current structure or budget. So, as the agency embarks on its supervision of financial service providers and seeks to enforce federal consumer financial laws, we feel it is important to maintain a balance between consumer protections and market access. Failure to maintain a balance may result in the elimination or constriction of credit options which are available today and, in many cases, a consumer's only option. While CFPB's statutory oversight is important, it is equally important that credit products most wanted by consumers remain available in the marketplace.

In a well-functioning market, products are developed and offered to fulfill real demand. As the CFPB proposes new financial regulations, it is important that the agency develops the right mix of rules and market competition to support a healthy, vibrant marketplace without constraining credit options. Rather than limiting choices, the CFPB should eliminate archaic barriers that prevent all financial entities from competing on a level playing field. If the CFPB succeeds in removing these barriers, consumers will benefit from new financial products and services that provide them additional safe credit options.

Conversely, failure to carefully craft smart regulation of the marketplace will have the unintended consequence of eliminating or severely limiting many of the safe, necessary products and services that are currently available. The CFPB cannot hope to truly protect consumers and avoid adverse unintended consequences, such as pushing consumers into unregulated or illegal products, without consultation, communication, and input from the financial service providers that are subject to its regulation.

The CFPB should create a conduit for official dialogue with the financial entities that it regulates – whether they are banks, credit unions or non-depository consumer credit providers. Stakeholders must have a place at the table in order to form effective regulation and protect innovative solutions to existing problems.

Again, in order to ensure this interaction occurs with the small-dollar credit industry, we urge the creation of a Small Dollar Credit Advisory Council that is made up of individuals who manage companies that operate in this industry to provide insight and advice on regulatory issues and rules contemplated by the CFPB. This group would function similar to the advisory councils created in the community bank and credit union areas. This panel will provide the CFPB with a direct source to real-world, real-time information about the industry. A Small Dollar Credit Advisory Council will enlist the experts in the industry to help create fair regulation of existing products and bring the best minds to the table in developing new products and services.

Furthermore, we would respectfully suggest that state regulators, who have experience in supervising the small-dollar loan industry, be included in the advisory council. They would provide valuable regulatory expertise and historical perspective about an industry that they have regulated for over twenty years.

Again, thank you for your attention to our request.

Sincerely,



Steve Stivers
Member of Congress



Bob Latta
Member of Congress



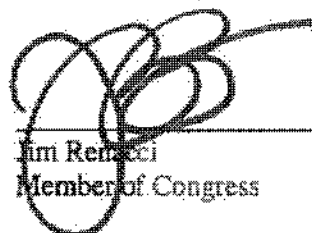
Patrick J. Tiberi
Member of Congress



Bill Johnson
Member of Congress



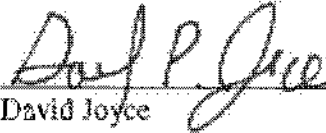
Michael Turner
Member of Congress



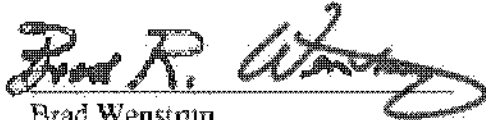
Jim Renacci
Member of Congress



Bob Gibbs
Member of Congress




David Joyce
Member of Congress



Brad Wenstrup
Member of Congress



Steve Chabot
Member of Congress



Jim Jordan
Member of Congress

CAROLYN B. MALONEY
12TH DISTRICT, NEW YORK

2305 Rayburn House Office Building
Washington, DC 20515-3212
(202) 225-7944

COMMITTEES:
FINANCIAL SERVICES

GOVERNMENT REFORM

JOINT ECONOMIC COMMITTEE,
[SENIOR HOUSE DEMOCRAT]



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House of Representatives
Washington, DC 20515-3212

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ASTORIA, NY 11102
(718) 932-1004
 - 619 Lorimer Street
Brooklyn, NY 11211
(718) 348-6072

Website: www.house.gov/maloney

August 1, 2013

Mr. Richard Cordray
Director
Consumer Financial Protection Bureau
1801 L Street, N.W.
Washington, DC 20036

Dear Director Cordray,

I am writing to urge to you to take actions to increase consumer protections with regard to the provision of SAFE Act education courses. I would appreciate a timely response to this letter, and to the questions about the extent to which the CFPB has looked into various issues raised below.

As you know, while the Conference of State Bank Supervisors (CSBS) and the Nationwide Mortgage Licensing System and Registry (NMLS) have day to day responsibility for implementing the SAFE Act, the CFPB has ultimate responsibility for broader SAFE Act policies.

You testified at a March 29, 2012 House Financial Services Committee hearing. At that hearing, Congressman Gary Miller asked about an emerging practice of lenders providing SAFE Act pre-licensing and continuing education courses to their own employees, raising concerns about potential conflicts of interest in that practice. Your response to Congressman Miller's question was:

"I would agree with you that training your own staff, although that, I suppose, can be cost effective, there are real questions about whether that is sufficient and adequate to achieve what we want. And you can imagine that when you train your own staff, the training might be distorted a bit by the potential of self-interest of the organization which again, I think is inconsistent with the congressional intent."

The purpose of this letter is to agree with your initial assessment of the practice, to ask the CFPB to take action to address these concerns, and to inquire to what extent the CFPB has looked into this issue in the 16 months since that hearing.

Prohibition Against Self-Training

Consistent with the very concerns you raised in your March 2012 hearing response, I believe the CFPB should implement a broad prohibition against the practice of allowing lenders to provide required SAFE Act pre-licensing and continuing education courses to their own employees.

The CFPB's failure to do so arguably leaves us in the position in which the federal agency with responsibility for consumer protection with regard to mortgage loans is setting a lower consumer protection bar than states generally set with regard to this practice. It is my understanding that states commonly regulate related real estate professions (eg., home inspectors, real estate brokers, appraisers, and title insurers) and that most states have continuing education or pre-licensing course requirements or both for these types professions. It is also my understanding that in the great majority of cases, the state prohibits a firm from offering courses to their employees. Moreover, in the pre-SAFE Act period where states had sole regulatory supervision for non-bank lenders, it is my understanding that some states, such as Texas, prohibited this practice for mortgage lenders and brokers.

In light of the concerns you expressed in your March 2012 testimony, I would appreciate a detailed answer about any study and analysis you have done since then on this issue, including any research your staff may have done on the extent to which states prohibit this practice. In addition, please indicate whether any decision has been made on whether CFPB condones this practice, and if it does, please explain why.

Specific Concerns Raised by the Practice of Self-Training

Regardless of the CFPB's overall policy on this self-training issue, there are a number of specific concerns raised by the practice, which could be at least partly ameliorated by specific protections.

1. Allowing Exclusive, On-Site Courses

Concerns about the conflict of interest inherent in self-training are exacerbated by allowing lenders to offer these classes on an exclusive basis only to their own employees, and to allow them to be offered on-site, which accentuates the perception that the courses are for the interest of the lender, instead of for the consumer. I would note that some states that allow self-training for real estate related education courses prohibit them from being exclusive or on-site. For example, Ohio's pre-SAFE Act "Mortgage Broker Act" required continuing education classes for lenders and brokers to be open to the public.

Exclusive on-site courses also raise significant issues regarding accountability. It is my understanding that the CSBS has indicated that the main way they monitor the quality of SAFE Act courses is through surveys of the students taking the course. Allowing self-training fundamentally undermines the objectivity of these surveys, since it is not reasonable to rely on the students to criticize their employers for the quality of the course, or, for example, to admit that they were allowed to work on unrelated matters during the course hours. As a result, the very tool that CSBS relies on to ensure that the courses are properly offered and that students are even paying attention is fundamentally undermined. At the least, having courses open to the

public would allow surveys of the students who are not employees of the education provider, and who can therefore respond to surveys more objectively.

Therefore, regardless of the overall policy on self-training, the CFPB should immediately act to require that all SAFE Act courses provided by lenders to their employees be open to the public, to any interested individual on equal terms to those offered to their employees.

2. Allowing Teaching to the Test

Congress has made 20 hours of approved pre-licensing courses a requirement for a license under the SAFE Act, which is in addition to the requirement that a loan originator (LO) pass a SAFE Act exam. This shows that Congress did not just intend the pre-licensing courses as a prep course for the exam, but as an important independent component to ensure that LOs have detailed consumer training. It would subvert the purpose of this requirement to allow education providers to interview LOs that take the test, because it would allow those providers to tailor the courses and how they are taught to passing the exam, instead of the broader SAFE Act educational objectives.

In fact, it is my understanding that independent course providers are prohibited from interviewing individuals that took the test. But it is also my understanding that this prohibition does not apply to lenders that provide SAFE Act courses to their own employees. In other words, lender education providers can debrief their own employees (and even require them to do so) about the exam questions and use the knowledge to "teach to the test."

The CFPB should create a firewall, to prohibit any any communication — direct or indirect — between individuals at lender firms that do SAFE Act self-training and employees that take the SAFE Act exam. In addition, please confirm whether the CFPB allows communication between self-training lenders and students, if so, explain why the CFPB permits this practice.

3. Lack of Standards and Transparency for Self-Training

Last year a tiny brokerage firm, based in California, was approved to offer SAFE Act education courses to their own employees. Regardless of whether self-training should be allowed, I would assume there is no disagreement that there should be rigorous standards that a firm should meet to be entitled to do so. While I am not familiar with the brokerage firm in question, it does not seem to be a major loan origination firm with a long track record, and this raises serious questions about the standards under which this firm was approved.

This also raises questions about the transparency of the standards needed for such self-training approval, including any additional standards that might be in place to address the conflict of interest inherent in self-training. I am not aware of any publicly available standards in these regard.

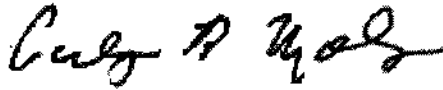
Further, it is my understanding that a lender recently purchased a SAFE Act education provider. This raises questions about why a firm would do so, i.e., is this an effort to reduce costs, speed up compliance, or were there other objectives?

As a result, I would appreciate an explanation of the standards for approval of self-training, an explanation of how a small brokerage firm gained approval, and an explanation as to whether any additional standards, which address potential conflicts of interest inherent in self-training, are used to evaluate applications for self-training.

Finally, I also believe that there should be more transparency as to the standards for approval for SAFE Act courses to be provided by lenders to their own employees.

Thank you for considering this issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Carolyn B. Maloney". The signature is fluid and cursive, with the first name "Carolyn" being the most prominent.

Carolyn B. Maloney
MEMBER OF CONGRESS



Consumer Financial
Protection Bureau

August 1, 2013

The Honorable Richard Blumenthal
U.S. Senate
724 Hart Senate Office Building
Washington DC, 20510

Dear Senator Blumenthal:

Thank you for your continued interest in the treatment of surviving spouses and heirs by mortgage servicers upon the passing of the primary borrower. The Consumer Financial Protection Bureau (Bureau) is working to address this issue on multiple levels.

As you know, the Bureau included a provision in its mortgage servicing rules that requires mortgage servicers to institute policies and procedures reasonably designed to ensure that they can identify and facilitate communication with a successor-in-interest of a deceased borrower. Communication is the key for both parties to come to a successful resolution. There may be consequences for a consumer entering into an assumption agreement before there is a loss mitigation solution in place, and servicers may resist expending resources on a loss mitigation solution before executing an assumption agreement – for these reasons, it is important for servicers to have clear policies and procedures and to stick to them in practice. The new rules are effective in January 2014, and the Bureau is already working with mortgage servicers to assist them with implementation.

The Bureau accepts consumer complaints about mortgage servicers and is monitoring consumer complaints that it receives on this issue. The Bureau may address issues identified in consumer complaints through its supervisory work. As part of the Bureau's supervision of mortgage servicers, it reviews servicer policies and procedures as applicable. The Bureau's supervisory authority allows it to address this issue as a part of its general mandate to detect risks to consumers.

Currently, no regulatory framework governs these issues specifically, but there may be implications for servicers under various laws, such as the Truth in Lending Act and the Garn-St. Germain Depository Institutions Act. Absent a framework, many mortgage servicers have developed piecemeal, fragmented processes that lead to consumer confusion at an already difficult time. In light of the Bureau's new mortgage servicing

rules, it will expect servicers to direct attention to improving their processes and minimizing risks to consumers.

The Bureau will continue to consider potential avenues to improve transparency for and treatment of surviving spouses and heirs who inherit property. This is a complex issue for consumers and servicers to navigate, and we thank you for your continued attention to this important issue.

Sincerely,



Richard Cordray
Director

*We are grateful of the issue, and we will
take, based by our supervisory and enforcement
authority, your comments (including on R-
Rish*



Consumer Financial
Protection Bureau

August 1, 2013

The Honorable Lois Capps
U.S. House of Representatives
2231 Rayburn House Office Building
Washington, DC 20515

Dear Representative Capps:

Thank you for your continued interest in the treatment of surviving spouses and heirs by mortgage servicers upon the passing of the primary borrower. The Consumer Financial Protection Bureau (Bureau) is working to address this issue on multiple levels.

As you know, the Bureau included a provision in its mortgage servicing rules that requires mortgage servicers to institute policies and procedures reasonably designed to ensure that they can identify and facilitate communication with a successor-in-interest of a deceased borrower. Communication is the key for both parties to come to a successful resolution. There may be consequences for a consumer entering into an assumption agreement before there is a loss mitigation solution in place, and servicers may resist expending resources on a loss mitigation solution before executing an assumption agreement – for these reasons, it is important for servicers to have clear policies and procedures and to stick to them in practice. The new rules are effective in January 2014, and the Bureau is already working with mortgage servicers to assist them with implementation.

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Sincerely,



Richard Cordray
Director

*We are grateful of this issue, and our are over,
back by our supervisory and enforcement
authority, give us our best regards -
R. Cordray*



Consumer Financial
Protection Bureau

August 1, 2013

The Honorable Al Green
U.S. House of Representatives
2201 Rayburn House Office Building
Washington, DC 20515

Dear Representative Green:

Thank you for your June 20, 2013 letter providing two options for the disaggregation of Home Mortgage Disclosure Act (HMDA) data on Asian American and Pacific Islanders.

HMDA requires the collection and reporting of data on the ethnicity, race, and certain other characteristics of certain mortgagors or mortgage applicants, and Regulation C, which implements HMDA, provides the categories covered institutions use to provide the data. The collection of this information is permitted by the Equal Credit Opportunity Act and its implementing Regulation B.

Currently, the Bureau is in the pre-rule phase of its rulemaking to propose changes to Regulation C under authority provided in the Dodd-Frank Wall Street Reform and Consumer Protection Act.

We will carefully consider the suggestions you have provided and continue to welcome the views of all HMDA stakeholders during our rulemaking.

Thanks again for contacting me regarding this important matter.

Sincerely,

Richard Cordray
Director

*We appreciate your continuing interest
in our work — and I am so
glad to be confounded!
Rich*



Consumer Financial
Protection Bureau

August 1, 2013

The Honorable Maxine Waters
U.S. House of Representatives
2221 Rayburn House Office Building
Washington, DC 20515

Dear Representative Waters:

Thank you for your continued interest in the treatment of surviving spouses and heirs by mortgage servicers upon the passing of the primary borrower. The Consumer Financial Protection Bureau (Bureau) is working to address this issue on multiple levels.

As you know, the Bureau included a provision in its mortgage servicing rules that requires mortgage servicers to institute policies and procedures reasonably designed to ensure that they can identify and facilitate communication with a successor-in-interest of a deceased borrower. Communication is the key for both parties to come to a successful resolution. There may be consequences for a consumer entering into an assumption agreement before there is a loss mitigation solution in place, and servicers may resist expending resources on a loss mitigation solution before executing an assumption agreement – for these reasons, it is important for servicers to have clear policies and procedures and to stick to them in practice. The new rules are effective in January 2014, and the Bureau is already working with mortgage servicers to assist them with implementation.

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Consumer Financial
Protection Bureau

1700 G Street, N.W., Washington, DC 20002

August 2, 2013

The Honorable Spencer Bachus
U.S. House of Representatives
2138 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Bachus,

Thank you for your letter about indirect auto lending practices and compliance with anti-discrimination laws, such as the Equal Credit Opportunity Act (ECOA). The Consumer Financial Protection Bureau (Bureau) shares your commitment to ensuring that lending practices are fair and equitable and that credit markets function competitively and efficiently for all consumers and honest businesses. We appreciate the opportunity to work with you on these important goals.

The Equal Credit Opportunity Act

In April 2012, the Bureau published a Lending Discrimination Bulletin in which we issued guidance about compliance with the fair lending requirements of the ECOA and its implementing regulation, Regulation B.¹ In the Lending Discrimination Bulletin, the Bureau reaffirmed, consistent with other federal supervisory and law enforcement agencies, including the Department of Justice (DOJ), Federal Trade Commission (FTC), and each of the federal prudential agencies with regulatory authority over financial institutions,² that the legal doctrine of disparate impact remains applicable as the Bureau exercises its supervision and enforcement authority to enforce compliance with the ECOA and Regulation B.

In the Dodd Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank), Congress gave the Bureau the authority to supervise depository institutions with more than \$10 billion in assets and their affiliates, and certain nonbank financial institutions that provide consumer financial products and services, including mortgage, payday, and student lending. The Bureau's supervision for compliance with ECOA includes coverage of indirect auto lending. The Bureau's ongoing supervision of depository institutions and their affiliates currently includes examinations of ECOA compliance in indirect auto lending. Subject to certain exceptions, the Bureau also has enforcement authority over both banks and nonbanks in the auto lending market, and it will use that authority wherever appropriate to address discrimination.

The Bureau's Indirect Auto Bulletin

¹ Lending Discrimination, CFPB Bulletin 2012-04 (Fair Lending), Apr. 18, 2012 available at http://files.consumerfinance.gov/f/201404_cfpb_bulletin_lending_discrimination.pdf.

² Interagency Task Force on Fair Lending, *Policy Statement on Discrimination in Lending*, 59 Fed. Reg. 18,266 (Apr. 15, 1994).

As you know, we published CFPB Bulletin 2013-02, Indirect Auto Lending and Compliance with ECOA, on March 21, 2013 (Indirect Auto Bulletin) to offer guidance to all indirect auto lenders within the jurisdiction of the Bureau, including both depository institutions and nonbank institutions.³ The Bulletin explains that the standard practices of indirect auto lenders likely make them "creditors" under ECOA and that a lender's discretionary markup and compensation policies may alone be sufficient to trigger liability under ECOA if the lender regularly participates in a credit decision and its policies result in discrimination. By describing the relevant laws and regulations that apply to indirect auto lending, the Bulletin aims to help indirect auto lenders recognize and mitigate the risk of discrimination resulting from discretionary dealer markup and compensation policies.

You have asked why the notice-and-comment rulemaking process was not utilized in publishing the Bureau's Indirect Auto Bulletin. That process was not necessary for the Bulletin because the Administrative Procedure Act, which sets out the basic principles by which federal agencies engage in regulatory activity, does not mandate notice and comment for general statements of policy, non-binding informational guidelines, or interpretive memoranda.

Certain policies and practices that allow discretion in pricing can create a significant risk of discrimination on the basis of race, national origin, and other prohibited bases such as sex. This risk is acknowledged in the Bureau's Supervision and Examination Manual. Historically, the failure to properly or consistently monitor such policies and practices for compliance with anti-discrimination laws has been a contributing factor in discrimination, both in auto lending and in other product markets like mortgages. In developing the Bulletin, the Bureau considered a variety of materials, such as ECOA,⁴ its implementing regulation, Regulation B,⁵ the Official Staff Commentary to Regulation B,⁶ CFPB Bulletin 2012-04 (Fair Lending),⁷ CFPB Supervisory Highlights,⁸ and other materials.

The Bureau's Indirect Auto Bulletin addresses the specific risk of discrimination caused by indirect auto lenders' discretionary dealer markup and compensation policies. In the course of the Bureau's supervisory work, we have found frequent instances where lenders had robust fair lending compliance programs for mortgage lending, but weak or non-existent fair lending compliance programs for other types of consumer lending. Yet, the ECOA prohibits discrimination in credit transactions, reaching many different types of consumer lending. As the Bulletin states, lenders may choose to address the risk of discrimination resulting from certain markup and compensation policies in a variety of ways, including: imposing controls on dealer markup and compensation policies; revising these policies to address unexplained pricing disparities on a prohibited basis; eliminating dealer discretion to mark up buy rates and fairly compensating dealers using another mechanism that does not result in discrimination. For all lenders, the Bulletin also emphasizes the need for self-monitoring as a tool to address fair lending risk. It contains additional suggestions for monitoring and corrective action to mitigate that risk,

³ Indirect Auto Lending and Compliance with ECOA, CFPB Bulletin 2013-02, Mar. 21, 2013 available at http://files.consumerfinance.gov/E201303_cfbp_march_Auto-Finance-Bulletin.pdf.

⁴ 15 U.S.C. § 1691 *et seq.*

⁵ 12 C.F.R. pt. 1002.

⁶ 12 C.F.R. pt. 1002 Supp. 1.

⁷ Lending Discrimination, CFPB Bulletin 2012-04 (Fair Lending), Apr. 18, 2012 available at

http://files.consumerfinance.gov/E201204_cfbp_bulletin_lending_discrimination.pdf.

⁸ Consumer Financial Protection Bureau, *Supervisory Highlights: Fall 2012* (Oct. 31, 2012), available at <http://www.consumerfinance.gov/reports/supervisory-highlights-fall-2012>.

including regular analyses to determine whether there are pricing disparities on a prohibited basis across the indirect auto lender's overall portfolio or at the individual dealer level. If differences are found, those analyses may help lenders understand the cause of the disparities as well as potential solutions.

The Indirect Auto Bulletin expressly emphasizes that dealers should be fairly compensated and the guidance offered does not foreclose consumers' ability to negotiate their interest rate on an auto loan.

Analysis of Dealer Markup

Your letter inquired about the details of the "disparate impact methodology" that we use. Our agency is committed to being open and transparent, including in our review of indirect auto lending. The evaluation of whether an indirect auto lender is in compliance with ECOA requires multiple steps.

While fair lending analyses of mortgage lending are simplified by the availability of lender data reported under the Home Mortgage Disclosure Act, this is not the case with indirect auto lending. Information on race, ethnicity, and gender is typically not collected as part of an auto lending transaction. Therefore, the Bureau uses a proxy methodology to differentiate among consumers based upon these characteristics. The concept of using proxies for unavailable data is a widely accepted mathematical and statistical approach used across many disciplines, including, to our understanding, by the auto industry itself for marketing purposes. Various proxy methodologies are publicly available and have been used for decades in a number of different Civil Rights contexts, including voting rights cases, Title VII cases, and constitutional challenges, including jury selection and equal protection matters. In addition, federal banking regulators have made clear that proxy methods may be used in fair lending exams to estimate protected characteristics where direct evidence of the protected characteristic is unavailable.⁹ In keeping with our commitment to transparency, and in line with the approaches of other federal regulators, the Bureau has previously indicated that when we utilize proxy data, we use surnames and geographic location. The Bureau conducts its proxy analysis by using publicly available data from the Social Security Administration and the Census Bureau. We understand that many responsible lenders regularly use proxies in their own fair lending analyses where self-reported race, ethnicity, and gender data are unavailable. There are a variety of proxy methods, and the Bureau has encouraged lenders who are not currently doing so to select a reasonable proxy method that is suitable for their nature, size, and complexity and to monitor their data for fair lending risk.

Each supervisory examination or enforcement investigation is based on the particular facts presented. Thus, in our analyses we consider analytical controls which are appropriate to each particular case in reviewing data to determine whether a specific policy results in disparities. When lenders share with us the nature and results of their own analyses, we are open to hearing specific explanations for the decisions they have made to include particular analytical controls that reflect a legitimate business need. In evaluating whether pricing disparities exist in dealer markup, we typically look to whether there is a statistically significant basis point disparity in the dealer markups received by the prohibited basis group as compared to the control group. The

⁹ See *Interagency Fair Lending Examination Procedures*, at 12-13, available at <http://www.ffiec.gov/PDF/fairlend.pdf> (explaining that "[a] surrogate for a prohibited basis group may be used" in a comparative fit review and providing examples of surname proxies for race/ethnicity and first name proxies for sex); see also <http://www.philadelphiafed.org/bank-resources/publications/consumer-compliance-outlook/2012/first-quarter/fair-lending-20120101.cfm>.

Bureau considers on a case-by-case basis whether disparities identified in the data, when considered in view of all other evidence, support a violation of ECOA.

Interagency Coordination

Finally, you have asked for information about the Bureau's coordination with other federal agencies with ECOA responsibilities. The Bureau coordinates closely with the DOJ and other federal agencies to ensure that our fair lending enforcement efforts are consistent, efficient, and effective. For example, the Department of Justice and the Bureau signed a Memorandum of Understanding on December 6, 2012 to strengthen coordination on fair lending enforcement and avoid duplication of our respective federal law enforcement efforts.¹⁰ The FFIEC agencies all report substantial outreach and interagency activity aimed at ensuring creditors' compliance with ECOA and Regulation B, and that fair lending laws are enforced in a consistent and fair manner. The CFPB, along with the DOJ and the Federal Reserve Board of Governors, among others, serve as co-chairs of the Federal Financial Fraud Enforcement Task Force's Non-Discrimination Working Group, which is presenting a webinar on auto lending in August. The CFPB meets regularly with the DOJ, the prudential regulators, and the FTC to discuss ongoing fair lending supervision and enforcement activities, as appropriate. These regular discussions are designed to ensure that supervision and enforcement efforts are well-coordinated.

Thank you for bringing your concerns to the Bureau's attention and for the opportunity to respond. We look forward to working with you on this important issue of economic fairness as we continue to work to help markets operate more effectively for consumers and businesses alike.

Sincerely,



Richard Cordray
Director

cc: The Honorable Shelley Moore Capito
The Honorable Gary Miller
The Honorable Lynn A. Westmoreland
The Honorable Scott Garrett
The Honorable Randy Neugebauer
The Honorable Patrick T. McHenry
The Honorable John Campbell
The Honorable Peter T. King
The Honorable Edward R. Royce
The Honorable Michele Bachmann
The Honorable Stevan Pearce
The Honorable Blaine Luetkemeyer
The Honorable Bill Huizenga
The Honorable Sean P. Duffy

¹⁰ Memorandum of Understanding between the Consumer Financial Protection Bureau and the United States Department of Justice (Dec. 6, 2012), available at http://files.consumerfinance.gov/f/201212_cfpb_doj-fair-lending-mou.pdf.

The Honorable Robert Hurt
The Honorable Michael G. Grimm
The Honorable Steve Stivers
The Honorable Stephen Fincher
The Honorable Marlin A. Stutzman
The Honorable Mick Mulvaney
The Honorable Dennis A. Ross
The Honorable Robert Pittenger
The Honorable Ann Wagner
The Honorable Garland "Andy" Barr
The Honorable Tom Cotton
The Honorable Keith L. Rothfus
The Honorable Tom Latham
The Honorable Jack Kingston
The Honorable Steve King
The Honorable Mark Meadows
The Honorable Steve Steckman
The Honorable George Holding
The Honorable Walter Jones
The Honorable Tom Marino

Congress of the United States
Washington, DC 20515

August 5, 2013

The Honorable Richard Cordray
Director
Consumer Financial Protection Bureau
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Dear Director Cordray:

We are writing to urge that you stand up a Consumer Financial Protection Bureau ("CFPB") Advisory Board made up of non-bank lenders, including payday lenders, who currently serve the short-term cash advance needs of millions of working Americans.

The demand for small denomination short-term credit is significant and growing, while supply is increasingly restricted. As Members of Congress from both parties have pointed out, in this area of great consumer need, it is imperative that CFPB's findings and subsequent regulations are based on a comprehensive view of how consumers use these products in the context of other available choices.

The issues we raise here have two critical components. First, non-depository community financial service providers, including payday lenders, have been denied standing within the CFPB, even as specifically called for by the Dodd-Frank Act, which directs that you assemble experts in consumer financial products and services, and seek representation of the interests of covered persons. When the Consumer Advisory Board was being formed in 2012, Members of Congress and others submitted the nominations of several highly qualified industry leaders. All of these eminently qualified industry nominees were rejected. Furthermore, as it has operated during its first year, our concern regarding fair representation of these non-depository financial service providers is heightened. Several meetings, at which issues affecting this industry have been covered, were conducted in closed session, without participation by the industry. This is hardly the manner in which an agency dedicated to fact-driven, open, and transparent, supervision of covered industries should operate.

Second, we are concerned that CFPB's recent "Payday Loans and Deposit Advance Products: A White Paper of Initial Data Findings" ("White Paper"), demonstrates a one dimensional and biased approach, lacking a thorough, data driven and open process. The White Paper does not reflect mainstream business practices by the vast majority of vendors who are honest and scrupulous, nor the millions of consumers who use their regulated products responsibly. It ignores the fact that millions of Americans access small dollar short-term credit at non-depository community financial service providers in the form of payday loans and, in many cases, payday loans are the

least expensive or the only form of credit available to them. The vast majority of these lenders adhere to existing comprehensive state laws, and most subscribe to best practices such as extended payment plans designed to protect the few customers who cannot repay on time. Our concern is that absent a scientific and credible process with peer reviewed data and inclusion of all stakeholders, millions of payday advance consumers could be left with no short term credit option other than illegal off shore lenders whose business is already booming in areas where regulated lending is absent.

In an effort to conduct a more credible process, the Bureau should create an Advisory Board representing non-depository community lenders, including payday and other small dollar loan providers. This Advisory Board should operate in a fashion similar to CFPB Advisory Boards representing credit unions and community banks. It should complement the existing Consumer Advisory Board which currently lacks representation of these stakeholders. The establishment of this Advisory Board is essential to fulfill the mandate of the Dodd-Frank Act, engaging all appropriate and necessary stakeholders in the CFPB's regulatory process.

All regulated entities, including non-depository community lenders, must know that the regulations imposed on their businesses have been developed using sound methodology, accurate information, and a transparent process. We strongly encourage you to take this important step to ensure the rulemaking process is thorough, transparent, data-driven, impartial, and engages all appropriate stakeholders throughout the process.


Sincerely,



Congressman Patrick McHenry



Congressman Gary Miller



Congressman Steve Stivers



Congressman Peter King



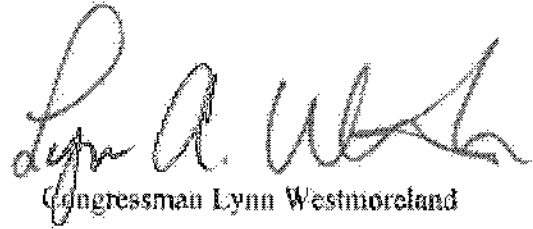
Congressman Spencer Bachus



Congressman Ed Royce



Congressman Scott Garrett



Congressman Lynn Westmoreland



Congressman Randy Neugebauer



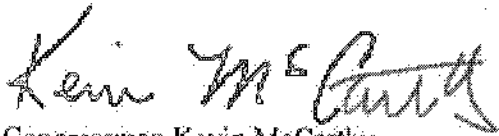
Congressman Blaine Luetkemeyer



Congresswoman Michele Bachmann



Congressman Bill Huizenga




Congressman Kevin McCarthy



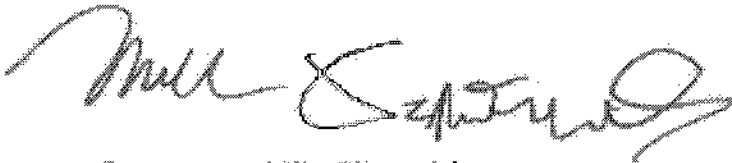
Congressman Sean Duffy



Congressman Steve Pearce



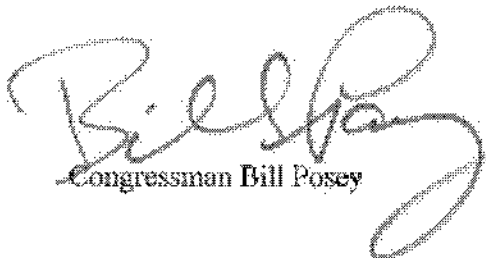
Congressman Robert Hurt



Congressman Mike Fitzpatrick



Congressman Michael Grimm



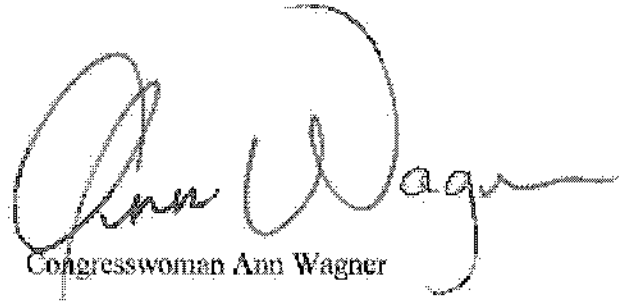
Congressman Bill Posey



Congressman Stephen Fincher



Congressman Martin Stutzman



Congresswoman Ann Wagner



Congressman Mick Mulvaney



Congressman Andy Barr



Congressman Randy Hultgren



Congressman Thomas Cotton



Congressman Dennis Ross

OFFICE OF THE CLERK
U.S. SENATE
WASHINGTON, DC 20540
202-224-2500
www.senate.gov

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United States Senate

COMMITTEE ON VETERANS' AFFAIRS
WASHINGTON, DC 20510

August 5, 2013

Hollister K. Petraeus
Consumer Financial Protection Bureau
1801 L Street, NW
Washington, DC 20036

Dear Mrs. Petraeus:

I want to thank you for testifying before the United States Senate Committee on Veterans' Affairs on July 31, 2013. Your testimony provided Committee Members with valuable input and will be taken into consideration as the Committee continues its oversight of the Servicemembers Civil Relief Act and works to address the financial challenges confronting servicemembers, veterans and their families.

You will be emailed instructions on how to access your transcript for editing purposes. Please have the transcript edited and returned by August 16, 2013.

Thank you for your testimony and continued support of our Nation's servicemembers, veterans and their families.

Sincerely,



Bernard Sanders
Chairman

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UNITED STATES DEPARTMENT OF JUSTICE
400 ANDREWS AVENUE, N.W.
WASHINGTON, D.C. 20535
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United States Senate

COMMITTEE ON VETERANS' AFFAIRS
WASHINGTON, DC 20510

UNITED STATES DEPARTMENT OF JUSTICE

August 5, 2013

The Honorable Richard Cordray
Director
Consumer Financial Protection Bureau
1801 L Street, NW
Washington, DC 20036

Dear Mr. Cordray:

On July 31, 2013, the Senate Committee on Veterans' Affairs held a hearing on protecting the rights of servicemembers, veterans, and their families in the financial marketplace. Thank you for your testimony in that matter, enclosed you will find post-hearing questions submitted by Members of the Committee.

We request that you submit your responses to the Committee no later than September 6, 2013. If you have any questions, your staff may contact Jeff Johnson, the Committee's Hearing Clerk, at (202) 224-6478 or email him at Jeff_Johnson@vetaff.senate.gov.

Sincerely,



Bernard Sanders
Chairman

Enclosure



Consumer Financial
Protection Bureau

1700 G Street, N.W., Washington, D.C. 20552

August 6, 2013

The Honorable Bill Nelson
U.S. Senate
716 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Nelson,

Thank you for your letter about how errors in reporting of short sales and foreclosures may be adversely affecting some consumer credit reports. The Consumer Financial Protection Bureau shares your view that credit reports should clearly distinguish short sales from foreclosures. The failure to correctly identify a short sale trade-line impedes households that had previous short sales from re-entering the housing market. This harms consumers, and is at odds with public policies designed to encourage consumers to proceed with short sales as an alternative to a foreclosure if they are underwater on their mortgage or have some other financial hardship.

This turns out to be a very complicated issue, and one that is affected by various players. From our discussion, however, I appreciate that you want results that fix the problem, not merely reasons why it persists, and so we have been determined to approach the matter in that spirit. In order to address the issue in appropriate detail, senior officials at the Bureau worked closely with the Federal Housing Finance Agency (FHFA), industry representatives, and the Government Sponsored Enterprises (GSEs) to help us not only understand the issue more precisely but also to identify the best potential solutions.

As a result, we have concluded that the source of the problem lies in how some automated underwriting systems use merged credit report data from the nationwide credit reporting companies. Due to differences in how credit reporting companies code short sale and foreclosure information, the merge process can produce confusing results about the history of particular mortgages. This confusion has made it difficult for automated systems that rely on merged files to accurately determine if the account in question was truly a short sale or a foreclosure. Taking the more conservative approach, these automated systems treat the account as involving a foreclosure and therefore require manual underwriting.

Through our collaboration with FHFA and Fannie Mae, we identified possible solutions and ultimately focused on an interim resolution that would resolve the issue for most affected loans. In particular, Fannie Mae has agreed to make adjustments to

consumerfinance.gov

its automated systems that will allow affected submissions to be underwritten automatically and receive appropriate feedback results instructing the lender to verify if the account in question was truly a short sale and confirm the date, in order to verify that it meets Fannie Mae's underwriting guidelines. The changes include enabling a lender to represent that it has verified that an account in the consumer's credit history originally evaluated as a foreclosure was actually a short sale, and that it meets Fannie Mae's minimum waiting period requirements for a short sale transaction. These changes will help to ensure that short sales are correctly identified and that the correct waiting period requirements are applied for short sales (e.g., two years for loans with a 20 percent down payment). This solution should prevent the kinds of situations described by your constituents, in which consumers were inadvertently barred from a mortgage for seven years, as though they had been subject to a foreclosure.

We appreciate your confidence that we could help address this important issue, and are glad to be collaborating closely with FHFA, the GSEs, and industry stakeholders to reach this outcome. There is no doubt in my mind that your leadership in bringing public attention to this issue was essential to getting to this point. We will continue to work with FHFA, the GSEs, and the industry to ensure credit report data about short sales is properly reflected in the mortgage underwriting process. We look forward to continuing to work with you in support of our shared interest in protecting and empowering American consumers.

Sincerely,



Richard Cordray Director

Being able to note your intensity on this issue helped us get people to work through a pretty complicated process - we and consumers thank you -

Ruth



Consumer Financial
Protection Bureau

1700 G Street, N.W., Washington, DC 20552

August 7, 2013

The Honorable Debbie Wasserman Schultz
U.S. House of Representatives
118 Cannon House Office Building
Washington, DC 20515

Dear Representative Wasserman Schultz,

Thank you for your recent letter encouraging the Consumer Financial Protection Bureau (Bureau) to establish a non-bank financial services advisory council. The Bureau shares your commitment to ensuring that its work is informed by a wide variety of external stakeholders reflecting diverse perspectives, including those of non-banks.

For that reason, we made certain to include non-banks on the Bureau's Consumer Advisory Board (CAB). Our CAB's membership includes representation from both financial institutions and a variety of non-bank financial services institutions, with almost one-third of the current membership of the CAB representing the non-bank financial services industry. The Bureau anticipates that nominations to replace current time-limited members of the CAB will begin in early 2014.

In addition, the Bureau regularly meets with non-bank providers of financial products and services of all kinds to receive their input and feedback on our work. We recently established the Office of Financial Institutions and Business Liaison, to provide representatives of both bank and non-bank entities with a single point of contact and to help coordinate the Bureau's engagements with the private sector.

The Bureau believes that collaboration and dialogue with all stakeholders, including industry partners, is critical in the development of well-balanced public policy. The Bureau continually interacts with small dollar lending institutions and their trade organizations. In fact, the Bureau routinely meets with the Community Financial Services Association (CFSA), Financial Service Centers of America (FISCA), and their members. The CFSA has met with Bureau staff over 30 times since spring of 2011.

As this dialogue continues, it would be beneficial to all parties involved if participants in the market would share their insight and data to help provide a well-rounded and thorough analysis of the market place. The Bureau encourages and welcomes continued and fulsome discussions.

As you noted, the success of our efforts to make financial markets work better for consumers depends on thorough, transparent, and data-driven processes that respond to consumer credit

needs. We will continue to work to ensure that we incorporate the views and perspectives of non-banks in those processes. Thank you for your continuing interest in the Bureau's work.

Sincerely,

A handwritten signature in black ink that reads "Richard Cordray". The signature is written in a cursive style with a large, stylized initial "R".

Richard Cordray
Director

United States Senate

WASHINGTON, DC 20510-2103

August 8, 2013

The Honorable Richard Cordray
Director
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, D.C. 20552

Dear Director Cordray:

We respectfully request that Consumer Financial Protection Bureau ("CFPB") grant a reasonable transition timeline or guidance for private student loan providers in complying with disclosures required under the federal Truth in Lending Act.

As the Ranking Members on the Senate Committee on Banking, Housing, and Urban Affairs, and the Senate Committee on Health, Education, Labor and Pensions, we have a strong interest in the student lending industry and the CFPB actions affecting student lenders. Congress recently passed the Bipartisan Student Loan Certainty Act, a bill that ties Federal student loan interest rates to the 10-year U.S. Treasury note, which President Obama is expected to sign into law this week. We applaud the bill's passage for lowering the interest rates on all federal student loan borrowers and providing more certainty and protection for taxpayers, but urge the CFPB to provide relief from any resulting and unintended compliance issues.

The federal Truth in Lending Act requires private student lenders to make certain disclosures to student borrowers, including the interest rate on federal Direct Loans. However, these disclosures cannot be made until the U.S. Department of Education calculates and certifies the official rates, which is still outstanding. Once that is complete, private student lenders need to update their electronic systems that produce these disclosures. Since system changes are resource intensive and many current loan applications are at various stages within the approval pipeline, delays are inevitable.

When the Federal Reserve was responsible for enforcing the Truth in Lending Act in 2008, it granted private lenders an optional compliance or "grace" period when disclosure changes were made. Just as the Federal Reserve provided guidance in

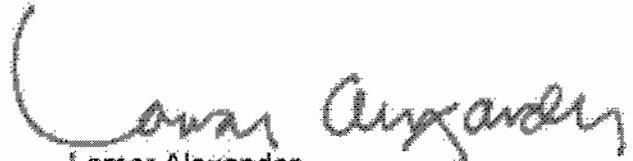
2009, the CFPB should provide transitional guidance today. It is important that lenders offer borrowers clear and accurate disclosures required under the law.

Thank you for your prompt attention to this important matter. Should you have any questions, please contact either of us, or members of our staff: Peter Oppenheim at (202) 224-8484, or Jared Sawyer at (202) 223-9209.

Sincerely,



Mike Crapo
Ranking Member
Committee on Banking,
Housing and Urban Affairs



Lamar Alexander
Ranking Member
Committee on Health, Education,
Labor, and Pensions



Consumer Financial
Protection Bureau

1700 G Street, N.W., Washington, DC 20552

August 9, 2013

The Honorable Barbara Boxer
United States Senate
112 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Tom Harkin
United States Senate
731 Hart Senate Office Building
Washington, D.C. 20510

Dear Senators:

Thank you for your July 11, 2013 letter about student debt relief. The Consumer Financial Protection Bureau (Bureau) shares your concerns about private companies charging students fees for programs that are already available at no cost.

The Bureau estimates that there are more than seven million borrowers in default on a student loan. We are concerned that many of these borrowers may not have clear, unbiased information about their options. Many federal student loan borrowers might have been able to avoid default if they had enrolled in income-based repayment plans through their student loan servicers.

On July 3, the Bureau issued an advisory that warned consumers about companies that may be charging fees for these types of services.¹ Last year, the Bureau launched an interactive tool that allows borrowers in default to navigate their options to get back on track.²

We realize that consumer education is not enough, and that vigorous enforcement of the law is necessary. To that end, we will look to use all of our tools to ensure that student loan borrowers are not preyed upon by companies breaking the law.

Again, thank you for bringing your concerns to the Bureau's attention and for the opportunity to respond. I look forward to continuing to work together to protect student loan borrowers and their families from financial distress.

Sincerely,

Richard Cordray
Director

*Thank you for your continuing interest
in our work - we especially
share this concern
Ruh*

¹ <http://www.consumerfinance.gov/blog/consumer-advisory-you-dont-have-to-pay-someone-to-help-with-your-student-loan/>

² <http://www.consumerfinance.gov/paying-for-college/repay-student-debt/>

cc: The Honorable John D. Rockefeller IV, United States Senator
The Honorable Elizabeth Warren, United States Senator
The Honorable Kirsten E. Gillibrand, United States Senator
The Honorable Brian Schatz, United States Senator
The Honorable Jack Reed, United States Senator
The Honorable Richard Blumenthal, United States Senator
The Honorable Ron Wyden, United States Senator
The Honorable Dianne Feinstein, United States Senator
The Honorable Benjamin L. Cardin, United States Senator
The Honorable Al Franken, United States Senator
The Honorable Patty Murray, United States Senator
The Honorable Mark R. Warner, United States Senator
The Honorable Carl Levin, United States Senator
The Honorable Heidi Heitkamp, United States Senator
The Honorable Mark Udall, United States Senator
The Honorable Martin Heinrich, United States Senator
The Honorable Debbie Stabenow, United States Senator
The Honorable Jeff Merkley, United States Senator
The Honorable Claire McCaskill, United States Senator
The Honorable Tom Udall, United States Senator
The Honorable Barbara A. Mikulski, United States Senator
Arne Duncan, Secretary, Department of Education
Edith Ramirez, Chairwoman, Federal Trade Commission



Consumer Financial
Protection Bureau

1100 G Street NE, Washington, DC 20002

August 14, 2013

The Honorable Darrell Issa
Chairman, House Committee on Oversight
and Government Reform
U.S. House of Representatives
2157 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Jeb Hensarling
Chairman, House Committee on
Financial Services
U.S. House of Representatives
2129 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairmen Issa and Hensarling:

Thank you for your letter of July 31, 2013, which addressed the Consumer Financial Protection Bureau's Ability-to-Repay/Qualified Mortgage (ATR/QM) rulemaking and the role of certain former employees in that process.

As an initial matter, let me address your comments about our former employees. Although I am not versed in the details of their current business venture, I know these individuals to be of the highest integrity. We have made it a point to hire staff with diverse perspectives and backgrounds, including individuals with industry experience who help us ground our decisions in the reality of financial operation and financial markets. I am certain that many of your colleagues have wisely done the same. For those who may find their way back to the private sector later in their careers, the time they have spent on consumer financial issues no doubt gives them greater understanding of the needs of consumers in their future work.

As for the final ATR/QM rule, which Congress mandated and which the Bureau produced in time to meet its challenging statutory deadline, we are proud of both the process and the content of this rule, which involved significant contributions from a large number of our employees. In fact, the Bureau earned broadly positive comments for making a point to engage all stakeholders for extensive discussions of the rule and its implications in an open, deliberative, and inclusive process. The substance of these conversations is on the record and publicly accessible. As part of the rulemaking and implementation process, we reviewed nearly 2,000 comment letters, held numerous roundtables and meetings, and testified before Congress about the process and content of the rulemaking.

The final rule was carefully drawn and faithfully implemented the law that Congress passed, prohibiting irresponsible mortgage lending practices that helped precipitate the financial crisis while also protecting access to credit in the constrained mortgage market that we face today. Moreover, to take into account the legitimate concerns of small community banks and credit unions, the Bureau created provisions that are tailored specifically to the special circumstances and needs of small creditor operations.

Since the rule was adopted, we have made an agency-wide commitment to provide detailed implementation support, in part because we realize that such efforts are particularly important to small creditors that do not have large legal and compliance teams. We recognize that a smooth, efficient process will ultimately benefit consumers and the market as a whole. For instance, we have published on our website a plain-English summary of the rule as well as a compliance guide designed specifically for smaller institutions. We are also coordinating with other agencies to develop examination procedures that will be made publicly available, and we are developing checklists and other tools for creditors to utilize as they prepare for the implementation date.

These aspects of our rulemaking have been widely documented in favorable comments offered by financial services officials, consumer advocates, trade association representatives, and your fellow members of Congress. As the *American Banker* summarized the matter, "The Consumer Financial Protection Bureau has managed to take one of the most controversial provisions of the Dodd-Frank Act – a rule that would effectively redefine the mortgage market – and craft it in a way to please both the banking industry and consumer groups." We stand by the final ATR/QM rule, the integrity of the process we conducted, and the exceptional dedication and talent that so many employees of the Consumer Financial Protection Bureau brought to this important and challenging task.

Attached please find our initial response to the request for documents contained in your letter. We look forward to working with you and your staff's going forward and will continue to keep your staff apprised of developments concerning your request. If you have any questions, please contact me at (202) 435-9637 or have your staff contact Tim Sheehan of the Bureau's Office of Legislative Affairs at (202) 435-7004.

Sincerely,



Richard Cordray
Director

cc: The Honorable Jim Jordan, Chairman, Subcommittee on Economic Growth, Job Creation, and Regulatory Affairs

The Honorable Shelley Moore Capito, Chairman, Subcommittee on Financial Institutions and Consumer Credit

The Honorable Patrick T. McHenry, Chairman, Subcommittee on Oversight and Investigations

The Honorable Elijah Cummings, Ranking Minority Member, Committee on Oversight and Government Reform

The Honorable Maxine Waters, Ranking Minority Member, Committee on Financial Services

The Honorable Matt Cartwright, Ranking Minority Member, Subcommittee on Economic Growth, Job Creation and Regulatory Affairs

The Honorable Gregory Meeks, Ranking Minority Member, Subcommittee on Financial Institutions and Consumer Credit

The Honorable Al Green, Ranking Minority Member, Subcommittee on Oversight and Investigations

Mr. Mark Bialek, Inspector General, Federal Reserve Board and CFPB

MATTHEW J. LEAHY, VERMONT, CHAIRMAN

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Gregory A. Cooper, Staff Director
Matthew J. Lynch, Chief Counsel and Deputy Staff Director
Kathleen L. Gorman, Republican Chief Counsel and Staff Director
Mark Lane Johnson, Republican Deputy Staff Director

United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6276

August 15, 2013

The Honorable Richard Cordray
Director
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

Dear Director Cordray:

I am writing in regards to the "Special Government Employee" (SGE) designation and whether your Department's application of the designation complies with statute and previous practice. The SGE designation exempts employees from the conflict of interest rules that apply to all other government employees. Failing to properly apply SGE guidelines undercuts conflict of interest statutes and the intent of Congress.

After Congress passed the statute that created the SGE designation in 1962, then-Attorney General Robert F. Kennedy issued a memorandum published in the Federal Register to help analyze the new law. In that memorandum, Attorney General Kennedy said that one of the main purposes of the new law was "to help the government obtain the temporary or intermittent services of persons with special knowledge and skills whose principal employment is outside the government."¹

Currently, the Office of Government Ethics (OGE) provides the following guidance regarding the SGE designation:

Congress created the SGE category in 1962 when it revised the criminal conflict of interest statutes. Congress recognized the need to apply appropriate conflict of interest restrictions to experts, consultants, and other advisers who serve the Government on a temporary basis. On the other hand, *Congress also determined*

¹ Department of Justice, Office of the Attorney General, Memorandum Regarding Conflict of Interest Provisions of Public Law 87-849, 28 Federal Register 985 (January 28, 1963).

*that the Government cannot obtain the expertise it needs if it requires experts to forego their private professional lives as a condition of temporary service.*²

From Attorney General Kennedy's interpretation in 1963 to the OGE's current guidance, it is clear that for an agency to grant SGE designation, two prongs must be met: A designee must have expert knowledge and that designee should come from outside government.

My concern is that there is no uniform standard which governs which employees receive this designation and it may be misused to assist select employees. Congress has a duty to ensure that the statutes it passes are being faithfully executed by the Executive Branch. To ensure that the SGE designation is being properly applied, please provide the requested documents:

1. From 2000 to the present, please provide a list of all Department SGEs, their titles and job descriptions, their level of pay, their non-Federal employment, and the duration of their SGE status.
2. Please provide all guidelines used to determine eligibility for SGE status.

Thank you in advance for your prompt attention to this matter. Please respond to these questions by August 29, 2013, and number your answers in accordance with my questions. If you have any questions regarding this letter, please contact Chris Lucas of my staff at (202) 224-5225.

Sincerely,



Charles E. Grassley
Ranking Member
Committee on the Judiciary

² Office of Government Ethics, "Special Government Employees." Available at: <http://www.oge.gov/Topics/Selected-Employee-Categories/Special-Government-Employees/> (emphasis added).

JOHN CORNYN, Texas
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BLAKE RYAN, Pennsylvania
LARRY BROWN, California
MICK LEAGAN, Mississippi
MIGUEL MARTINEZ, Florida

TOM COBURN, Oklahoma
JOHN BOEHNER, Indiana
MIGUEL ANGELES CABRERA, California
MICK LEAGAN, Mississippi
MIGUEL MARTINEZ, Florida
MIGUEL MARTINEZ, Florida
MIGUEL MARTINEZ, Florida
MIGUEL MARTINEZ, Florida

United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

WASHINGTON, DC 20510-4200

August 21, 2013

Via Email (Erika Moritsugu@cfpb.gov)

Hollister K. Petraeus
Assistant Director
Office of Servicemember Affairs
Consumer Financial Protection Bureau
1700 G Street, N.W.
Washington, DC 20552

Attention: Erika Moritsugu

Dear Ms. Petraeus:

Enclosed are post-hearing questions that have been directed to you and submitted for the official record from the hearing that was held on July 23, 2013, titled "The 90/10 Rule: Improving Educational Outcomes for our Military and Veterans."

In order to ensure a complete hearing record, please include each question in full before each response and return your written response on or before September 20, 2013, via email to the committee's chief clerk, Laura Kilbride, at laura_kilbride@hsgac.senate.gov.

If you have any questions, please contact Laura Kilbride, Chief Clerk, at 202-224-9586. Thank you for your prompt attention to this request.

Sincerely,



Thomas R. Carper
Chairman

TRC:iwk

Enclosure



Consumer Financial
Protection Bureau

1700 G Street, N.W., Washington, DC 20552

August 26, 2013

The Honorable Mike Crapo
United States Senate
299 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Lamar Alexander
United States Senate
455 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Ranking Member Crapo and Ranking Member Alexander:

Thank you for your letter concerning the provision of accurate disclosures to borrowers of private student loans.

Regulation Z, which implements the Truth in Lending Act's (TILA) requirements regarding private student loans, requires that private student lenders disclose the interest rates of federal loan alternatives upon application or solicitation of a private student loan and upon private student loan approval. This disclosure allows borrowers to compare federal loan rates to the advertised rate (at application) and the actual rate (at approval) offered by a private student lender.

On August 9, 2013, President Obama signed the Bipartisan Student Loan Certainty Act of 2013 into law. As you are aware, pursuant to the Act, federal student loans will continue to have fixed interest rates, but rates on new loans will be reset each year based on a spread above the interest rates of a specified auction of 10-year Treasury notes. This new formula provides for a reduction in rates for federal loans made between July 1, 2013 to June 30, 2014.

This change requires that lenders update three rates located on a single chart that is presented to the borrower at the application/solicitation and approval stages. To assist student loan providers and servicers with changes to their systems, the Bureau posted the expected federal interest rates on our website on August 5, 2013.¹ The Department of Education has also officially posted the new interest rates.²

We appreciate the efforts already undertaken by student loan providers and servicers to ensure borrowers receive accurate information about rates and federal student loan alternatives when considering private student loans. The Bureau has spoken with many in the industry and is encouraged to hear that they anticipated the change and were able to quickly update their systems and processes with minimal delay in originating private student loans.

The Bureau has communicated with industry stakeholders that there would be no liability under TILA for private student lender disclosures of interest rates on federal loans

¹ <http://www.consumerfinance.gov/about/changes-to-federal-student-loan-interest-rates/>

² <http://www.studentaffs.ed.gov>

between July 1 and the date the Bipartisan Student Loan Certainty Act of 2013 became law, provided those disclosures are accurate – that is, reflected the interest rates then in effect – at the time they were made. Lenders would have no legal duty under TILA to update such disclosures to reflect the retroactive change in the interest rates.

Thank you for your support in ensuring that borrowers receive clear and accurate disclosures.

Sincerely,

Richard
Richard Cordray
Director

*I very much appreciate the time you
spent with me during the confirmation process—
Rich*



Consumer Financial
Protection Bureau

1100 G Street, N.W., Washington, DC 20002

August 26, 2013

The Honorable Mike Crapo
United States Senate
239 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Lamar Alexander
United States Senate
435 Dirksen Senate Office Building
Washington, D.C. 20510

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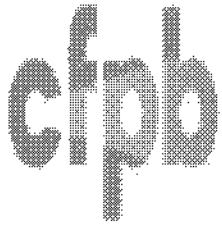
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Thank you for your support in ensuring that borrowers receive clear and accurate disclosures.

Sincerely,

Richard
Richard Cordray
Director

*Happy to meet with you to discuss
data issues anytime you would like -
Rich*



Consumer Financial
Protection Bureau

August 2013

Dear Congresswoman,

We are just undertaking a broad-based effort to promote your splendid idea for Public Service Loan Forgiveness, and have prepared a large toolkit for public employees to use to sign up their employees. We are excited about it, and already have heard some of the very best stories of what this may mean for young teachers, and policemen, and service workers, and many others. Thank you for what you have done here.

We are also grateful to have Michael working with us on this and other student projects.

Hope you are well!

Yours,
Richard



Consumer Financial
Protection Bureau

1700 G Street, N.W. Washington, DC 20547

September 3, 2013

The Honorable Dianne Feinstein
United States Senate
One Post Street
San Francisco, CA 94104

Dear Senator Feinstein:

Thank you for your July 2, 2013 letter requesting information regarding how the Consumer Financial Protection Bureau (Bureau) intends to implement the United States Supreme Court's recent decision striking down Section 3 of the federal Defense of Marriage Act.

On July 17, 2013, the Bureau received guidance from the Office of Personnel Management (OPM) on extending benefits to federal employees and annuitants who have legally married a spouse of the same sex. On July 22, our Office of Human Capital informed all Bureau employees, based on OPM's guidance, of specific benefits available to Bureau employees. OPM will be issuing additional information covering a broader range of topics, such as leave and the Family Medical Leave Act (FMLA), and we will continue to update Bureau employees as OPM provides us with information.

Again, thank you for your interest in the Bureau's efforts to implement any changes necessary in order to carry out the United States Supreme Court's decision to extend the benefits and obligations of marriage to legally married same-sex couples. Our Office of Human Capital will continue to be a resource for employees and to apply any guidance provided by OPM.

Sincerely,

Catherine Galicia
Director, Office of Legislative Affairs

Congress of the United States
Washington, DC 20515

September 3, 2013

The Honorable Jacob J. Lew
Secretary of the Treasury
Department of the Treasury
1500 Pennsylvania Avenue, N.W.
Washington, D.C. 20220

The Honorable Ben S. Bernanke
Chairman
Federal Reserve Board of Governors
20th Street and Constitution Ave, N.W.
Washington, DC 20551

The Honorable Martin J. Gruenberg
Chairman
Federal Deposit Insurance Corporation
550 17th Street, N.W.
Washington, DC 20429

The Honorable Thomas J. Curry
Comptroller of the Currency
Office of the Comptroller of the Currency
400 7th Street, S.W.
Washington, D.C. 20219

The Honorable Richard Cordray
Director
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, D.C. 20552

The Honorable Debbie Matz
Chairman
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314

Dear Secretary Lew, Chairman Bernanke, Chairman Gruenberg, Comptroller Curry, Director Cordray and Chairman Matz:

On August 29, 2013, the Assistant Deputy Attorney General, James Cole issued a memorandum to all United States Attorneys outlining enforcement of the Controlled Substances Act (CSA) in light of recent state ballot initiatives legalizing adult-use marijuana for recreational purposes. We commend the Department of Justice for promulgating this important guidance and for providing clarification to state and local governments who are in the process of implementing strict rules and regulations assuring an effective regulatory regime.

However, the updated Cole memo focuses mainly on prosecutorial discretion and expenditure of federal resources to enforce the CSA. More importantly, the Department's guidance rests on the expectation that jurisdictions who have authorized "marijuana-related conduct will implement strong and effective regulatory and enforcement systems" to protect public safety and public health¹.

The memo alludes to the fact that state and local governments can only have an effective regulatory regime in place if such transactions are operating under "a tightly regulated market in which revenues are tracked and accounted for²."

As you are aware, because marijuana remains illegal as a substance covered under the CSA, financial institutions who provide banking services to licensed marijuana businesses are subject to criminal

¹ Cole, James M. U.S. Department of Justice. Office of the Deputy Attorney General. "Guidance Regarding Marijuana Enforcement." August 29, 2013. Page 2.

² Cole Page 3

prosecution under several covered banking statutes such as "aiding and abetting" a federal crime and money laundering.

The conflict between federal and state law restricts licensed and regulated businesses from accessing the banking system. There is strong evidence banks and credit unions are eliminating certain cash intensive business accounts and prohibiting others from opening accounts thus forcing small businesses to operate cash-only operations. This places our communities at serious risk by increasing the likelihood of crime.

State and local governments identified the inherent conflict between federal and state laws with respect to banking as a major hurdle in implementing effective rules and regulations³. Allowing licensed and regulated businesses to access the banking system will decrease the risks associated with operating a cash-only business and increase public safety.

Therefore, we strongly encourage the federal banking regulators to issue a memorandum providing guidance to regulated banks, credit unions and other financial services providers eliminating any further uncertainty and ensuring state and local governments have access to an effective and safe regulatory regime in place.

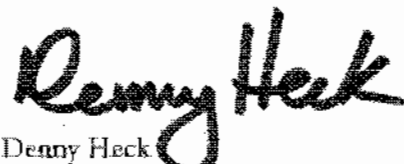
Similar to the Cole memo released by the Department of Justice, we believe federal banking regulators have the discretion and authority under current law to issue guidance to regulated entities allowing licensed businesses operating in states and localities that have enacted laws relating to adult-marijuana use, to appropriately access the banking system if certain safeguards are in place and proper diligence is conducted.

We look forward to working with you on this important issue and hope such guidance is forthcoming shortly.

Sincerely,



Ed Perlmutter
Member of Congress



Denny Heck
Member of Congress

cc: Conference of State Bank Supervisors
The Honorable Jeb Henselling
The Honorable Maxine Waters
The Honorable Shelley Moore-Capito
The Honorable Gregory Meeks

³ Task Force Report on the Implementation of Amendment 64, State of Colorado, March 13, 2013, Page 98



Consumer Financial
Protection Bureau

September 10, 2013

Dear Senator Ayotte,

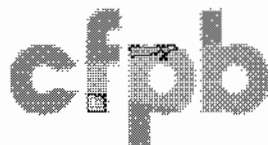
Thank you for supporting the motion to advance my nomination to be the Director of the Consumer Financial Protection Bureau through the confirmation process. I look forward to working with you on consumer financial protection issues that are important to you and your constituents. Please do not hesitate to contact me if I can ever be of assistance to you.

Sincerely,

A handwritten signature in black ink that reads 'Richard'.

Richard Cordray
Director

*Thank you for your support in the process -
we will continue to work to earn your
respect and that of the people of New Hampshire
as well as all Americans -
Rich*



Consumer Financial
Protection Bureau

September 10, 2013

Dear Senator Baldwin,

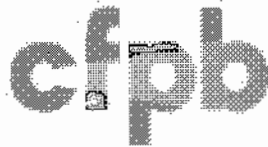
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Sincerely,

A handwritten signature in black ink that reads 'Richard Cordray'.

Richard Cordray
Director

*We will work to make you proud of us.
Rich*



Consumer Financial
Protection Bureau

September 10, 2013

Dear Senator Baucus,

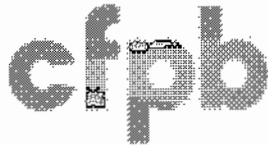
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Sincerely,

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Richard Cordray
Director

*We will work to make you proud of us.
Rich*



Consumer Financial
Protection Bureau

September 10, 2013

Dear Senator Begich,

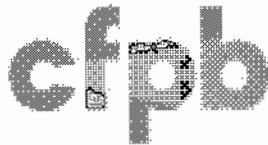
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Sincerely,

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Richard Cordray
Director

*We will work to make you proud of us.
Rich*



Consumer Financial
Protection Bureau

September 10, 2013

Dear Senator Bennet,

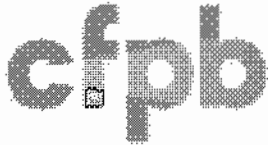
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Sincerely,

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Richard Cordray
Director

*We will work to make you proud of us.
Rich*



Consumer Financial
Protection Bureau

September 10, 2013

Dear Senator Blumenthal,

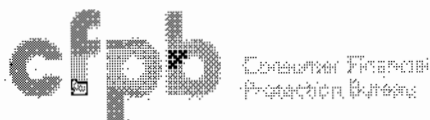
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Sincerely,

A handwritten signature in cursive script, appearing to read 'Richard Cordray'.

Richard Cordray
Director

*We will work to make you proud of us.
Ruh*



September 10, 2013

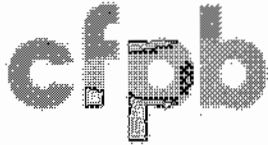
Dear Senator Blunt,

Thank you for supporting the motion to advance my nomination to be the Director of the Consumer Financial Protection Bureau through the confirmation process. I look forward to working with you on consumer financial protection issues that are important to you and your constituents. Please do not hesitate to contact me if I can ever be of assistance to you.

Sincerely,

Richard Cordray
Director

*Thank you for your support in the process —
we will continue to work to earn your
respect and that of the people of Missouri
and all Americans —
Rob*



Consumer Financial
Protection Bureau

September 10, 2013

Dear Senator Boxer,

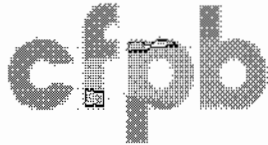
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Richard Cordray
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*We will work to make you proud of us.
Rich*



Consumer Financial
Protection Bureau

September 10, 2013

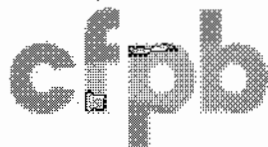
Shirley
Dear Senator Brown,

Thank you for supporting my confirmation to be the Director of the Consumer Financial Protection Bureau. I am grateful for your confidence in me to lead the agency and am honored to have the opportunity to do so. I look forward to working with you on consumer financial protection issues that are important to you and your constituents. Please do not hesitate to contact me if I can ever be of assistance to you.

Sincerely,

Richard
Richard Cordray
Director

*You were a steadfast stalwart for us,
and we will forever be grateful and
will work to make you proud of us.
Rick*



Consumer Financial
Protection Bureau

September 10, 2013

Dear Senator Cantwell,

Thank you for supporting my confirmation to be the Director of the Consumer Financial Protection Bureau. I am grateful for your confidence in me to lead the agency and am honored to have the opportunity to do so. I look forward to working with you on consumer financial protection issues that are important to you and your constituents. Please do not hesitate to contact me if I can ever be of assistance to you.

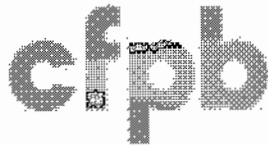
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Richard Cordray
Director

We will work to make you proud of us.

Rich



Consumer Financial
Protection Bureau

September 10, 2013

Dear Senator Cardin,

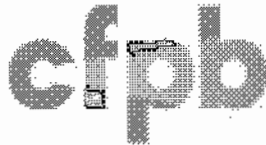
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Consumer Financial
Protection Bureau

September 10, 2013

Dear Senator Carper,

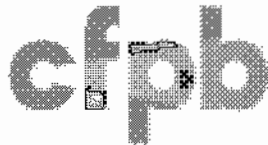
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Richard Cordray
Director

*We will work to make you proud of us.
Rick*



Consumer Financial
Protection Bureau

September 10, 2013

Dear Senator Casey,

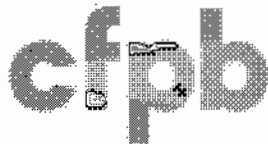
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Sincerely,

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Richard Cordray
Director

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Rich*



Consumer Financial
Protection Bureau

September 10, 2013

Dear Senator Chambliss,

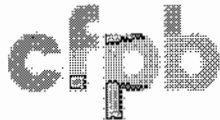
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Sincerely,

A handwritten signature in black ink that reads "Richard".

Richard Cordray
Director

I am grateful for your support, and we will continue to work to earn the respect of you, the people of Georgia, and all Americans — Rich



Consumer Financial
Protection Bureau

September 10, 2013

Dear Senator Coats,

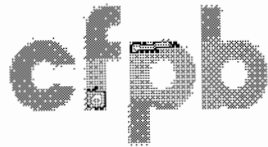
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Sincerely,

Richard Cordray
Director

*Thank you for your support in the process -
we will continue to work to earn your
respect and that of the people of Indiana
as well as all Americans*

Rich



Consumer Financial
Protection Bureau

September 10, 2013

Dear Senator Coburn,

Thank you for supporting my confirmation to be the Director of the Consumer Financial Protection Bureau. I am grateful for your confidence in me to lead the agency and am honored to have the opportunity to do so. I look forward to working with you on consumer financial protection issues that are important to you and your constituents. Please do not hesitate to contact me if I can ever be of assistance to you.

Sincerely,

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Richard Cordray
Director

*I am grateful for your support, and we will
continue to work to earn the respect of
you, the people of Oklahoma, and all
Americans - Rich*



Consumer Financial
Protection Bureau

September 10, 2013

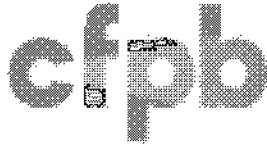
Dear Senator Collins,

Thank you for supporting the motion to advance my nomination to be the Director of the Consumer Financial Protection Bureau through the confirmation process. I look forward to working with you on consumer financial protection issues that are important to you and your constituents. Please do not hesitate to contact me if I can ever be of assistance to you.

Sincerely,


Richard Cordray
Director

*I am grateful for your support, and we
will continue to work to earn the respect
of you, the people of Maine, and all Americans -
Rerb*



Consumer Financial
Protection Bureau

September 10, 2013

Dear Senator Coons,

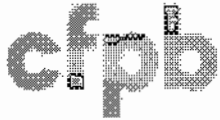
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Sincerely,

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Richard Cordray
Director

We will work to make you proud of us.
Rich



Consumer Financial
Protection Bureau

September 10, 2013

Dear Senator Corker,

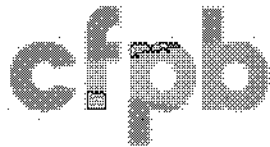
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Sincerely,

Richard

Richard Cordray
Director

*I am especially grateful for your help and support in making this happen, and we will continue to work to earn the respect of you, the people of Tennessee, and all Americans—
Rich*



Consumer Financial
Protection Bureau

September 10, 2013

Dear Senator Donnelly,

Thank you for supporting my confirmation to be the Director of the Consumer Financial Protection Bureau. I am grateful for your confidence in me to lead the agency and am honored to have the opportunity to do so. I look forward to working with you on consumer financial protection issues that are important to you and your constituents. Please do not hesitate to contact me if I can ever be of assistance to you.

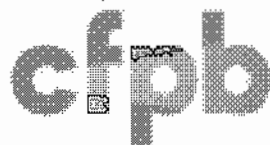
Sincerely,

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Richard Cordray
Director

We will work to make you proud of us.

A handwritten signature in black ink that reads 'Rich'.



Consumer Financial
Protection Bureau

September 10, 2013

Dear Senator Durbin,

Thank you for supporting my confirmation to be the Director of the Consumer Financial Protection Bureau. I am grateful for your confidence in me to lead the agency and am honored to have the opportunity to do so. I look forward to working with you on consumer financial protection issues that are important to you and your constituents. Please do not hesitate to contact me if I can ever be of assistance to you.

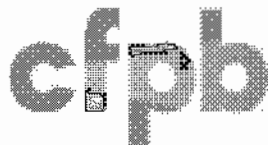
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Richard Cordray
Director

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Consumer Financial
Protection Bureau

September 10, 2013

Dear Senator Feinstein,

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Director

*We will work to make you proud of us.
Rich*



Consumer Financial
Protection Bureau

September 10, 2013

Dear Senator Flake,

Thank you for supporting my confirmation to be the Director of the Consumer Financial Protection Bureau. I am grateful for your confidence in me to lead the agency and am honored to have the opportunity to do so. I look forward to working with you on consumer financial protection issues that are important to you and your constituents. Please do not hesitate to contact me if I can ever be of assistance to you.

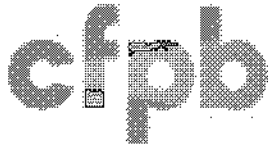
Sincerely,

A handwritten signature in black ink that reads 'Richard Cordray'.

Richard Cordray
Director

*I am grateful for your support, and we will
continue to work to earn the respect of you,
the people of Arizona, and all Americans -*

Rich



Consumer Financial
Protection Bureau

September 10, 2013

Dear Senator Franken,

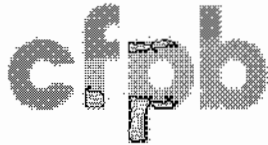
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Sincerely,

A handwritten signature in black ink that reads "Richard Cordray".

Richard Cordray
Director

We will work to make you proud of us.
Rich



Consumer Financial
Protection Bureau

September 10, 2013

Dear Senator Gillibrand,

Thank you for supporting my confirmation to be the Director of the Consumer Financial Protection Bureau. I am grateful for your confidence in me to lead the agency and am honored to have the opportunity to do so. I look forward to working with you on consumer financial protection issues that are important to you and your constituents. Please do not hesitate to contact me if I can ever be of assistance to you.

Sincerely,

A handwritten signature in black ink that reads 'Richard Cordray'.

Richard Cordray
Director

We will work to make you proud of us.
Rich



September 10, 2013

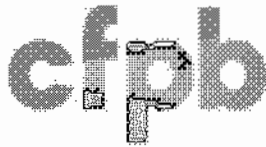
Dear Senator Graham,

Thank you for supporting my confirmation to be the Director of the Consumer Financial Protection Bureau. I am grateful for your confidence in me to lead the agency and am honored to have the opportunity to do so. I look forward to working with you on consumer financial protection issues that are important to you and your constituents. Please do not hesitate to contact me if I can ever be of assistance to you.

Sincerely,

Richard
Richard Cordray
Director

*I am grateful for your support, and we will
continue to work to earn the respect of you,
the people of South Carolina, and all Americans—
Rich*



Consumer Financial
Protection Bureau

September 10, 2013

Dear Senator Hagan,

Thank you for supporting my confirmation to be the Director of the Consumer Financial Protection Bureau. I am grateful for your confidence in me to lead the agency and am honored to have the opportunity to do so. I look forward to working with you on consumer financial protection issues that are important to you and your constituents. Please do not hesitate to contact me if I can ever be of assistance to you.

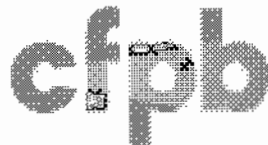
Sincerely,

A handwritten signature in dark ink that reads 'Richard Cordray'.

Richard Cordray
Director

*We will work to make you proud of us.
Rick*

*P.S. I saw Joyce Bartchick of your staff at
the Baptist Ministers Convention, where she
was on top of things. RC*



Consumer Financial
Protection Bureau

September 10, 2013

Dear Senator Harkin,

Thank you for supporting my confirmation to be the Director of the Consumer Financial Protection Bureau. I am grateful for your confidence in me to lead the agency and am honored to have the opportunity to do so. I look forward to working with you on consumer financial protection issues that are important to you and your constituents. Please do not hesitate to contact me if I can ever be of assistance to you.

Sincerely,

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Richard Cordray
Director

We will work to make you proud of us.
Rich



September 10, 2013

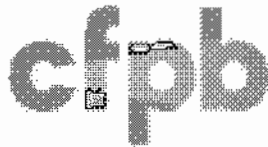
Dear Senator Hatch,

Thank you for supporting my confirmation to be the Director of the Consumer Financial Protection Bureau. I am grateful for your confidence in me to lead the agency and am honored to have the opportunity to do so. I look forward to working with you on consumer financial protection issues that are important to you and your constituents. Please do not hesitate to contact me if I can ever be of assistance to you.

Sincerely,

Richard Cordray
Director

*I am grateful for your support, and we will continue to work to earn the respect of you, the people of Utah, and all Americans—
Rich*



Consumer Financial
Protection Bureau

September 10, 2013

Dear Senator Heinrich,

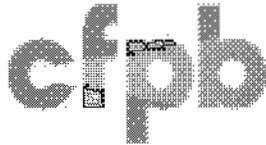
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Sincerely,

A handwritten signature in black ink that reads "Richard Cordray".

Richard Cordray
Director

*We will work to make you proud of us.
Rich*



Consumer Financial
Protection Bureau

September 10, 2013

Dear Senator Heitkamp,

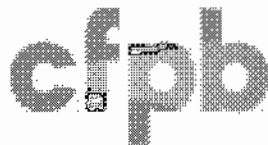
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Sincerely,

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Richard Cordray
Director

We will work to make you proud of us.
Rich



Consumer Financial
Protection Bureau

September 10, 2013

Dear Senator Hirono,

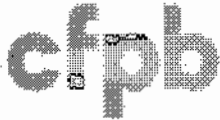
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Sincerely,

A handwritten signature in black ink that reads "Richard Cordray".

Richard Cordray
Director

*We will work to make you proud of us.
Rich*



Consumer Financial
Protection Bureau

September 10, 2013

Dear Senator Hoeven,

Thank you for supporting the motion to advance my nomination to be the Director of the Consumer Financial Protection Bureau through the confirmation process. I look forward to working with you on consumer financial protection issues that are important to you and your constituents. Please do not hesitate to contact me if I can ever be of assistance to you.

Sincerely,

A handwritten signature in black ink that reads 'Richard Cordray'.

Richard Cordray
Director

*Thank you for your support in the process —
we will continue to work to earn your
respect and that of the people of North Dakota
as well as all Americans —*

Rush



September 10, 2013

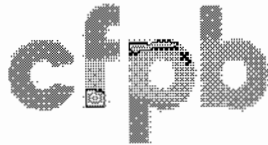
Dear Senator Isakson,

Thank you for supporting my confirmation to be the Director of the Consumer Financial Protection Bureau. I am grateful for your confidence in me to lead the agency and am honored to have the opportunity to do so. I look forward to working with you on consumer financial protection issues that are important to you and your constituents. Please do not hesitate to contact me if I can ever be of assistance to you.

Sincerely,

Richard Cordray
Richard Cordray
Director

I am grateful for your support, and will always remember our great discussion of the new mortgage rules. We will continue to work to earn the respect of you, the people of Georgia, and all Americans - Rich



Consumer Financial
Protection Bureau

September 10, 2013

Dear Senator Johanns,

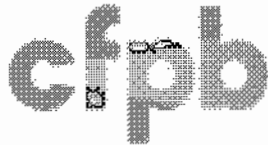
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Sincerely,

A handwritten signature in black ink that reads "Richard Cordray".

Richard Cordray
Director

*Thank you for your support in the process -
I have always appreciated your direct contact.
We will continue to work to ease your respect
and that of the people of Alaska as well
as all Americans - Rich*



Consumer Financial
Protection Bureau

September 10, 2013

Dear Chairman Johnson,

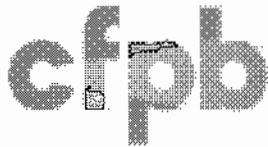
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Sincerely,

A handwritten signature in black ink that reads 'Richard Cordray'.

Richard Cordray
Director

*I will forever be grateful for your
steadfast support, and we will be
working to make you proud of us.
Rub*



Consumer Financial
Protection Bureau

September 10, 2013

Dear Senator Kaine,

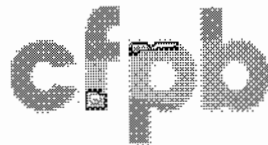
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Sincerely,

A handwritten signature in black ink that reads "Richard Cordray". The signature is written in a cursive, slightly slanted style.

Richard Cordray
Director

*We will work to make you proud of us.
Rich*



Consumer Financial
Protection Bureau

September 10, 2013

Dear Senator King,

Thank you for supporting my confirmation to be the Director of the Consumer Financial Protection Bureau. I am grateful for your confidence in me to lead the agency and am honored to have the opportunity to do so. I look forward to working with you on consumer financial protection issues that are important to you and your constituents. Please do not hesitate to contact me if I can ever be of assistance to you.

Sincerely,

A handwritten signature in black ink that reads 'Richard Cordray'.

Richard Cordray
Director

We will work to make you proud of us.
Rich



Consumer Financial
Protection Bureau

September 10, 2013

Dear Senator Kirk,

Thank you for supporting the motion to advance my nomination to be the Director of the Consumer Financial Protection Bureau through the confirmation process. I look forward to working with you on consumer financial protection issues that are important to you and your constituents. Please do not hesitate to contact me if I can ever be of assistance to you.

Sincerely,

Richard Cordray
Director

*Thank you for your support in the process -
we will continue to work to earn your
respect and trust of the people of Illinois
as well as all Americans -*

Rich



Consumer Financial
Protection Bureau

September 10, 2013

Dear Senator Klobuchar,

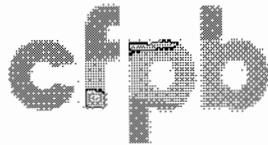
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Sincerely,

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Richard Cordray
Director

*Hi old friend! We will work to make
you proud of us.
Rich*



Consumer Financial
Protection Bureau

September 10, 2013

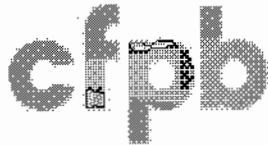
Dear Senator Landrieu,

Thank you for supporting my confirmation to be the Director of the Consumer Financial Protection Bureau. I am grateful for your confidence in me to lead the agency and am honored to have the opportunity to do so. I look forward to working with you on consumer financial protection issues that are important to you and your constituents. Please do not hesitate to contact me if I can ever be of assistance to you.

Sincerely,

Richard
Richard Cordray
Director

*We will work to make you proud of us.
Hello to my old friend Jane!
Rich*



Consumer Financial
Protection Bureau

September 10, 2013

Dear Senator Leahy,

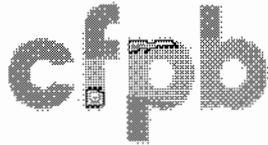
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Sincerely,

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Richard Cordray
Director

We will work to make you proud of us.
Rich



Consumer Financial
Protection Bureau

September 10, 2013

Dear Senator Levin,

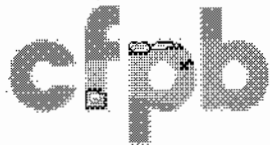
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Sincerely,

A handwritten signature in black ink, appearing to read 'Richard Cordray'.

Richard Cordray
Director

*We will work to make you proud of us.
Rueh*



Consumer Financial
Protection Bureau

September 10, 2013

Dear Senator Manchin,

Thank you for supporting my confirmation to be the Director of the Consumer Financial Protection Bureau. I am grateful for your confidence in me to lead the agency and am honored to have the opportunity to do so. I look forward to working with you on consumer financial protection issues that are important to you and your constituents. Please do not hesitate to contact me if I can ever be of assistance to you.

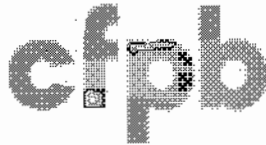
Sincerely,

A handwritten signature in black ink that reads "Richard Cordray".

Richard Cordray
Director

We will work to make you proud of us.

A handwritten signature in black ink that reads "Rich".



Consumer Financial
Protection Bureau

September 10, 2013

Dear Senator Markey,

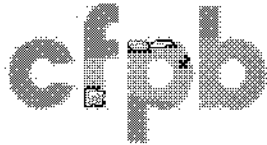
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Sincerely,

A handwritten signature in black ink that reads "Richard Cordray".

Richard Cordray
Director

We will work to make you proud of us.
Rich



Consumer Financial
Protection Bureau

September 10, 2013

Dear Senator McCain,

Thank you for supporting my confirmation to be the Director of the Consumer Financial Protection Bureau. I am grateful for your confidence in me to lead the agency and am honored to have the opportunity to do so. I look forward to working with you on consumer financial protection issues that are important to you and your constituents. Please do not hesitate to contact me if I can ever be of assistance to you.

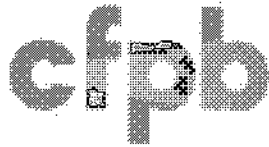
Sincerely,

A handwritten signature in black ink that reads "Richard".

Richard Cordray
Director

I am grateful for what I understand were your strenuous efforts to make this happen consistent with Senate traditions. We will continue to work to earn the respect of you, the people of Arizona, and all Americans—

Rich



Consumer Financial
Protection Bureau

September 10, 2013

Dear Senator McCaskill,

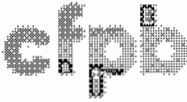
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Sincerely,

A handwritten signature in cursive script that reads "Richard Cordray".

Richard Cordray
Director

We will work to make you proud of us.
Rick



Consumer Financial
Protection Bureau

1700 G Street, N.W., Washington, DC 20552

September 9, 2013

The Honorable Patrick McHenry
U.S. House of Representatives
2129 Rayburn House Office Building
Washington, DC 20515

Dear Representative McHenry,

Thank you for your letter requesting that the Consumer Financial Protection Bureau (Bureau) create an Advisory Board made up of non-bank lenders, including payday lenders. The Bureau shares your commitment to ensuring that its work is informed by a wide variety of external stakeholders reflecting diverse perspectives, including those of nonbanks.

For that reason, the Bureau made certain to include nonbanks on the Bureau's Consumer Advisory Board (CAB). Our CAB's membership includes representation from both depository and a variety of nonbank financial institutions, with almost one-third of the current membership of the CAB representing the nonbank financial services industry. The Bureau anticipates that nominations to replace current time-limited members of the CAB will begin in early 2014.

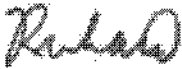
In addition, the Bureau regularly meets with nonbank providers of financial products and services of all kinds to receive their input and feedback on our work. We recently established the Office of Financial Institutions and Business Liaison, to provide representatives of both bank and nonbank entities with a single point of contact and to help coordinate the Bureau's engagements with the private sector.

The Bureau believes that collaboration and dialogue with all stakeholders, including industry partners, is critical in the development of well-balanced public policy. The Bureau continually interacts with small dollar lending institutions and their trade organizations. In fact, the Bureau routinely meets with the Community Financial Services Association (CFSA), Financial Service Centers of America (FISCA), and their members. The CFSA has met with Bureau staff over 30 times since spring of 2011.

As this dialogue continues, it would be beneficial to all parties involved if participants in the market would share their insight and data to help provide a well-rounded and thorough analysis of the market place. The Bureau encourages and welcomes continued and fulsome discussions.

As you noted, the success of our efforts to make financial markets work better for consumers depends on thorough, transparent, and data-driven processes that respond to consumer credit needs. We will continue to work to ensure that we incorporate the views and perspectives of nonbanks in those processes. Thank you for your continuing interest in the Bureau's work.

Sincerely,

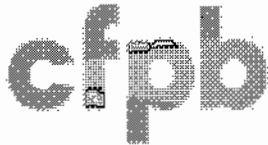


Richard Cordray
Director

We continue to make ourselves very accessible to all points of view and find it helpful to our work - Rich

But we can only have so many councils to be practical, and nonbank lenders span really different markets with little connection to one another.

cc: The Honorable Gary Miller, Member of Congress
The Honorable Steve Stivers, Member of Congress
The Honorable Peter King, Member of Congress
The Honorable Spencer Bachus, Member of Congress
The Honorable Ed Royce, Member of Congress
The Honorable Scott Garrett, Member of Congress
The Honorable Lynn Westmoreland, Member of Congress
The Honorable Randy Neugebauer, Member of Congress
The Honorable Blaine Luetkemeyer, Member of Congress
The Honorable Michele Bachman, Member of Congress
The Honorable Bill Huizenga, Member of Congress
The Honorable Kevin McCarthy, Member of Congress
The Honorable Sean Duffy, Member of Congress
The Honorable Steve Pearce, Member of Congress
The Honorable Robert Hurt, Member of Congress
The Honorable Mike Fitzpatrick, Member of Congress
The Honorable Michael Grimm, Member of Congress
The Honorable Bill Posey, Member of Congress
The Honorable Stephen Fincher, Member of Congress
The Honorable Marlin Stutzman, Member of Congress
The Honorable Ann Wagner, Member of Congress
The Honorable Mich Mulvaney, Member of Congress
The Honorable Andy Barr, Member of Congress
The Honorable Randy Hultgren, Member of Congress
The Honorable Thomas Cotton, Member of Congress
The Honorable Dennis Ross, Member of Congress



Consumer Financial
Protection Bureau

September 10, 2013

Dear Senator Menendez,

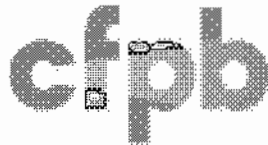
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Sincerely,

A handwritten signature in black ink that reads 'Richard Cordray'.

Richard Cordray
Director

We will work to make you proud of us.
Rich



Consumer Financial
Protection Bureau

September 10, 2013

Dear Senator Merkley,

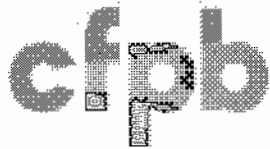
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Sincerely,

A handwritten signature in black ink that reads 'Richard'.

Richard Cordray
Director

*I am very grateful to you for your
hard and steady push on this - and
we will work to make you proud of us.
Rah*



Consumer Financial
Protection Bureau

September 10, 2013

Dear Senator Mikulski,

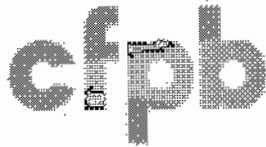
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Sincerely,

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Richard Cordray
Director

We will work to make you proud of us.
Rich



Consumer Financial
Protection Bureau

September 10, 2013

Dear Senator Murkowski,

Thank you for supporting my confirmation to be the Director of the Consumer Financial Protection Bureau. I am grateful for your confidence in me to lead the agency and am honored to have the opportunity to do so. I look forward to working with you on consumer financial protection issues that are important to you and your constituents. Please do not hesitate to contact me if I can ever be of assistance to you.

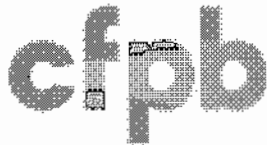
Sincerely,

A handwritten signature in black ink that reads "Richard".

Richard Cordray
Director

*I am grateful for your support, and we will
continue to work to earn the respect of you,
the people of Alaska, and all Americans -*

Rich



Consumer Financial
Protection Bureau

September 10, 2013

Dear Senator Murphy,

Thank you for supporting my confirmation to be the Director of the Consumer Financial Protection Bureau. I am grateful for your confidence in me to lead the agency and am honored to have the opportunity to do so. I look forward to working with you on consumer financial protection issues that are important to you and your constituents. Please do not hesitate to contact me if I can ever be of assistance to you.

Sincerely,

A handwritten signature in black ink that reads 'Richard'.

Richard Cordray
Director

We will work to make you proud of us.
Rich



Consumer Financial
Protection Bureau

1700 G Street, N.W., Washington, DC 20552

September 6, 2013

The Honorable Patrick E. Murphy
U.S. House of Representatives
1517 Longworth House Office Building
Washington, D.C. 20515

Dear Representative Murphy:

Thank you for your letter about issues facing small lenders. I appreciate your recognition of the work that the Consumer Financial Protection Bureau (Bureau) is engaged in to protect consumers and share your concern about the critical role of small lenders throughout the financial system.

The Bureau agrees that small lenders play an essential role in the mortgage market and in communities across the United States. We recognize that, with few exceptions, community banks and credit unions did not engage in the type of risky lending that led to the mortgage crisis. Indeed for many of the reasons you suggest, the Bureau believes that small lenders are particularly well suited to originate responsible mortgage credit. At the same time, we share your concern that these institutions may be more likely to retreat from the mortgage market if the regulations implementing the Dodd-Frank Wall Street Reform and Consumer Protection Act are too burdensome, which could restrict access to credit for some borrowers. For this reason, the Bureau has tailored the Ability-to-Repay rule and the standards for qualified mortgages (QMs) to encourage small creditors to continue providing certain credit products, while carefully balancing consumer protections.

To address concerns such as those you raised about the possibility that small lenders would not make portfolio loans that were not QMs, the Bureau created a QM provision specifically for small creditor portfolio loans. Under that provision, portfolio loans made by small creditors generally qualify to be QMs—even if the 43 percent debt-to-income ratio is exceeded—as long as the creditor considered debt-to-income or residual income before making the loan, and as long as the loan meets the other requirements for qualified mortgages (including the prohibitions on risky product features).

In addition, as you noted, the Bureau has provided a two year transition period, during which balloon loans made by small creditors and held in portfolio will be treated as QMs regardless of where the creditor predominantly operates. This decision will allow time for the Bureau to review whether its definitions of “rural” and “underserved” should be adjusted. As Director, I am committed to conducting such a review to ensure that the Bureau’s definitions accurately reflect significant differences among geographic areas, to calibrate access to credit concerns, and to facilitate implementation.

More broadly with respect to loans that are not made by small lenders, the Bureau did not intend to stigmatize loans that fall outside the clear boundaries the Bureau has set for qualified

mortgages or to signal that responsible lending can or should take place only within the qualified mortgage space. Quite the contrary, the Ability-to-Repay Rule makes clear that the Bureau expects over time to see markets develop for non-qualified mortgages.

As you know, the Bureau is committed to incorporating the perspectives of all stakeholders into our policy-making process. We recently created the Office of Financial Institutions and Business Liaison, whose focus is to work directly with industry participants including community banks and credit unions. They meet regularly with industry stakeholders and trade groups in order to ensure that their views are heard.

Engaging with these stakeholders, to help them achieve effective and efficient implementation of the mortgage rules, is paramount to our mission of protecting consumers. It is in everyone's interest, including consumers, for the mortgage industry to understand these rules and to implement them in a workable manner. We intend these efforts to be especially helpful to smaller institutions where regulatory burden weighs more heavily on fewer employees.

To this end, we have embarked on an implementation plan to prepare mortgage businesses for the rules that take effect next January. We have published plain-English summaries that we will update as necessary. We have also launched a series of videos explaining our rules. We are trying to make our rules more understandable and more user-friendly – setting out what lenders need to know and what they need to do in order to comply.¹

Lastly, in regards to your concerns about the examination process for small lenders, the Bureau generally does not supervise depository institutions or credit unions with total assets of \$10 billion or less. While the Bureau does have authority to supervise nonbank mortgage originators, regardless of size, our supervision is implemented on a risk-based approach. The Bureau is working with fellow regulators to help ensure consistency in our examinations of mortgage lenders under the new rules and to clarify issues as needed. In addition, we will be publishing our common examination guidelines and standards well in advance of the effective date of the rules, so that institutions will know what to expect.

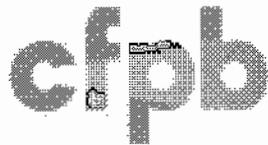
Thank you again for taking the time to share your concerns with me and for your continuing interest in the Bureau's work.

Sincerely,


Richard Cordray
Director

Let us know if you need or want anything further - Rich

¹ See <http://www.consumerfinance.gov/regulatory-implementation/>



Consumer Financial
Protection Bureau

September 10, 2013

Dear Senator Murray,

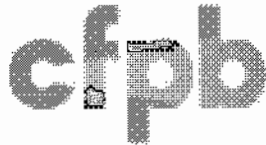
Thank you for supporting my confirmation to be the Director of the Consumer Financial Protection Bureau. I am grateful for your confidence in me to lead the agency and am honored to have the opportunity to do so. I look forward to working with you on consumer financial protection issues that are important to you and your constituents. Please do not hesitate to contact me if I can ever be of assistance to you.

Sincerely,

A handwritten signature in black ink that reads 'Richard Cordray'.

Richard Cordray
Director

*We will work to make you proud of us.
Rah*



Consumer Financial
Protection Bureau

September 10, 2013

Dear Senator Nelson,

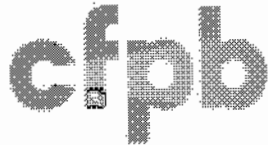
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Sincerely,

A handwritten signature in black ink that reads "Richard Cordray".

Richard Cordray
Director

*We will work to make you proud of us.
Rich*



Consumer Financial
Protection Bureau

September 10, 2013

Dear Senator Portman,

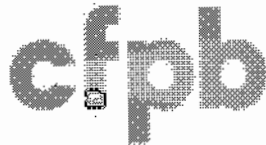
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Sincerely,

A handwritten signature in black ink that reads "Richard".

Richard Cordray
Director

You made a real difference to cause this to happen, and I am grateful. We will continue to work to earn your respect and that of all Americans. Rich



Consumer Financial
Protection Bureau

September 10, 2013

Dear Senator Pryor,

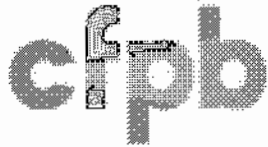
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Sincerely,

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Richard Cordray
Director

We will work to make you proud of us
Rich



Consumer Financial
Protection Bureau

September 10, 2013

Dear Senator Reed,

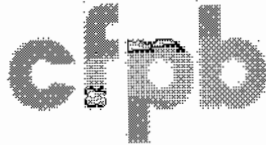
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Sincerely,

Richard Cordray
Richard Cordray
Director

We will work to make you proud of us.

P.S. As we are doing right now on M.L.A.
Reed
Re



Consumer Financial
Protection Bureau

September 10, 2013

Dear Majority Leader Reid,

Thank you for supporting my confirmation to be the Director of the Consumer Financial Protection Bureau. I am grateful for your confidence in me to lead the agency and am honored to have the opportunity to do so. I look forward to working with you on consumer financial protection issues that are important to you and your constituents. Please do not hesitate to contact me if I can ever be of assistance to you.

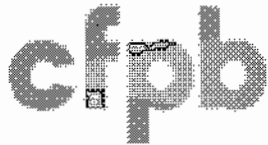
Sincerely,

A handwritten signature in black ink that reads 'Richard Cordray'.

Richard Cordray
Director

I will forever be grateful to you for making this happen, and we will work to make you proud of us.

Rich



Consumer Financial
Protection Bureau

September 10, 2013

Dear Senator Rockefeller,

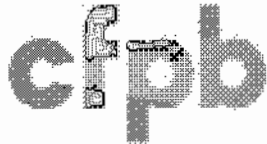
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Sincerely,

A handwritten signature in black ink that reads "Richard Cordray".

Richard Cordray
Director

We will work to make you proud of us.
Rich



Consumer Financial
Protection Bureau

September 10, 2013

Dear Senator Sanders,

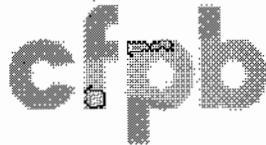
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Sincerely,

A handwritten signature in black ink that reads "Richard Cordray".

Richard Cordray
Director

We will work to make you proud of us.
Rich



Consumer Financial
Protection Bureau

September 10, 2013

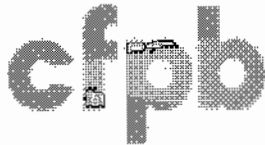
Dear Senator Schatz,

Thank you for supporting my confirmation to be the Director of the Consumer Financial Protection Bureau. I am grateful for your confidence in me to lead the agency and am honored to have the opportunity to do so. I look forward to working with you on consumer financial protection issues that are important to you and your constituents. Please do not hesitate to contact me if I can ever be of assistance to you.

Sincerely,

Richard
Richard Cordray
Director

*We will work to make you proud of us.
Rah*



Consumer Financial
Protection Bureau

September 10, 2013

Dear Senator Schumer,

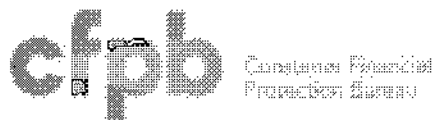
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Sincerely,

A handwritten signature in black ink that reads 'Richard Cordray'.

Richard Cordray
Director

*I am grateful for how you and the
leadership made this happen - we will
work to make you proud of us.
Rich*



September 10, 2013

Dear Senator Shaheen,

Thank you for supporting my confirmation to be the Director of the Consumer Financial Protection Bureau. I am grateful for your confidence in me to lead the agency and am honored to have the opportunity to do so. I look forward to working with you on consumer financial protection issues that are important to you and your constituents. Please do not hesitate to contact me if I can ever be of assistance to you.

Sincerely,

A handwritten signature in black ink that reads "Richard Cordray".

Richard Cordray
Director


*We only work to make you proud of us.
Rah*

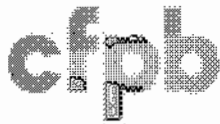


September 10, 2013

Dear Senator Stabenow,

Thank you for supporting my confirmation to be the Director of the Consumer Financial Protection Bureau. I am grateful for your confidence in me to lead the agency and am honored to have the opportunity to do so. I look forward to working with you on consumer financial protection issues that are important to you and your constituents. Please do not hesitate to contact me if I can ever be of assistance to you.

Sincerely, *We will work to make you proud of us.*
Rich

Richard Cordray
Director



Consumer Financial
Protection Bureau

September 10, 2013

Dear Senator Tester,

Thank you for supporting my confirmation to be the Director of the Consumer Financial Protection Bureau. I am grateful for your confidence in me to lead the agency and am honored to have the opportunity to do so. I look forward to working with you on consumer financial protection issues that are important to you and your constituents. Please do not hesitate to contact me if I can ever be of assistance to you.

Sincerely,

A handwritten signature in black ink that reads "Richard Cordray".

Richard Cordray
Director

*We will work to make you proud of us.
Rush*



Consumer Financial
Protection Bureau

September 10, 2013

Dear Senator Udall,

Thank you for supporting my confirmation to be the Director of the Consumer Financial Protection Bureau. I am grateful for your confidence in me to lead the agency and am honored to have the opportunity to do so. I look forward to working with you on consumer financial protection issues that are important to you and your constituents. Please do not hesitate to contact me if I can ever be of assistance to you.

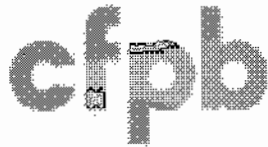
Sincerely,

A handwritten signature in black ink that reads 'Richard Cordray'.

Richard Cordray
Director

We will work to make you proud of us.

Rich



Consumer Financial
Protection Bureau

September 10, 2013

Dear Senator Warner,

Thank you for supporting my confirmation to be the Director of the Consumer Financial Protection Bureau. I am grateful for your confidence in me to lead the agency and am honored to have the opportunity to do so. I look forward to working with you on consumer financial protection issues that are important to you and your constituents. Please do not hesitate to contact me if I can ever be of assistance to you.

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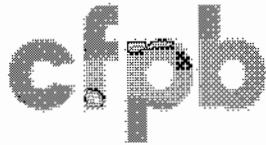
A handwritten signature in black ink that reads 'Richard Cordray'.

Richard Cordray
Director

We will work to make you proud of us.

Rich

P.S. I am especially grateful for all your help to make this happen. RC



Consumer Financial
Protection Bureau

September 10, 2013

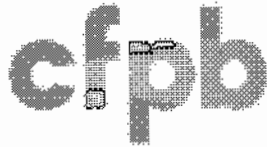
Dear Senator Warren,

Thank you for supporting my confirmation to be the Director of the Consumer Financial Protection Bureau. I am grateful for your confidence in me to lead the agency and am honored to have the opportunity to do so. I look forward to working with you on consumer financial protection issues that are important to you and your constituents. Please do not hesitate to contact me if I can ever be of assistance to you.

Sincerely,

Richard Cordray
Director

Hip, hip, hooray! I know this would not have happened were you not here now. On that and many other fronts, I can be very grateful and our primary goal will be to do work you will be proud of.
Rich



Consumer Financial
Protection Bureau

September 10, 2013

Dear Senator Whitehouse,

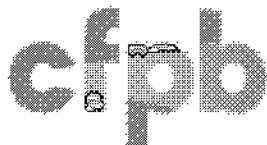
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Sincerely,

A handwritten signature in black ink that reads "Richard".

Richard Cordray
Director

We will work to make you proud of us.
Rich



Consumer Financial
Protection Bureau

September 10, 2013

Dear Senator Wicker,

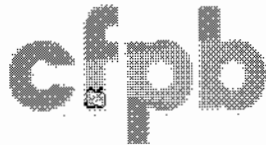
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Sincerely,

A handwritten signature in black ink that reads 'Richard Cordray'.

Richard Cordray
Director

*I am grateful for your support, and we will
continue to work to earn the respect of you,
the people of Mississippi, and all Americans.
Rich*



Consumer Financial
Protection Bureau

September 10, 2013

Dear Senator Wyden,

Thank you for supporting my confirmation to be the Director of the Consumer Financial Protection Bureau. I am grateful for your confidence in me to lead the agency and am honored to have the opportunity to do so. I look forward to working with you on consumer financial protection issues that are important to you and your constituents. Please do not hesitate to contact me if I can ever be of assistance to you.

Sincerely,

A handwritten signature in black ink that reads 'Richard Cordray'.

Richard Cordray
Director

We will work to make you proud of us.

Rich



Consumer Financial
Protection Bureau

1700 E Street, N.W., Washington, DC 20562

September 9, 2013

The Honorable Steve Stivers
U.S. House of Representatives
118 Cannon House Office Building
Washington, DC 20515

Dear Representative Stivers,

Thank you for your recent letter concerning small-dollar lending in Ohio and encouraging the Consumer Financial Protection Bureau (Bureau) to establish a small dollar credit advisory council.

The Bureau shares your commitment to ensuring that its work is informed by a wide variety of external stakeholders reflecting diverse perspectives, including those of nonbanks. For that reason, the Bureau made certain to include nonbanks on the Bureau's Consumer Advisory Board (CAB). Our CAB's membership includes representation from both depository and a variety of nonbank financial institutions, with almost one-third of the current membership of the CAB representing the nonbank financial services industry. The Bureau anticipates that nominations to replace current time-limited members of the CAB will begin in early 2014.

In addition, the Bureau regularly meets with nonbank providers of financial products and services of all kinds to receive their input and feedback on our work. We recently established the Office of Financial Institutions and Business Liaison, to provide representatives of both bank and nonbank entities with a single point of contact and to help coordinate the Bureau's engagements with the private sector.

The Bureau believes that collaboration and dialogue with all stakeholders, including industry partners, is critical in the development of well-balanced public policy. The Bureau continually interacts with small dollar lending institutions and their trade organizations. In fact, the Bureau routinely meets with the Community Financial Services Association (CFSA), Financial Service Centers of America (FISCA), and their members. The CFSA has met with Bureau staff over 30 times since spring of 2011.

The Bureau also values the expertise and historical perspective of state regulators. On May 21, 2013, the Bureau announced an expanded effort to coordinate with state bank and nonbank regulators through a supervisory coordination framework to maximize resources, better protect consumers, and reduce burden on supervised entities. The framework establishes a process for coordinated federal/state consumer protection

supervision and enforcement of entities providing consumer financial products or services that are subject to concurrent jurisdiction of the Bureau and one or more state regulators.

As this dialogue continues, it would be beneficial to all parties involved if participants in the market would share their insight and data to help provide a well-rounded and thorough analysis of the market place. The Bureau encourages and welcomes continued and fulsome discussions.

As you noted, the success of our efforts to make financial markets work better for consumers depends on thorough, transparent, and data-driven processes that respond to consumer credit needs. We will continue to work to ensure that we incorporate the views and perspectives of nonbanks in those processes. Thank you for your continuing interest in the Bureau's work.

Sincerely,

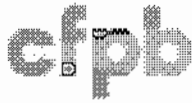


Richard Cordray
Director

The markets we cover are so diverse - mortgages, credit card, student loan, auto loan, deposits, debt collection, small dollar lending, credit reporting - that we would have too many comments to be practical of us to do that approach -

Rich

- cc: The Honorable Bob Latta, Member of Congress
The Honorable Patrick J. Tiberi, Member of Congress
The Honorable Bill Johnson, Member of Congress
The Honorable Michael Turner, Member of Congress
The Honorable Jim Renacci, Member of Congress
The Honorable Bob Gibbs, Member of Congress
The Honorable David Joyce, Member of Congress
The Honorable Brad Wenstrup, Member of Congress
The Honorable Steve Chabot, Member of Congress
The Honorable Jim Jordan, Member of Congress



Consumer Financial
Protection Bureau

1700 G Street, N.W., Washington, DC 20552

September 9, 2013

The Honorable Steve Stivers
U.S. House of Representatives
118 Cannon House Office Building
Washington, DC 20515

Dear Representative ^{Stivers} Stivers,

Thank you for your recent letter concerning small-dollar lending in Ohio and encouraging the Consumer Financial Protection Bureau (Bureau) to establish a small dollar credit advisory council.

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Sincerely,



Richard Cordray
Director

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The Honorable Patrick J. Tiberi, Member of Congress
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The Honorable David Joyce, Member of Congress
The Honorable Brad Wenstrup, Member of Congress
The Honorable Steve Chabot, Member of Congress
The Honorable Jim Jordan, Member of Congress



Consumer Financial
Protection Bureau

1700 G Street, N.W., Washington, DC 20562

September 12, 2013

The Honorable Richard Blumenthal
United States Senate
724 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Charles E. Schumer
United States Senate
322 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Joe Manchin, III
United States Senate
306 Hart Senate Office Building
Washington, D.C. 20510

Dear Senators:

Thank you for your July 11, 2013 letter expressing concerns about fees and practices associated with prepaid payroll cards and the potential harms that inappropriate marketing and issuance of such cards pose to American workers. I share your concerns and appreciate this opportunity to respond. Specifically, this letter details the applicability of existing federal law to payroll cards, the Consumer Financial Protection Bureau's (Bureau) ability to supervise for compliance with and enforce these laws, and the steps we will take to educate issuers and consumers and to learn more about these potential abuses.

You first asked about the extent to which existing federal laws and regulations apply to payroll cards and to disbursement of wages to employees. With respect to those statutes for which the Bureau has authority, the Electronic Fund Transfer Act (EFTA) generally covers the electronic transfer of funds to and from consumers' accounts.¹ Since 2006, Regulation E,² which implements the EFTA, has defined the term "account" to include a "payroll card account" and covers such accounts "whether ... operated or managed by the employer, a third party payroll processor, a depository institution or any other person."³ Thus, employees whose wages are deposited onto a payroll card are entitled to the protections of the EFTA generally, and Regulation E's provisions applicable to payroll cards specifically. Among other things, Regulation E contains provisions specific to payroll cards that provide consumers with error resolution rights, limited liability for unauthorized use of a payroll card, and access to account history.⁴

In addition, although Regulation E generally does not regulate the type or size of fees that can be charged for electronic transfers, under Regulation E advance written disclosure is required of "[a]ny fees imposed by the financial institution for electronic fund transfers or for the right to make transfers."⁵ Such disclosures must be made at account opening or before the first

¹ EFTA § 901 *et seq.*, 15 USC § 1693 *et seq.*

² 12 CFR Part 1005.

³ 12 CFR 1005.2(b)(2).

⁴ See 12 CFR 1005.18.

⁵ 12 CFR 1005.7(b)(5).

transfer occurs.⁶ The disclosures must be "clear and readily understandable, in writing, and in a form the consumer may keep."⁷

With respect to employers mandating that employees receive their wages on a particular payroll card, Regulation E states clearly that no "financial institution or other person" can mandate that an employee receive direct deposit into an account at a particular institution, including a particular payroll card account.⁸ Said another way, Regulation E prohibits employers from mandating that employees receive wages only on a payroll card. However, Regulation E does not prohibit an employer from providing unactivated payroll cards to employees, together with required materials regarding their terms and conditions, so long as employees retain the option to receive compensation by other means, and certain other conditions are met.⁹

Regulation E does not require that employers offer employees the option of receiving wages via a paper check.¹⁰ Permissible alternative wage payment method(s) are governed by state law, but may include direct deposit to an account of the employee's choosing, a paper check, cash, or other evidence of indebtedness.

The Bureau has a number of different consumer protection tools it can use to address harmful practices associated with payroll cards and, if applicable, rectify or prevent particular harms. First, the Bureau is authorized, subject to certain exceptions, to enforce the EFTA and Regulation E against any person subject to the Regulation, including financial institutions and employers.¹¹ The Bureau also has enforcement authority over covered persons offering or providing certain consumer financial products or services under the Consumer Financial Protection Act.¹² In exercising our enforcement authority, our goals are to be proactive about identifying violations, stopping them before they grow into systemic problems, maximizing remediation to consumers and deterring future violations.

Second, the Bureau has supervisory authority over larger depository institutions engaged in providing payroll cards, and service providers to such institutions, to assess their compliance with federal consumer financial laws, including the EFTA and Regulation E. Through this supervision, the Bureau can examine for compliance with the relevant regulations.

Third, the Bureau has the rulemaking authority to amend Regulation E and the official interpretations of the regulation in order to protect consumers engaged in electronic fund transfers, which includes addressing any identified harms. The Bureau plans to issue a bulletin that reiterates the treatment of payroll card accounts under Regulation E.

Finally, the Bureau is working to educate consumers about their options through its Office of Financial Education. One tool is Ask CFPB (consumerfinance.gov/askcfpb/), which is an

⁶ 12 CFR 1005.7(a).

⁷ 12 CFR 1005.4(a)(1).

⁸ 12 CFR 1005.10(e)(2) and comment 10(e)(2)-1 (emphasis added).

⁹ 71 Fed. Reg. 51437, 51422 (Aug. 30, 2006). The other conditions that must be satisfied relate to the requirements for issuing an unsolicited access device. See 12 CFR 1005.5(b).

¹⁰ See, e.g., comment 10(e)(2)-1. Certain state laws, however, may require that employers provide the option of receiving wages via a paper check.

¹¹ EFTA § 918(a)(5), 15 USC § 1693a(a)(5).

¹² 12 USC § 5515.

interactive online tool that gives consumers answers to almost 1,000 questions about financial products and services, including prepaid cards and payroll cards.

As you know, the Bureau strives to be a data-driven agency, and we believe that analyzing relevant data is crucial to addressing several of the issues raised in your letter. The information we collect in the course of our research will help inform future rulemaking actions that we might undertake in this area. For example, in 2012 the Bureau published an advance notice of proposed rulemaking (ANPR) seeking comment, data and information from the public about general purpose reloadable (GPR) prepaid cards. Through this ANPR, which asked ten broad questions about GPR cards, we sought to learn more about these products, including the costs, benefits and risks to consumers. The Bureau notes that several of the issues addressed in connection with the Bureau's ANPR overlap with the concerns raised in your correspondence regarding payroll cards. We are reviewing the comments received – many of which discussed payroll cards as well as GPR cards – to determine what rule(s) may be appropriate, and based on that analysis, we expect to issue a proposed rule on prepaid cards. As the Bureau recently indicated in its Unified Agenda submitted to the Office of Management and Budget, the Bureau is in the process of developing a notice of proposed rulemaking on prepaid card products.

In addition to the Bureau's own tools, certain other federal agencies as well as state attorneys general also have the ability, to varying degrees, to enforce the EFTA and Regulation E as they pertain to payroll cards. A private right of action exists under the EFTA and Regulation E as well, allowing individuals to bring their own lawsuits directly against employers.¹³

Thank you for your interest and concern in this area of critical importance to American workers. The Bureau is committed to working closely with the Department of Labor and with you on these issues.

Sincerely,



Richard Cordray
Director

*We see this as a basic issue of fairness
to working Americans - Rich*

cc: The Honorable Tom Harkin, United States Senator
The Honorable Barbara Boxer, United States Senator
The Honorable Richard J. Durbin, United States Senator
The Honorable Debbie Stabenow, United States Senator
The Honorable Robert Menendez, United States Senator
The Honorable Benjamin Cardin, United States Senator
The Honorable Robert P. Casey, Jr., United States Senator
The Honorable Jeffrey A. Merkley, United States Senator
The Honorable Brian Schatz, United States Senator
The Honorable Martin Heinrich, United States Senator
The Honorable Elizabeth Warren, United States Senator
The Honorable Mark R. Warner, United States Senator
The Honorable Al Franken, United States Senator
The Honorable Thomas Perez, Secretary, U.S. Department of Labor

¹³ EFTA § 916, 15 USC § 1693m.

Congress of the United States
Washington, DC 20515

September 13, 2013

The Honorable Richard Cordray
Director
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, D.C. 20552

Dear Director Cordray:

Thank you for your testimony before the House Financial Services Committee on September 12, 2013. We were particularly pleased to hear of your focus on the annual privacy notice policy that we believe continues to confuse consumers and unnecessarily burden financial institutions.

As you know, legislation was introduced in the 111th, 112th and 113th sessions of Congress to change the annual privacy notice requirement under the Gramm-Leach-Bliley Act so that financial institutions were required to send a privacy notice only when a provision of that institution's privacy provisions had been altered, as opposed to sending those notices on an annual basis even in years when the policy had not been altered in any way.

In the 111th, 112th Congress and the 113th Congress, this legislation (H.R. 3506, H.R. 5817 and H.R. 749, respectively) garnered widespread support and a diverse mix of cosponsors, and passed the House with no opposition by voice vote. In this session, Senators Sherrod Brown and Jerry Moran have introduced companion legislation (S. 635) which has garnered 29 cosponsors from both sides of the aisle.


We thank you for your support for this common sense regulatory reform. We agree with your assertion that additional disclosures do not necessarily translate to benefits for consumers and greatly appreciate your willingness to help provide relief on this front.

As stated in the recent hearing, we encourage you to do what is possible through regulation on your own, and engage with the United States Senate on this issue to seek ways to reduce this unnecessary burden. We look forward to working with you on this important matter.

Sincerely,



Blaine Luetkemeyer
Member of Congress



Brad Sherman
Member of Congress



Congress of the United States

House of Representatives

September 13, 2013

The Honorable Richard Cordray
Director
Consumer Financial Protection Bureau
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Dear Director Cordray:

I would like to again congratulate you on your confirmation as Director of the Consumer Financial Protection Bureau (CFPB). Yesterday, during your appearance before the House Financial Services Committee, I had the opportunity to question you regarding several issues surrounding state regulated payday lenders and their ability to continue to do business in Ohio and other states where properly licensed.

I applaud your statement that CFPB's job is to ensure that lenders follow the law. Former Chairman Barney Frank said upon your appointment that this does not mean that the majority of payday lenders, or check cashers, or people involved in transmitting cash remittances are dishonest or unscrupulous. It does mean that in any business, there are those who will try to take unfair advantage of consumers. Those consumers will now have a strong, well-constructed, independent, agency to which they can turn in those cases. I believe that the CFPB should focus with equal vigor on eradicating illegal offshore lending, while supporting state regulated lending. Millions of American consumers, including my constituents, need access to a competitive state regulated short-term credit market. At the same time, they need protections from abuse by law breakers. State regulated companies who strictly comply with the law should be among your greatest resources in these equally important efforts.

Unfortunately, I did not get a fully clear answer to the question and your views on the CFPB's and FDIC's authority concerning business activity between financial institutions and their long-standing relationships with nonbank payday lenders. In order to be more specific, please provide answers to the questions that follow:

1. Does your agency have the authority, and do you as Director have an interest in preempting state laws regulating short term credit, money service business activity or payday lending? I would not assume so. Therefore, in your mission of enforcing the federal laws governing these services, it is important that you make it clear that those who follow state law will not be subject to the same formal or informal sanctions as those who ignore state laws.

2. Do you believe that lenders who serve the short-term credit needs of thousands of my constituents and fully comply with Ohio regulatory requirements, and the laws of others states where their customers reside, should be provided a clear safe harbor by the CFPB?

3. I understood you to say that you did not believe that CFPB or other federal financial regulators, acting in concert with CFPB, are pursuing formal or informal actions to deny state regulated lenders access to vital banking services. I understand that Ohio businesses that follow the laws of states where their customers reside have indeed experienced discontinuance of vital banking relationships. If this is the case, then the regulatory cure may be worse than the disease. As the primary federal regulator of this industry, will you insist on published guidance to make clear that lenders who follow state law will not be subject to discontinuance?

It is a serious abuse of regulatory powers for federal regulators to disregard the policy set by Congress and state legislatures and apply pressures on banks or payment processors to cease doing business with nonbank lenders (who might have a model those regulators do not like but who are operating in compliance within the law).

This is an urgent matter, banks who serve these state-regulated businesses are being pressured to stop doing business with these law-abiding businesses. So I look forward to your prompt response to my questions by Tuesday, September 17th.

Sincerely,



STEVE STIVERS
Member of Congress



Consumer Financial
Protection Bureau

1740 G Street, N.W., Washington, DC 20552

September 16, 2013

The Honorable Charles E. Grassley
Ranking Member
Committee on the Judiciary
224 Dirksen Senate Office Building
United States Senate
Washington, DC 20510-6275

Dear Ranking Member Grassley,

Enclosed is the information that you requested regarding the use of the Special Government Employee (SGE) designation by the Consumer Financial Protection Bureau (Bureau or CFPB). If you have any questions regarding this response, you may contact Catherine Galicia, Director of the Office of Legislative Affairs, at (202) 435-9711.

Sincerely,


Richard Cordray
Director

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

September 18, 2013

The Honorable Richard Cordray
Director
Bureau of Consumer Financial Protection
1700 G Street, NW
Washington, DC 20552

In light of revelations about the use of an alias e-mail account by the Administrator of the Environmental Protection Agency, it is incumbent upon Congress to ensure that federal agencies are operating in compliance with the Freedom of Information Act, the Federal Records Act, and other federal statutes designed to facilitate transparency and congressional oversight. This is especially true for the Bureau of Consumer Financial Protection (CFPB), which was designed to operate with little to no accountability to either Congress or the President. Accordingly, please provide me with the following:

1. All records relating to the CFPB's policies and procedures for the establishment and usage of e-mail aliases.
2. A list identifying all past or present CFPB senior managers who have had contemporaneous access rights to more than one government-issued e-mail account.
3. All records relating to the establishment or use of e-mail aliases by or for past or present CFPB senior managers.
4. A list identifying all past or present CFPB senior managers who have utilized a private e-mail account, such as a "Gmail" account, to conduct official CFPB business.

For purposes of this letter, the term "record" is to be construed in the broadest sense and means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded or preserved, and whether original or copy; the term "relating to" means anything that constitutes, contains, embodies, identifies, deals with, or is in any manner whatsoever pertinent to the given subject, including but not limited to records concerning the preparation of other records; the term "e-mail alias" means any dual, secondary, or non-public e-mail address utilizing either a "cfpb.gov" or "do.treas.gov" domain; the term "official CFPB business" means any subject matter not purely personal in nature; and the term "CFPB senior manager" means any CFPB employee with the title of Assistant Director or equivalent rank, and any employee who has directly or indirectly supervised an Assistant Director.

By this letter, the Committee requests that you search for and produce responsive records. Please provide this information in hard copy and electronic and searchable format no later than October 2, 2013. Should you have any questions, contact Brian Johnson at 202-225-7502.

Yours Respectfully,



JEB HENSARLING
Chairman

cc: The Honorable Maxine Waters
Mr. Mark Bialek, Inspector General, Federal Reserve Board and CFPB



Congress of the United States
House of Representatives
September 20, 2013

The Honorable Richard Cordray
Director
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, D.C. 20552

Dear Director Cordray:

Thank you for appearing before the House Financial Services Committee on September 12, 2013, for the Consumer Financial Protection Bureau's (CFPB) semi-annual report to Congress. It was great to have a fellow Ohioan appear before the Committee.

I appreciate your clarification that licensed non-bank lenders should not encounter issues obtaining or maintaining banking relationships, including access to the Automated Clearing House (ACH) system. In light of your testimony, I am particularly disturbed by the attached letter forwarded to me from a publicly-traded, state-licensed lender, which they received from their bank. It is my understanding that the bank opted to send this letter to the company based on pressure and a lack of clear guidance from the Federal Deposit Insurance Corporation (FDIC) and other regulatory agencies. As you stated in your response to my question that day, "If people are following all the laws, there is not a problem." You further stated that online loans, "[A]re a mechanism for credit that some people find absolutely necessary to meet certain situations."

I agree with your response and would hope that as a board member of the FDIC and the primary federal regulator of the non-bank, short-term lending industry you would ensure that the actions of the CFPB and the FDIC are not having the unintended consequence of denying essential banking services to licensed lenders. I would strongly encourage you to work with the FDIC to ensure that clear guidance is issued promptly so that law-abiding businesses are not further harmed.

I appreciate your immediate attention to this important matter and look forward to your timely response.

Sincerely,


STEVE STIVERS
Member of Congress

cc: Hon. Jeb Hensarling, Chairman House Financial Services Committee
Hon. Martin Gruenberg, Chairman Federal Deposit Insurance Corporation

United States Senate

WASHINGTON, DC 20510

September 20, 2013

Stuart F. Delery
Assistant Attorney General, Civil Division
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Richard Cordray
Director
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

Dear Assistant Attorney General Delery and Director Cordray,

Last week, the *Washington Post* released startling details of its 10-month investigation into the District of Columbia's (D.C.) tax lien sales program. There are numerous stories, not just in Washington, of seniors, veterans, and individuals with disabilities losing the homes they worked decades to secure, as third-party investors unceremoniously capitalize on their frailty and illness. In one reported case, "a 95-year-old church choir leader lost her family home to a Maryland investor over a tax debt of \$44.79 while she was struggling with Alzheimer's in a nursing home." We are writing to urge you to immediately examine the tax lien sales programs in states and municipalities across the country and to promptly develop best practices that will protect consumers nationwide from the unscrupulous practices of third-party investors seeking to prey on our most vulnerable citizens.

The *Washington Post's* investigation reveals a tax lien sale program which, while purportedly overseen by the D.C. government, seems to be run by out-of-town, third-party investors. Of great concern is the correlation highlighted by the *Post* between the prevalence of these out-of-town third-party investors and the increasing rate of foreclosures on D.C. properties with tax liens.

The investigation reveals a system that appears to offer few protections to property owners and ample leverage to third-party investors looking to maximize profits by charging property owners exorbitant fees and bringing properties to foreclosure. Once these third-party investors acquire liens at auction, they frequently increase the amount owed by the property dramatically, sometimes by multiples of 30 to 40, through the imposition of apparently unlimited processing, legal and other fees. For many veterans, seniors, and disabled individuals on a fixed income, paying such additional amounts is not feasible. According to the reporting, many individuals who are unable to pay have lost their homes and been put out on the street for a tax debt which initially amounted to less than a week's worth of groceries or a month of cable television.

For the third-party investor, the ability of the property owner to pay the fees makes little difference as the system seems to be set up to ensure the investors always come out on top. If the property owner pays off the lien, the investors are entitled to any accrued interest and fees—fees which appear to be set and assessed by the investor without meaningful limitation. If the property owner is unable to pay off the lien in a timely manner, the third-party investor can go to court, initiate the foreclosure process, and profit from the ultimate sale of the property.

While we understand that some state and local governments are struggling in the current economic climate, it is never acceptable to make up such a shortfall on the backs of some of our most vulnerable citizens. Property tax liens are intended to be a mechanism for state and local governments to capture tax dollars owed by a given property owner, and the desired outcome should be payment of the tax debt by the property owner, not foreclosure and profit by a third party.

State and local governments can – and some do – allow for vulnerable populations and those enduring a hardship to defer property tax payments, limit the amount of permissible fees during the tax lien process, and include appropriate exemptions for veterans and others. Unfortunately, this is not the case in every state and municipality, and it appears that some third-party investors are cynically leveraging these regulatory gaps to maximize profits by imposing often unreasonable and escalating fees and ultimately forcing property owners into foreclosure and out of their homes.

Additionally, in a related situation involving homeowners, the *New York Times* recently reported on a practice involving banks and their third-party contracts with property management firms. In an article entitled “Invasive Tactic in Foreclosures Draws Scrutiny,” the *Times* highlights the aggressive and questionable tactics being employed by some banks and their subcontractors when homeowners are – and even sometimes, in fact, are not – behind on their mortgage payments. A lawsuit filed by the Illinois Attorney General cites practices such as breaking into consumers’ homes, bullying homeowners into leaving their homes, and damaging consumers’ homes and other possessions. This strikes us as another area where significant additional federal oversight may be necessary to protect consumers.

Given the abhorrent consumer abuses evident in the reporting on D.C.’s third-party tax lien program as well as the seemingly problematic methods being used by third-party property management firms across the country, we ask the CFPB and the Department of Justice to do the following:

Tax Lien Programs

1. Examine tax lien programs in states and municipalities across the country, including an analysis of:
 - a. The foreclosure rates and fees charged in states and municipalities that permit third-party investment in tax lien sales as compared with those that do not allow for third-party investment; and
 - b. The foreclosure rates and fees charged to veterans, seniors, individuals with disabilities, low-income individuals, and individuals with chronic illnesses relative to the rest of the population in states that permit third-party investment in tax lien sales

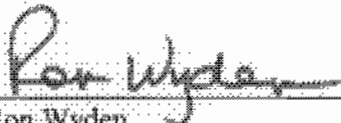
2. Based on those findings, make best practice recommendations to state and local governments on how to structure their tax lien programs to ensure strong consumer protections
3. Clarify the state of existing federal laws and regulations governing third-party tax collection practices and resulting property seizures

Third-Party Contractors

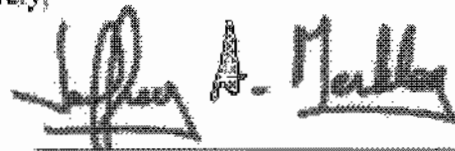
4. Provide an update on current oversight of third-party vendors hired by mortgage holders or servicers during the foreclosure process
5. Make best practice recommendations to states about additional ways to inform consumers at risk of foreclosure or in the foreclosure process of their legal rights
6. Clarify the state of existing federal laws and regulations governing such third-party vendors and their interactions with homeowners, as well as the rights that homeowners enjoy in such circumstances

Thank you for your prompt attention to these critical consumer protection issues. We look forward to receiving your initial responses to this request no later than October 31, 2013.

Sincerely,



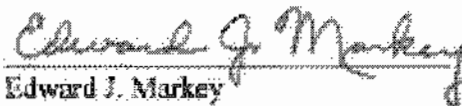
Ron Wyden
U.S. Senator



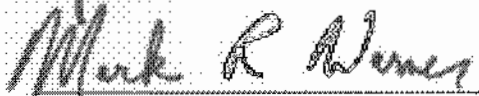
Jeff Merkley
U.S. Senator



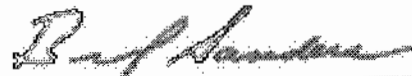
Elizabeth Warren
U.S. Senator



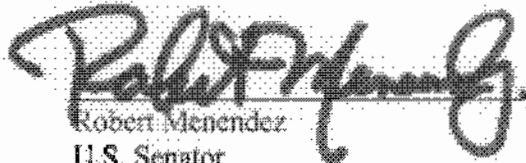
Edward J. Markey
U.S. Senator



Mark Warner
U.S. Senator



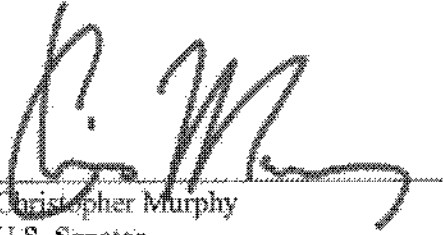
Bernard Sanders
U.S. Senator



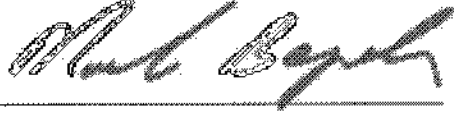
Robert Menendez
U.S. Senator



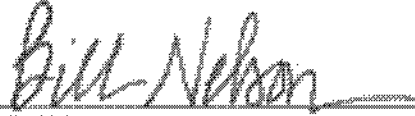
Tim Kaine
U.S. Senator



Christopher Murphy
U.S. Senator



Mark Begich
U.S. Senator



Bill Nelson
U.S. Senator



Richard Blumenthal
U.S. Senator

SPENCER BACHUS
9TH DISTRICT, ALABAMA

2000 SACAGAWHAT HOUSE OFFICE BUILDING
WASHINGTON, DC 20543
(205) 251-2000

COMMITTEE
FINANCIAL SERVICES
CONSUMER PROTECTION

Congress of the United States
House of Representatives
Washington, DC

700 INTERNATIONAL BANK CENTER
SUITE 300
MONTGOMERY, AL 36102
(205) 251-2000

JUDICIARY
SUBCOMMITTEE ON BANKING
REGULATORY REFORM, COMMERCIAL,
AND CONSUMER LAW

700 SECOND AVENUE NORTH
P.O. BOX 1000
CLEVENLAND, OH 44101
PHONE 216-476-6700
http://bachus.house.gov

September 24, 2013

Mr. Richard Cordray
Director
Consumer Financial Protection Bureau
1801 L Street Northwest
Washington, DC 20036-3811

Dear Mr. Cordray,

This letter is a follow-up to an exchange that we had during your appearance in front of the House Financial Services Committee on September 12 regarding the Consumer Financial Protection Bureau (CFPB) Bulletin 2013-02 on indirect auto lending and compliance with the Equal Credit Opportunity Act. On a bipartisan basis, Congress has expressed concern about the guidance and asked for specific information supporting the CFPB's determination, including detailed information on the data methodology and analysis used as part of the agency's evaluation. It would appear that many important questions raised by Members have not been answered adequately and, in some cases, not addressed at all. As stated during the hearing, I found the answers given by the CFPB in its response letter dated August 2, 2013, to be very general and I am now seeking a more detailed response.

The Bureau has stated that its goal is to be an open and transparent organization. Yet, the decision to make a far reaching change in the auto-finance industry through informal guidance instead of a formal rule-making with a public notice and comment period seems lacking in transparency at best. This particular guidance seeks to eliminate potential discrimination in a way that will have a significant impact on automobile lenders, and it could impact consumers' access to credit as well.

The presence of unlawful discrimination in any market is unacceptable. Increased transparency from the Bureau will advance the shared goal of eliminating potential discrimination while ensuring that consumers have access to needed credit. In an effort to increase transparency

around the Bureau's Bulletin 2013-02, below are several questions that I would like the CFPB to address in detail.

The use of a reliable statistical methodology to determine whether disparate impact in lending is present in an auto creditor's portfolio is critical for a number of reasons, including to effectively protect consumers from discrimination; to ensure that an efficient flow of government resources is directed to eliminating discrimination where it actually exists; and to prevent businesses from being unfairly impacted by the application of flawed methodology.

The following issue areas are particularly relevant for the Bureau to consider when determining whether it has been operating within an appropriate framework of evaluation with regard to a determination of potential disparate impact discrimination in the indirect auto lending sector and potential associated remedies.

1. The data and assumptions the CFPB relied upon to substantiate the determination that there is a problem with fair lending in the indirect auto financing market;
2. The detailed methodology that measures whether discrimination is present in an auto creditor's portfolio. This includes ensuring that accurate proxies are used to identify different groups of consumers; ensuring that appropriate controls are used to isolate a consumer's background as the sole reason for any apparent pricing disparity, and identifying the threshold at which the Bureau determines that statistically significant disparate impact is present;
3. An explanation of how the Bureau's use of a guidance document to issue the directives contained in its March 21, 2013 issuance to auto lenders is consistent with federal law; and
4. The Bureau's analysis of how an industry move to compensate dealers for arranging financing through a "flat fee per transaction" would affect the marketplace and the consumers it serves.

Specific responses are requested for each question below:

1) The data and assumptions the CFPB relied upon to substantiate the determination that there is a problem with fair lending in the indirect auto financing market. The March 21, 2013 fair lending guidance apparently

stems from the Bureau's assumption that disparate impact discrimination is both widespread in the market and harmful to certain groups of consumers. However, the Bureau has not made clear how this determination was made and what process was used to support its validity. As a result, please provide the following:

Request 1 – Identify all research supporting the CFPB press release from March 21, 2013, stating that “discriminatory markups in auto lending may result in tens of millions of dollars in consumer harm each year” and “research indicates that markup practices may lead to African Americans and Hispanics being charged higher markups.”

Request 2 – State whether that research is uncontroverted or whether contrary research exists.

Request 3 – If contrary research exists, state what led the Bureau to determine that the supporting research possesses greater validity than the contrary research.

2) The detailed methodology that measures whether discrimination is present in an auto credit's portfolio. This includes the use of accurate proxies to identify different groups of consumers, ensuring that appropriate controls are used to isolate a consumer's background as the sole reason for any perceived pricing disparity, and identifying the threshold at which the Bureau determines that statistically significant disparate impact is present. Pursuant to this, please provide the following:

Request 4 - In letters to Members of the House Financial Services Committee, you said that the Bureau uses surnames and geographic location to determine the background of consumer credit applicants. Please provide a full list of proxies used, and state the quantitative degree of accuracy (expressed as a percentage) that applies to this proxy methodology for each category of consumers to which the Bureau has applied the methodology (including, but not limited to, the two categories identified in the March 21 press release referenced above).

Request 5 - Identify the research and findings that support your answers to the previous question.

Request 6 - Explain the Bureau's rationale that the auto industry's use of proxies "for marketing purposes" is relevant to a determination of an auto creditor's potential liability for alleged disparate impact discrimination under ECOA.

Request 7 - Consistent with your statement that "there are a variety of proxy methods" and that lenders may "select a reasonable proxy method," provide a complete list of proxy methods other than the use of surnames and geographic location that the Bureau recognizes as reasonable for auto creditors to use.

Request 8 - With regard to each proxy method identified in the response to the previous question,

a) Provide the quantitative degree of accuracy (expressed as a percentage) that applies to the proxy methodology for each category of consumers identified in your response to Question 4 above; and

b) Explain the Bureau's rationale for using surnames and geographic location in lieu of that particular method.

Request 9 - Identify each control the Bureau applies to its analysis of the amount of dealer participation paid by different groups of consumers to ensure that the consumers who are being compared are "similarly situated."

Request 10 - The Bureau has stated: "In evaluating whether pricing disparities exist in dealer markup, we typically look to whether there is a statistically significant basis point disparity in the dealer markups received by the prohibited basis group as compared to the control group." Please describe in quantitative terms (i.e., a number) what the Bureau has determined is the statistically significant basis point disparity applicable to each prohibited basis group that it has examined using its disparate impact methodology (including, but not limited to, the two prohibited basis groups identified in the March 21 press release referenced above).

3) An explanation of how the Bureau's use of a guidance document to issue the directives contained in its March 21, 2013 issuance to auto lenders is consistent with federal law. The Bureau's fair lending guidance sets forth standards intended to change market behavior for creditors involved in the indirect financing process, including both initial auto dealer creditors over which the Bureau lacks jurisdiction and assignee finance source creditors over which the Bureau may exercise jurisdiction. Such an exercise must comport with the process Congress created for this purpose. Accordingly, please respond to the following:

Request 11 - Identify all coordination that occurred prior to March 21, 2013 between the CFPB and the Board of Governors of the Federal Reserve ("Federal Reserve") concerning the Bureau's development and issuance of CFPB Bulletin 2013-02.

Request 12 - Identify all coordination that occurred prior to March 21, 2013 between the CFPB and the Federal Trade Commission (FTC) concerning the Bureau's development and issuance of CFPB Bulletin 2013-02.

Request 13 - With regard to CFPB Bulletin 2013-02 -

- a) Explain whether the Bureau conducted an analysis of the extent to which its issuance comports with controlling federal case law that addresses the circumstances under which an agency may use a guidance document in lieu of the Administrative Procedures Act rulemaking process for this purpose;*
- b) If the Bureau conducted such an analysis, provide the complete written analysis;*
- c) Explain in detail why the Bureau did not seek public input on the matters addressed in the bulletin before it was issued; and*
- d) Explain whether its application is prospective only or also applies to market conduct that occurred prior to its issuance.*

4) The Bureau's measurement of how an industry move to compensate dealers for arranging financing through a "flat fee per transaction" would affect the marketplace and the consumers it serves. The Bureau has identified "steps" that "lenders should take... to ensure they are operating in compliance with the ECOA and Regulation B..." and that its actions are likely to force major changes throughout an industry. These actions should not be viewed in a vacuum. This is particularly true when the Bureau attempts to change the behavior of market participants for whom there is no public finding or evidence of a legal violation. It is critically important that the Bureau consider the effects of its actions on the marketplace and the consumers that it serves. Accordingly, please provide the following:

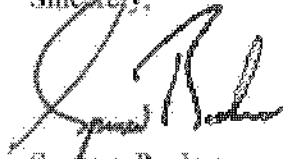
Request 14 - State whether the Bureau has considered how an industry move to a flat fee compensation system will affect the cost of credit to consumers, including (but not limited to) those who are only marginally creditworthy.

Request 15 - If the Bureau has considered this effect, identify and summarize all research, reports, or other information the Bureau considered and state the Bureau's specific findings on the matter; and.

Request 16 - Please provide an estimate, based on current market conditions, of the number of consumers who will be priced out of the conventional vehicle financing market as a result of a decrease in competition resulting from an industry move to a flat fee compensation system.

Thank you for your statements in support of openness and transparency on the part of the Bureau. It is my request that the CFPB provide full and meaningful answers to these questions within 30 days of your receipt of this letter.

Sincerely,



Spencer Bachus
Member of Congress

FRED LIPTON, MICHIGAN
CHAIRMAN

HENRY A. WAXMAN, CALIFORNIA
RANKING MEMBER

ONE HUNDRED THIRTEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115
Majority (202) 225-3027
Minority (202) 225-3661

September 25, 2013

Ms. Gail Hillebrand
Associate Director
Consumer Education and Engagement
Consumer Financial Protection Bureau
1700 G Street, N.W.
Washington, D.C. 20552

Dear Ms. Hillebrand,


Thank you for appearing before the Subcommittee on Commerce, Manufacturing, and Trade on Thursday, May 16, 2013 to testify at the hearing entitled "Fraud on the Elderly: a Growing Concern for a Growing Population."

Pursuant to the Rules of the Committee on Energy and Commerce, the hearing record remains open for ten business days to permit Members to submit additional questions for the record, which are attached. The format of your responses to these questions should be as follows: (1) the name of the Member whose question you are addressing, (2) the complete text of the question you are addressing in bold, and (3) your answer to that question in plain text.

To facilitate the printing of the hearing record, please respond to these questions by the close of business on Wednesday, October 9, 2013. Your responses should be e-mailed to the Legislative Clerk in Word format at Kirby.Howard@mail.house.gov and mailed to Kirby Howard, Legislative Clerk, Committee on Energy and Commerce, 2125 Rayburn House Office Building, Washington, D.C. 20515.

Thank you again for your time and effort preparing and delivering testimony before the Subcommittee.

Sincerely,



Lee Terry
Chairman
Subcommittee on Commerce,
Manufacturing, and Trade

cc: Jan Schakowsky, Ranking Member, Subcommittee on Commerce, Manufacturing, and Trade
Attachment

MICHAEL H. MICHAUD
2ND DISTRICT MAINE

Congress of the United States
House of Representatives
Washington, DC 20515

COURTNEE:

VETERANS' AFFAIRS
RAISONS MÉRITÉS

TRANSPORTATION AND INFRASTRUCTURE
SUBCOMMITTEE ON HIGHWAYS AND TRAVEL
SUBCOMMITTEE ON RAILROADS, PIPELINES, AND
HAZARDOUS MATERIALS
SUBCOMMITTEE ON ECONOMIC DEVELOPMENT, PUBLIC
BUILDINGS, AND EMERGENCY MANAGEMENT
SUBCOMMITTEE ON WATER RESOURCES AND ENVIRONMENT

WASHINGTON OFFICE
1724 Longwood House Circle, 6th Floor
WASHINGTON, DC 20515
PHONE: (202) 225-8309
FAX: (202) 225-2943

www.michael.house.gov

September 30, 2013

The Honorable Ben Bernanke
Chairman
The Federal Reserve System
20th Street and Constitution Ave, NW
Washington, DC 20429

The Honorable Richard Cordray
Director
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

The Honorable Martin Gruenberg
Chairman
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

The Honorable Tom Curry
Comptroller
Office of the Comptroller of Currency
250 E. Street, SW
Washington, DC 20219

Dear Chairman Bernanke, Director Cordray, Chairman Gruenberg, and Comptroller Curry,

I write to express concern with the growing burden new regulations are placing on community banks. I firmly believe the financial crisis demonstrated the need to strengthen our financial regulations, and I supported the passage of Dodd-Frank as a result. I also believe the crisis showed the tremendous hazards of financial institutions that are "too-big-to-fail." I am concerned that new regulations are becoming disproportionately burdensome on community banks and leading to the consolidation of financial institutions. As your agencies continue to implement financial reforms, I urge you to consider the unintended consequences of a "one-size-fits-all" regulatory approach, and to the extent practicable, exempt or alleviate unnecessary burdens on community banks.

Community banks play an important role in states and localities around the nation. They often have deep ties and relationships in the communities they serve, allowing them to provide direct service and investments when larger banks are either unwilling or unable to do the same. Most community banks did not engage in the risky financial activities that caused the financial crisis, and in its aftermath, community banks in my state were among only a few institutions still willing to lend. Local understanding and relationships allowed these banks to provide important sources of capital and credit to get Main Street businesses and middle class families working again.

Financial regulations, oversight, and examinations should take these factors into account. Standards and rules developed for the largest and most complex financial institutions do not always make sense for smaller institutions. Due to their size, community banks are not as well equipped to manage new regulations. Hiring additional compliance personnel reduces the amount of capital available to serve their customers.

BANGOR:
6 State Street, Suite 101
Bangor, ME 04401
Phone: (207) 942-6936
Fax: (207) 942-5907

LEWISTON:
179 Lisbon Street, Ground Floor
Lewiston, ME 04240
Phone: (207) 782-3704
Fax: (207) 782-3330

PRESQUE ISLE:
445 Main Street
Presque Isle, ME 04769
Phone: (207) 784-1038
Fax: (207) 784-1060



Consequently, regulating all banks in the same manner can have the unintended effect of greater consolidation and increased risk that a single institution could damage the entire economy. For example, in recent years the number of Maine headquartered institutions has shrunk from thirty-nine to twenty-seven. I do not believe this sort of consolidation is in the best interest of my constituents, or the economy at large.

Community banks do not pose a "too-big-to-fail" threat to our financial system and your agencies' rules and examination methods should reflect that distinction. As you continue to implement financial reforms and review existing regulations, I urge you to consider the unintended consequences regulations could have on community banks and make appropriate adjustments.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael H. Michaud". The signature is fluid and cursive, with a large loop at the end.

Michael H. Michaud
Member of Congress



Consumer Financial
Protection Bureau

1700 G Street, N.W., Washington, DC 20562

September 30, 2013

The Honorable Steve Stivers
U.S. House of Representatives
1022 Longworth House Office Building
Washington, DC 20515

Dear Representative ~~Stivers~~ Stivers,

Thank you for your letter seeking further information about the Consumer Financial Protection Bureau's authority with regard to state-licensed payday lenders. I welcome the opportunity to address the Bureau's authority in more detail than we had time to do at the recent hearing.

As I have said in the past, all lenders should be mindful of state and federal law and must comply with all of the laws applicable to them. Full compliance with the law is essential to the operation of a fair, transparent and competitive market. The Dodd-Frank Wall Street Reform and Consumer Protection Act authorizes the Bureau to, among other things, supervise payday lenders, regardless of size; to assess compliance with Federal consumer financial law; to obtain information about them and their compliance systems or procedures; to detect and assess risks to consumers and promulgate rules as appropriate to implement Federal consumer financial law.

The marketplace in which payday lenders operate is increasingly diverse, and the Bureau is committed to ensuring that consumers receive the full protection of Federal consumer financial law—whether they obtain a loan online; from a storefront; from a state-licensed lender; or from a lender that, for whatever reason, chooses not to obtain appropriate licenses. Although the Bureau's role is to enforce federal law, we work collaboratively with other federal and state partners in the markets where more than one governmental entity may have authority to take action.

Your letter asked whether the Bureau has an interest in preempting state law regulating short-term credit, money services business activity, or payday lending. The Bureau recognizes the importance of both state and federal laws and their respective relevance to the consumer financial marketplace. For example, state regulatory agencies license or charter payday lenders, whereas the Bureau has authority over Federal consumer financial law, including various laws that confer substantive consumer protections relevant to payday lending. The Bureau meets its responsibilities under these laws by supervising payday lenders for compliance with them and by enforcing them directly. Payday lenders, in turn, must comply with state law and federal law, as applicable. Those who ignore applicable state or federal laws are at legal risk for doing so.

You have also asked how the Bureau considers lenders' compliance with state law in its evaluation of lenders and their business practices. It is our view that state and federal law generally must be construed separately, and compliance with state law does not exempt a lender from having to comply with federal law, and vice versa. We continue to expand our

understanding of how the payday market operates and affects consumers in order to better inform our policy work in this area.

Finally, you asked whether the Bureau, in its role as the primary federal regulator of the payday lending industry, will publish guidance to make clear that payday lenders who follow state law should not be subject to discontinuance of supporting banking relationships under federal law. To begin with, the Bureau is not the sole regulator of banking relationships and, in particular, does not engage in the same kind of safety and soundness regulation as the federal prudential regulators, who operate under a statutory mandate distinct from that conferred upon the Bureau. As already discussed, the bottom line is that a lender's compliance with applicable state law does not necessarily equate to its compliance with applicable federal law.

As you noted, the Bureau's job is to ensure that lenders follow the law and we agree with you that all payday lenders conducting business in Ohio and across the United States should be complying with all applicable state and federal laws. Thank you for the opportunity to clarify these points and for your continuing interest in the Bureau's work.

Sincerely,



Richard Cordray
Director

Let me know when it makes sense to do something with your Financial Literacy caucus - eager to work with you on that.
Rich



Consumer Financial
Protection Bureau

1700 G Street, N.W., Washington, DC 20552

October 2, 2013

The Honorable Mike Crapo
Ranking Member
United States Senate
534 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Ranking Member Crapo:

Enclosed is the Consumer Financial Protection Bureau's report to Congress on the impact of the Credit Card Accountability Responsibility and Disclosure Act of 2009 ("CARD Act") on the consumer credit card market, pursuant to Section 502(a) of the CARD Act.

Should you have any questions concerning this report, please feel free to contact me at 202-435-7960.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Galicia'.

Catherine Galicia
Assistant Director for Legislative Affairs



Consumer Financial
Protection Bureau

1700 G Street, N.W., Washington, D.C. 20562

October 2, 2013

The Honorable Jeb Hensarling
Chairman
U.S. House Committee on Financial Services
2129 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Hensarling:

Enclosed is the Consumer Financial Protection Bureau's report to Congress on the impact of the Credit Card Accountability Responsibility and Disclosure Act of 2009 ("CARD Act") on the consumer credit card market, pursuant to Section 502(a) of the CARD Act.

Should you have any questions concerning this report, please feel free to contact me at 202-435-7960.

Sincerely,

A handwritten signature in black ink, appearing to read 'Catherine Galicia'.

Catherine Galicia
Assistant Director for Legislative Affairs



Consumer Financial
Protection Bureau

1700 G Street, N.W., Washington, DC 20002

October 2, 2013

The Honorable Tim Johnson
Chairman
United States Senate
534 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Johnson:

Enclosed is the Consumer Financial Protection Bureau's report to Congress on the impact of the Credit Card Accountability Responsibility and Disclosure Act of 2009 ("CARD Act") on the consumer credit card market, pursuant to Section 502(a) of the CARD Act.

Should you have any questions concerning this report, please feel free to contact me at 202-435-7960.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Galicia'.

Catherine Galicia
Assistant Director for Legislative Affairs



Consumer Financial
Protection Bureau

1700 G Street, NW, Washington, DC 20552

October 2, 2013

The Honorable Carolyn Maloney
U.S. House of Representatives
422 Cannon House Office Building
Washington, D.C. 20515

Dear Representative Maloney:

Enclosed is the Consumer Financial Protection Bureau's report to Congress on the impact of the Credit Card Accountability Responsibility and Disclosure Act of 2009 ("CARD Act") on the consumer credit card market, pursuant to Section 502(a) of the CARD Act.

Should you have any questions concerning this report, please feel free to contact me at 202-435-7960.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Galicia'.

Catherine Galicia
Assistant Director for Legislative Affairs



Consumer Financial
Protection Bureau

3750 G Street, N.W., Washington, DC 20057

October 2, 2013

The Honorable Maxine Waters
Ranking Member
U.S. House Committee on Financial Services
8301-C Rayburn House Office Building
Washington, D.C. 20515

Dear Ranking Member Waters:

Enclosed is the Consumer Financial Protection Bureau's report to Congress on the impact of the Credit Card Accountability Responsibility and Disclosure Act of 2009 ("CARD Act") on the consumer credit card market, pursuant to Section 502(a) of the CARD Act.

Should you have any questions concerning this report, please feel free to contact me at 202-435-7960.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Galicia'.

Catherine Galicia
Assistant Director for Legislative Affairs



Consumer Financial
Protection Bureau

1700 G Street, N.W., Washington, DC 20562

October 2, 2013

The Honorable John Boehner
Speaker
U.S. House of Representatives
H-232 United States Capitol
Washington, D.C. 20515

Dear Speaker Boehner:

Enclosed is the Consumer Financial Protection Bureau's report to Congress on the impact of the Credit Card Accountability Responsibility and Disclosure Act of 2009 ("CARD Act") on the consumer credit card market, pursuant to Section 502(a) of the CARD Act.

Should you have any questions concerning this report, please feel free to contact me at 202-435-7960.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Galicia'.

Catherine Galicia
Assistant Director for Legislative Affairs



Consumer Financial
Protection Bureau

1700 G Street, N.W., Washington, DC 20002

October 2, 2013

The Honorable Shelly Moore Capito
U.S. House of Representatives
2366 Rayburn House Office Building
Washington, D.C. 20515

Dear Representative Capito:

Enclosed is the Consumer Financial Protection Bureau's report to Congress on the impact of the Credit Card Accountability Responsibility and Disclosure Act of 2009 ("CARD Act") on the consumer credit card market, pursuant to Section 502(a) of the CARD Act.

Should you have any questions concerning this report, please feel free to contact me at 202-435-7960.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Galicia'.

Catherine Galicia
Assistant Director for Legislative Affairs



Consumer Financial
Protection Bureau

1700 G Street, N.W., Washington, DC 20062

October 2, 2013

The Honorable Richard Durbin
United States Senate
711 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Durbin:

Enclosed is the Consumer Financial Protection Bureau's report to Congress on the impact of the Credit Card Accountability Responsibility and Disclosure Act of 2009 ("CARD Act") on the consumer credit card market, pursuant to Section 502(a) of the CARD Act.

Should you have any questions concerning this report, please feel free to contact me at 202-435-7960.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Garcia'.

Catherine Garcia
Assistant Director for Legislative Affairs



Consumer Financial
Protection Bureau

1700 G Street, N.W., Washington, DC 20562

October 2, 2013

The Honorable Luis Gutierrez
U.S. House of Representatives
2408 Rayburn House Office Building
Washington, D.C. 20515

Dear Representative Gutierrez:

Enclosed is the Consumer Financial Protection Bureau's report to Congress on the impact of the Credit Card Accountability Responsibility and Disclosure Act of 2009 ("CARD Act") on the consumer credit card market, pursuant to Section 502(a) of the CARD Act.

Should you have any questions concerning this report, please feel free to contact me at 202-435-7960.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Galicia'.

Catherine Galicia
Assistant Director for Legislative Affairs



Consumer Financial
Protection Bureau

1730 G Street, N.W., Washington, DC 20552

October 2, 2013

The Honorable Mitch McConnell
Minority Leader
United States Senate
S-230 United States Capitol
Washington, D.C. 20510

Dear Minority Leader McConnell:

Enclosed is the Consumer Financial Protection Bureau's report to Congress on the impact of the Credit Card Accountability Responsibility and Disclosure Act of 2009 ("CARD Act") on the consumer credit card market, pursuant to Section 502(a) of the CARD Act.

Should you have any questions concerning this report, please feel free to contact me at 202-435-7960.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Galicia'.

Catherine Galicia
Assistant Director for Legislative Affairs



Consumer Financial
Protection Bureau

1700 E Street, N.W., Washington, DC 20562

October 2, 2013

The Honorable Nancy Pelosi
Democratic Leader
U.S. House of Representatives
H-204 United States Capitol
Washington, D.C. 20515

Dear Leader Pelosi:

Enclosed is the Consumer Financial Protection Bureau's report to Congress on the impact of the Credit Card Accountability Responsibility and Disclosure Act of 2009 ("CARD Act") on the consumer credit card market, pursuant to Section 502(a) of the CARD Act.

Should you have any questions concerning this report, please feel free to contact me at 202-435-7960.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Galicic', is written over a light blue horizontal line.

Catherine Galicic
Assistant Director for Legislative Affairs



Consumer Financial
Protection Bureau

1700 G Street, N.W., Washington, DC 20552

October 2, 2013

The Honorable Harry Reid
Majority Leader
United States Senate
S-212 United States Capitol
Washington, D.C. 20510

Dear Majority Leader Reid:

Enclosed is the Consumer Financial Protection Bureau's report to Congress on the impact of the Credit Card Accountability Responsibility and Disclosure Act of 2009 ("CARD Act") on the consumer credit card market, pursuant to Section 502(a) of the CARD Act.

Should you have any questions concerning this report, please feel free to contact me at 202-435-7960.

Sincerely,

A handwritten signature in black ink, appearing to read 'Catherine Galicia'.

Catherine Galicia
Assistant Director for Legislative Affairs

MARK BALDRUP, ASSISTANT CHAIRMAN

JOHN A. ROBERTS, JUSTICE
RONA HOFFMAN ORLOFF
CHARLES E. SCHUMER, SENY YORK
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SCOTT WASSERMAN, NEW JERSEY
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SPENCER ABRAHAM, OHIO
MICHAEL A. BENNETT, COLORADO
ROBERT W. CASEY, PA., PENNSYLVANIA

OSCAR A. WADE, STAFF
CHUCK SCHLESLEY, STAFF
MARC BROWN, STAFF
PAT ROBERTS, STAFF
MICHAEL B. EDEL, WYOMING
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JOHN THORPE, SOUTH CAROLINA
RICHARD BLUMENTHAL, CONNECTICUT
JONNY BLANKEN, MINNESOTA
RICK PORTMAN, OHIO
PATRICK J. TOBIAS, PENNSYLVANIA

United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-8200

ANDREW LUTHE, STAFF DIRECTOR
CHRIS CAMPBELL, REPUBLICANS STAFF DIRECTOR

October 8, 2013

The Honorable Jacob Lew
Secretary
Department of the Treasury
1500 Pennsylvania Ave. NW
Washington, DC 20220

The Honorable Ben Bernanke
Chairman, Board of Governors
The Federal Reserve System
20th Street and Constitution Ave. NW
Washington, DC 20551

The Honorable Gary Gensler
Chairman
Commodity Futures Trading Commission
Three Lafayette Center
1155 21st Street NW
Washington, DC 20581

The Honorable Mary Jo White
Chairman
U.S. Securities and Exchange Commission
100 F Street NE
Washington, DC 20549

The Honorable Richard Cordray
Director
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20551

Dear Secretary Lew, Chairmen Bernanke, Gensler, Matz, White, Gruenberg, Comptroller Curry, Director Cordray, FSOC Independent Member with Insurance Expertise Woodall, and Acting Director DeMarco:

With the nation fast approaching the statutory federal debt limit, I am writing to you, the voting members of the Financial Stability Oversight Council (FSOC), regarding the fiscal state of the nation and any contingency plans you may have.

Martin J. Gruenberg
Chairman
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429

Edward DeMarco
Acting Director
Federal Housing Finance Agency
1700 G Street NW, 4th Floor
Washington, DC 20552

The Honorable Debbie Matz
Chairman
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314

The Honorable Thomas J. Curry
Comptroller
Office of the Comptroller of the Currency
250 E Street SW, Room 9048
Washington, DC 20219

The Honorable S. Roy Woodall, Jr.
Independent Member with
Insurance Expertise
Financial Stability Oversight Council
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

The FSOC was established under the Dodd-Frank Act (P.L. 111-203) and is responsible for identifying risks and potential emerging threats to the financial stability of the United States.

While the 2013 Annual Report of the FSOC provided brief discussions of the statutory debt limit, it failed to identify the limit as an emerging threat to the stability of the United States financial system. Since the time of the report's publication, and with an impending potential breach of the statutory debt limit, several experts, including some FSOC members, have identified clear risks to the nation's financial stability should there be a breach. Even the President of the United States, referring to the recent market "calm" about the debt limit and federal financing, said last week that market participants "should be concerned."

A recent report released by the Treasury Department on October 3 concluded that "In the event that a debt limit impasse were to lead to a default, it could have a catastrophic effect..." and "...not only might the economic consequences of default be profound, those consequences, including high interest rates, reduced investment, higher debt payments, and slow economic growth, could last for more than a generation."

If there is even a remote possibility of a breach of the statutory debt limit and a default, then the possible consequences would be severe, as Treasury's report and others have identified. Lack of any timely warning of an emerging threat to financial stability from the FSOC indicates either that FSOC does not identify the debt limit and a possible breach as an emerging threat, or that FSOC does, and has not adequately responded to such a threat by issuing timely warnings about the risks.

As was the case during the 2011 debt limit impasse, I request that you provide Congress with detailed information about any contingency plans that you, as the FSOC or as individual regulators of financial institutions, may have in the event of either of the following: 1) a ratings downgrade of United States Treasury securities or the sovereign rating of the United States; or 2) a default on any incoming due obligation of the federal government. By "plan," I mean any formal written steps or informally and internally discussed steps to take in order to deal with the contingencies I have just identified.

During the 2011 impasse, I only received a response to my information requests from Chairman Matz of the National Credit Union Administration. That was the case even though minutes of a Federal Reserve Videoconference meeting of the Federal Open Market Committee on August 1, 2011 made clear that the Fed and Treasury had developed contingency plans, which, to this very day, have not been shared with Congress. Such a lack of transparency is unacceptable, and Congress and the American people deserve more information about how the federal government and its agencies plan to respond to impending risks.

If a voting member of the FSOC believes that there is a positive probability of either of the two contingencies identified above, and if the member believes that the contingencies could lead to instability in financial markets, then it is reasonable to assume, from the perspective of prudent risk management, that contingency plans have been developed. That being the case, I request that you share any such plans with Congress.

Alternatively, if a voting member of the PSOC believes that the probability of either or both of the contingencies identified above is zero and no such planning is in order, I request that you share that belief with Congress.

Please provide to me the information I request above by no later than the close of business on October 15.

Sincerely,

A handwritten signature in black ink, appearing to read "Orrin Hatch". The signature is written in a cursive style with a large initial "O".

Orrin Hatch

Ranking Member, U.S. Senate Committee on Finance

Oct 10, 2013



Dear Congressman Heck,

It was a pleasure to meet you today and talk about our mutual interest in supporting the military/veteran community in your district and beyond. I look forward to working with you and your staff on military issues, and hope to get out to Washington State before too long.

consumerfinance.gov

Sincerely,

July Peterson
Asst Dir, Servicemember Affairs

MICHAEL H. MICHAUD
2nd District Member

WASHINGTON OFFICE
1724 LONGWORTH HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
PHONE: (202) 225-8306
FAX: (202) 225-2043

www.michaud.house.gov

Congress of the United States
House of Representatives
Washington, DC 20515

COMMITTEES:

VETERANS' AFFAIRS
RANGING MEMBER

TRANSPORTATION AND INFRASTRUCTURE
SUBCOMMITTEE ON HIGHWAYS AND TRANSIT
SUBCOMMITTEE ON RAILROADS, PIPELINES, AND
HAZARDOUS MATERIALS
SUBCOMMITTEE ON ECONOMIC DEVELOPMENT, PUBLIC
BUILDINGS, AND EMERGENCY MANAGEMENT
SUBCOMMITTEE ON WATER RESOURCES AND ENVIRONMENT

October 1, 2013

The Honorable Richard Cordray
Director
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

The Honorable Debbie Matz
Chairman
National Credit Union Administration
1775 Duke St #4206
Alexandria, VA 22314

Dear Director Cordray and Chairman Matz,

I write to express concern with the growing burden new regulations are placing on credit unions, particularly the small and medium sized credit unions in my state. I firmly believe the financial crisis demonstrated the need to strengthen our nation's financial regulations. But I also believe that new regulations must be designed to target the root causes of the crisis and to prevent financial institutions from becoming "too-big-to-fail."

Credit unions did not engage in the abuses and risky practices that led to the financial crisis. I am concerned that the implementation of financial reforms is becoming disproportionately burdensome on credit unions, particularly the smaller community based institutions, and leading to the consolidation of institutions. As your agencies continue to implement financial reforms, I urge you to consider the unintended consequences of a "one-size-fits-all" regulatory approach, and to the extent practicable, exempt or alleviate unnecessary burdens on credit unions.

Credit unions play an important role in states, towns and municipalities around the nation. As member-owned and controlled cooperatives, they usually have deep ties in the communities they serve. Without outside stockholders, earnings are returned to customers through improved services and lower lending rates. Credit union's local ties have long prevented excessive risk taking, and their structure has allowed them to remain a well capitalized source of financial stability both during and following the financial crisis. As the economy recovers, credit unions in Maine and around the country continue to help get middle class families working again.

Regulations, oversight, and examinations by your agencies should take these factors into account. Examination practices should be consistent from one to the next and should give credit unions the reasonable flexibility to serve their members' needs. Standards and rules developed for the largest and most complex financial institutions do not always make sense for credit unions. Due to their size and structure, many credit unions are having difficulty keeping pace with new regulations and unpredictable examination procedures. Since most compliance costs do not vary by institution size, the regulatory burden falls disproportionately on smaller credit unions.

BANGOR:
5 STATE STREET, SUITE 101
BANGOR, ME 04401
PHONE: (207) 942-6835
FAX: (207) 942-5907

LEWISTON:
170 LEGION STREET, GROUND FLOOR
LEWISTON, ME 04240
PHONE: (207) 782-3704
FAX: (207) 782-5330

PRESQUE ISLE:
445 MAIN STREET
PRESQUE ISLE, ME 04769
PHONE: (207) 764-1039
FAX: (207) 764-1080



Every dollar a credit union spends on additional compliance personnel reduces the amount available to serve their members. Consequently, regulating all credit unions and financial institutions in the same manner can have the unintended effect of greater consolidation, decreased services, and restricted lending. I do not believe that to be in the best interest of my constituents, or the economy at large.

Credit unions do not pose a "too-big-to-fail" threat to our financial system and your agencies' rules and examination methods should reflect that distinction. As you continue to implement financial reforms and review existing regulations, I urge you to consider the unintended consequences regulations could have on smaller community based institutions and make appropriate adjustments.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike", written over a horizontal line.

Michael H. Michaud
Member of Congress



Consumer Financial
Protection Bureau

1700 G Street, N.W., Washington, DC 20552

October 10, 2013

The Honorable Cheri Bustos
U.S. House of Representatives
1009 Longworth House Office Building
Washington, DC 20515

Dear Representative Bustos,

Thank you for your letter requesting information about efforts by the Consumer Financial Protection Bureau to protect consumers and ensure that financial products such as pension advance products and services are in compliance with the law. I appreciate the opportunity to discuss these products.

As you stated in your letter, recent questions about potentially unfair or deceptive practices relating to pension advance products and services have raised concern about the negative impact these products may have on veterans, teachers, and firefighters, as well as seniors. As I have said in the past, all lenders should be mindful of state and federal law and must comply with all laws applicable to them. The Bureau is committed to ensuring that consumer credit markets are fair, transparent, and competitive - and lenders' full compliance with the law is essential to that goal.

Your letter asked the Bureau to assess whether these pension advances violate the Racketeer Influenced and Corrupt Organizations Act (RICO), other federal law, or state usury laws. While we are not in a position to comment on the applicability of RICO or state law, the Bureau is committed to ensuring that consumers receive the full protection of Federal consumer financial law.

The Bureau is continuing to study information we obtain about the pension advance products and services market and its impact on consumers. As part of these efforts, in April 2012 the Office for Older Americans requested information from the public regarding fraudulent or deceptive practices targeted to older veterans and/or military retirees, including information about military pension buyout schemes, in which veterans are offered cash payments in return for their military pension payouts in a manner that could ultimately deprive the veteran of the majority of his or her pension.¹

In addition, on June 13, 2013, the Bureau added to its website, a "Spotlight on scams that target older adults." The spotlight calls attention to concerns that numerous companies are targeting retirees who may need access to cash by offering "advances" on their pension payments. The spotlight also notes that pension advance firms have been targeting military veterans, and reportedly have begun targeting teachers, firefighters, and police officers. The spotlight offers

¹ See <http://www.gpo.gov/fdsys/pkg/FR-2012-06-19/html/2012-14854.htm> (published at 77 Fed. Reg. 118 (June 19, 2012)).

several resources for consumers who may be targeted by these firms.² On July 31, 2013, Hollister Petraeus, the Bureau's Assistant Director for the Office of Servicemember Affairs, testified before the U.S. Senate Committee on Veterans' Affairs and addressed growing concern about the marketing of these products to our veterans.³ The Bureau's Office of Servicemember Affairs and Office of Financial Protection for Older Americans are working on steps that can be taken to address these concerns.

Thank you for your continuing interest in the Bureau's work and for taking the time to share your concerns with me. I look forward to working with you on this issue and other important consumer financial protection issues.

Sincerely,



Richard Cordray
Director

² See <http://www.consumerfinance.gov/files/spotlight-on-scams-that-target-older-adults/>.

³ See <http://www.consumerfinance.gov/newsroom/hollister-petraeus-testifies-before-the-senate-committee-on-veterans-affairs/>.



Consumer Financial
Protection Bureau

1700 G Street, N.W., Washington, DC 20552

October 15, 2013

The Honorable Michael Michaud
U.S. House of Representatives
1724 Longworth House Office Building
Washington, D.C. 20515

Dear Representative Michaud:

Thank you for your letter about the issues facing community banks. We at the Consumer Financial Protection Bureau share your belief that community banks play an essential role in the consumer financial services markets and in communities across the United States.

The Bureau also shares your concern that regulations should not place unnecessary burdens on community banks. We recognize that, with few exceptions, community banks and credit unions did not engage in the type of risky lending that led to the mortgage crisis. We also understand, as your letter makes clear, that if the regulations implementing the Dodd-Frank Wall Street Reform and Consumer Financial Protection Act are too burdensome, these institutions may be more likely to retreat from the mortgage market, which could restrict access to credit for some borrowers.

For these reasons, the Bureau takes special care to ensure that its rules are balanced for community banks and credit unions and the consumers they serve. For instance, the Bureau has tailored the Ability-to-Repay rule and the standards for qualified mortgages (QMs) to encourage small creditors to continue providing certain credit products, while carefully balancing consumer protections.

To address concerns such as those you raised, the Bureau created a QM provision specifically for small-creditor portfolio loans. Under that provision, portfolio loans made by small creditors generally qualify to be QMs—even if the 43 percent debt-to-income ratio is exceeded—as long as the creditor considered debt-to-income or residual income before making the loan, and as long as the loan meets the other requirements for qualified mortgages (including the prohibitions on risky product features). In addition, the Bureau has provided a two-year transition period, during which balloon loans made by small creditors and held in portfolio will be treated as QMs regardless of where the creditor predominantly operates. This decision will allow time for the Bureau to review whether its definitions of “rural” and “underserved” should be adjusted. As Director, I am committed to conducting such a review to ensure that the Bureau’s definitions accurately reflect significant differences among geographic areas, to calibrate access to credit concerns, and to facilitate implementation.

Additionally, the Bureau has embarked on an implementation plan to prepare mortgage businesses for the rules that take effect next January. We have published plain-English summaries that we will update as necessary. We have also launched a series of videos explaining our rules. We are trying to make our rules more understandable and more user-friendly —

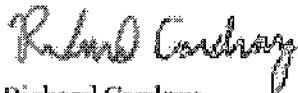
setting out what lenders need to know and what they need to do in order to comply.¹ We intend these efforts to be especially helpful to smaller institutions where regulatory burden weighs more heavily on fewer employees.

As you know, the Bureau is committed to incorporating the perspectives of all stakeholders into our policy-making process. We created the Community Bank Advisory Council in early 2012 to enhance engagement with the community banking community. CBAC helps the Bureau by providing information on emerging practices in the consumer financial products and services industry, including regional trends and concerns. The Bureau also created the Office of Financial Institutions and Business Liaison, whose focus is to work directly with industry participants including community banks and credit unions. They meet regularly with industry stakeholders and trade groups in order to ensure that their views are heard. You may also be interested to know that the Bureau met with the Maine Credit Union League on October 3, 2013 and held a roundtable with Maine community bankers in Portland, on July 10, 2013.

Lastly, in regards to your concerns about the examination process for small lenders, the Bureau generally does not supervise depository institutions or credit unions with total assets of \$10 billion or less. The Bureau is working with fellow regulators to help ensure consistency in our examinations of mortgage lenders under the new rules and to clarify issues as needed. In addition, after working with the prudential regulators on the Federal Financial Institutions Examination Council, we have created common examination guidelines and standards that will be used by other regulators. These have been published well in advance of the effective date of the rules, so that institutions will know what to expect.

Thank you again for taking the time to share your concerns with me. I look forward to working with you on the important consumer financial protection issues that impact the constituents that you represent.

Sincerely,



Richard Cordray
Director

¹ See <http://www.consumerfinance.gov/regulatory-implementation/>



Consumer Financial
Protection Bureau

1700 G Street, N.W., Washington, DC 20552

October 15, 2013

The Honorable Ed Perlmutter
U.S. House of Representatives
1410 Longworth House Office Building
Washington, DC 20515

The Honorable Denny Heck
U.S. House of Representatives
425 Cannon House Office Building
Washington, DC 20515

Dear Representatives Perlmutter and Heck,

Thank you for your letter requesting guidance for financial institutions about providing banking services to marijuana-related businesses. I welcome the opportunity to address the Consumer Financial Protection Bureau's authority in more detail than was possible at the House Financial Service Committee hearing.

You asked the Bureau and other agencies to issue guidance to regulated banks, credit unions, and other financial services providers "eliminating further uncertainty and ensuring state and local governments have access to an effective and safe regulatory regime in place." This matter does not appear to implicate Federal consumer financial law. Rather, providing banking services to marijuana-related businesses appears to relate to financial transactions and products that are purely commercial in nature and to implicate safety and soundness issues such as compliance risk and reputation risk which are within the authorities of other federal banking regulators to address. Thus, while the issue you raise is important, it would not be appropriate for the Bureau to provide guidance or comment on it at this time.

Thank you for the opportunity to respond. Please do not hesitate to have your staff contact the Bureau's Legislative Affairs staff with any additional questions. I look forward to collaborating on consumer financial protection issues important to you and to the consumers you represent.

Sincerely,

A handwritten signature in black ink that reads "Richard Cordray". The signature is written in a cursive, flowing style.

Richard Cordray
Director

United States Senate

WASHINGTON, DC 20510

October 17, 2013

Mr. Richard Cordray
Director
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, D.C. 20552

Dear Director Cordray,

Thank you for taking the time recently to discuss the impact of the Consumer Financial Protection Bureau's (CFPB) regulations on community banks in New Hampshire. I was encouraged to hear you recognize the importance of maintaining the community banks' relationship-driven lending model in New Hampshire. As you know, our community banks play a vital role in local economies throughout the state, helping small businesses get access to credit and providing families with affordable home financing options. I appreciate your willingness to examine the CFPB's rules to ensure that they do not harm this important component of New Hampshire's economy.

I write today to follow up on our conversation and request additional information about the "small creditor" definition in the ability-to-repay (ATR) rule. Currently, it is limited to lenders that make 500 or fewer loans and are under two billion dollars in assets. As you know, the ATR rule is designed to prevent unscrupulous lenders from putting borrowers into mortgages they cannot afford. All mortgages must comply with the ATR requirement. However, as the CFPB has rightly acknowledged in its final rule, certain "qualified mortgages" are presumed to comply with the rule if they meet strict income criteria, in addition to other requirements. If a lender is classified as a "small creditor" under the ATR rule, the qualified mortgage status attaches to the loan, even if it does not meet the debt-to-income ratio. By bearing the risk for these loans, small creditors such as community banks have a strong incentive to ensure that the borrower is able to repay.

Unfortunately, the definition of small lenders in the final ATR rule would not include many community banks in New Hampshire. In particular, the CFPB's decision to define small creditors as those who originate 500 or fewer mortgage loans per year has resulted in many New Hampshire community banks falling outside the definition. Many of our community banks originate more than 500 mortgage loans each year, in part due to industry consolidation and the need for these institutions to pick up the slack from larger lenders that have pulled back from more rural communities.

Many community banks are concerned that the risks associated with originating loans outside the qualified mortgage safe harbor could restrict their ability to lend to local borrowers. Various counsel to New Hampshire community banks have expressed concern that the lack of the safe harbor and heightened penalties and liabilities pose burdensome reputational and litigation risk.

New Hampshire bankers have cautioned me these risks will cause them not to loan outside the safe harbor. This could result in excessively constricted credit for consumers in New Hampshire. For example, community banks would be more hesitant to originate loans in areas with high home values that do not conform to government-sponsored enterprise (GSE) loan limits. In addition, it would be much more difficult for community banks to work with borrowers when their circumstances change, such as a health crisis or a loss of employment. I have heard from many constituents in New Hampshire that have benefitted greatly from community banks' flexibility and forbearance in these situations, especially compared to larger banks.

I was encouraged to hear that you will consider revisiting this threshold based on an examination of data and the impact on credit availability and the community banking sector. In the interim, I believe it is critical to understand the original rationale behind the 500-mortgage loan threshold. Can you please provide my office with the Bureau's rationale for setting this threshold at 500 mortgage loans? I would also appreciate your office providing me with an analysis of the impact of this threshold on consumer credit availability.

As you have said, strengthening the community banks' relationship lending model is not only good for our economy, but it also promotes sound lending practices and benefits consumers. I believe that flexibility for the ATR rule is one way to promote the community banking model and avoid the abuses by larger institutions that precipitated the financial crisis.

Thank you for your attention to this matter, and I look forward to working with you on this issue.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jeanne Shaheen".

Jeanne Shaheen
United States Senator

United States Senate

WASHINGTON, DC 20510

October 18, 2013

The Honorable Richard Cordray
Director
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

Dear Director Cordray:

We write to express our continuing interest in addressing the challenge of medical debt in credit reports, and we are pleased to hear that the Consumer Financial Protection Bureau (CFPB) is looking into this issue. Medical debt is different from other types of debt as it is an unplanned expense, often resulting from an unforeseen illness or emergency. Additionally, due to the medical billing process in which billing disputes and errors can spur the incurrence of medical debt, consumers often do not even know that they are responsible for a medical debt before it has been reported to collections.

The inclusion of medical debt in credit scoring practices can have severe negative effects on consumers. According to the Commonwealth Fund, nearly 73 million adults faced difficulties paying medical bills in 2010. Additionally, a study on credit report accuracy published in the Federal Reserve Bulletin found that approximately 80 percent of those with medical collection data on their credit reports would have experienced an increase in scores if the medical debt was not factored in to the scoring algorithm.

Furthermore, lowered credit scores resulting from medical debt are often reported in error. In February 2013, the Federal Trade Commission released the results of a comprehensive study of credit reporting errors, finding 21 percent of American consumers had an error on a credit report from at least one of the three major credit reporting companies. Thirteen percent of consumers had errors serious enough to change their credit scores. Unlike with other industries, when an error is made on a consumer's credit report the consumer does not have the ability to switch companies, as all consumers are beholden to the major credit reporting agencies. In this way, what begins as an unpredictable medical hardship or even an error that is not the fault of the consumer, can lead to long-lasting damage to a consumer's ability to buy a home, obtain a credit card, and fully participate in our economy.

Moreover, medical debt is such a poor predictor of creditworthiness that credit bureaus and lenders have testified to Congress that removing medical debt from consideration would not harm the predictive value of consumer credit reports.

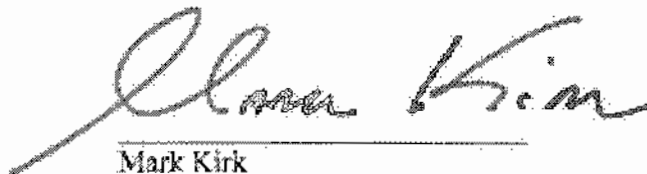
Many consumers mistakenly believe that unpaid medical bills have no influence over one's credit score. However, without changes, medical debt will continue to negatively impact consumers' lives. We welcome and encourage efforts by the CFPB to investigate and examine medical debt in order to further inform the discussion regarding how best to address its effects on consumer credit.

We urge the CFPB to move quickly to examine these issues and share its conclusions. We look forward to a speedy response.

Sincerely,



Jeff Merkley
U.S. Senator



Mark Kirk
U.S. Senator

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

October 22, 2013

The Honorable Richard Cordray
Director
Bureau of Consumer Financial Protection
1700 G Street, NW
Washington, DC 20552

Director Cordray:

On April 24, 2013, the Consumer Financial Protection Bureau (CFPB) released a study on the prevalence and use of payday loans and deposit advance products.¹ Though styled as a "white paper on initial data findings," the study concludes with the promise of regulation: "The potential consumer harm and the data gathered to date are persuasive that further attention is warranted to protect consumers. Based upon the facts uncovered through our ongoing work in this area, the CFPB expects to use its authorities to provide such protections."²

On June 20, 2013, an attorney representing the Community Financial Services Association of America (CFSA), a payday lending trade group, sent an Information Quality Act petition to the CFPB requesting that it withdraw the study, citing serious methodological flaws.³ Among other problems cited in its petition, the CFSA noted significant sampling errors, which allegedly overstated the CFPB's findings by 81 percent. The petition further requested that the CFPB release all of its data so that its study could be publicly reviewed by experts.

In an August 19, 2013 response letter, the CFPB declined to withdraw its white paper, asserting that it was useful and objective because it had been subjected to a pre-publication review process within the Bureau.⁴ Further, the CFPB declined to provide the CFSA with the data the paper had relied upon, citing its confidentiality.⁵

Data-driven, transparent agencies should welcome thorough review of their reports by outside experts, particularly when findings drawn therefrom will inform their rulemakings. So that the Financial Services Committee can independently assess the veracity of the findings and conclusions of CFPB's payday and deposit advance products study, I request that you provide the Committee with copies of all of the data, analyses, reports, studies and methodologies upon which the CFPB relied in preparing it.

¹ Consumer Financial Protection Bureau, "Payday Loans and Deposit Advance Products," (Apr. 24, 2013), available at http://files.consumerfinance.gov/f/201304_cfpb_payday_loan_studypaper.pdf.

² *Id.* at 44-45.

³ See <http://www.cfpbmonitor.com/files/111106/CFSA-Information-Quality-Act-Petition-to-CFPB-6-20-13.pdf>.

⁴ See http://files.consumerfinance.gov/f/201308_cfpb_cfja_response.pdf.

⁵ *Id.*

The Honorable Richard Cordray

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October 22, 2013

Please provide this information in hard copy and electronic and searchable format no later than November 5, 2013. Any questions about this request should be directed to Brian Johnson of the Committee staff at 202-225-7502.

Yours Respectfully,

A handwritten signature in black ink, appearing to read "Jeb Hensarling". The signature is written in a cursive style with a large, looping initial "J".

Jeb Hensarling
Chairman

cc: The Honorable Maxine Waters
Mr. Mark Bialek, Inspector General, Federal Reserve Board and CFPB

EDWARD J. MARKEY
SENATOR

COMMITTEE:

Сенатский комитет по Финансовым вопросам
Подкомитет по Банковскому регулированию
и Финансовым Институтам

Состав:

Председатель: Ричард Шлезингер, Демократ от штата
Флорида; Члены: Роберт Менендес, Демократ
от штата Нью-Джерси; Ширли Честертон, Реп.
от штата Коннектикут

М. С. Роберт Честертон, Член Комитета по Финансовым вопросам

United States Senate

October 22, 2013

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404-786-4815

The Honorable Richard Cordray
Director
Consumer Financial Protection Bureau
1700 G St. NW
Washington, DC 20552

Dear Mr. Cordray:

We write to inquire about the Consumer Financial Protection Bureau's (CFPB's) efforts to study, and, as appropriate, take action to protect consumers against entities that provide medical and dental credit cards, loans and other consumer financial products and services used by individuals to pay for medical and dental care that is not covered by health insurance. As indicated in a recent *The New York Times* article¹, several financial products exist on the market, including medical credit cards and medical loans that have extraordinarily high interest rates and questionable financing terms. These products are typically offered to consumers who may not otherwise be able to pay for the services by their physicians or health care providers immediately following or in anticipation of expensive medical procedures, and in many cases drive consumers further into debt. In an example provided in *The New York Times*, a dentist who marketed a medical loan to his patient was paid in full immediately while the patient was charged a 23% annual interest rate (or 33% if she missed a payment). The patient was then directed to obtain a medical credit card to cover the costs of additional dental work she required. Her monthly payments for these various products now add up to one third of her monthly Social Security benefits.

Consumers use these medical financial products and services to pay for medical procedures ranging from elective cosmetic surgeries to critical life-saving medical treatments. Often those targeted for these products are seniors or those who are seriously ill or underinsured or uninsured patients. Equally troubling, the entity offering the product or service is a trusted practitioner or health care facility. As more Americans have accessed these products, several Attorneys General – including those in New York and Minnesota – have conducted investigations alleging abusive lending practices or exploitation by some health care providers and financial firms offering this third-party medical financing.

As medical debt continues to place a heavy burden on millions of Americans, we need to gain a better understanding of the role played by consumer financial products and services that offer consumers seemingly quick fixes to cover the high costs of medical procedures. We are

¹Jessica Silver-Greenberg, October 13, 2013 'Patients Mired in Costly Credit From Doctors', *The New York Times*.

interested in hearing more about your efforts either planned or currently underway to better understand, and, as appropriate, address this troubling issue. To better understand the scope of

this issue and the CFPB's role in reviewing and investigating these products, we respectfully request a response to the following questions:

1. Has CFPB investigated the risks, costs, and benefits that medical financial products – such as medical credit cards, deferred interest plans, installment loans, and any other third-party financing options for health care for patients? If so, what has CFPB determined? If not, are there reasons that you have not investigated these products?
2. Please describe the consumer financial products in this marketplace, such as medical credit cards, deferred interest plans, installment loans, lines of credit and any other financing options offered as a way for patients to finance their medical services subject to your regulatory authority including the major lenders or providers, how these products are used, what populations of patients are more likely to use these products, and the recourse available to patients whose care is not provided in the expected manner.
3. Do you think the information provided to consumers when offered these medical financial products is sufficient to ensure that consumers can understand the repayment terms, fees, and general nature of these financial products? If not, what measures should financial institutions and lenders take to clarify and increase transparency of the terms surrounding these financial products?
4. Does CFPB have a means to collect and investigate complaints received from consumers about medical financial products? If so, please explain the process of receiving and investigating complaints and the nature of the complaints received as well as any resolution to these complaints. If not, what would be necessary to start collecting and investigating these complaints? What congressional action or support, if any, would be helpful to CFPB in conducting this work?
5. How do the annual percentage rates, interest plans, and terms of credit for medical credit cards, medical loans or other financial products differ from traditional credit cards, loans or other financial products? How prevalent is the practice of offering deferred interest plans for medical credit cards and other medical financial products? To what extent are these deferred interest plans utilized by patients? How does this compare to traditional credit cards and financing?
6. Are you aware of whether financial institutions or lenders charge medical providers a fee for offering medical credit cards or other third party financing services to their patients? Are they required to meet a quota? Are you aware of any financial incentives or other benefits available to providers for getting patients to apply for these medical financial products? Do you have data or information to suggest that some medical providers may be referring patients to specific third-party financing entities in which the medical provider stands to profit? If a financial relationship does exist between health providers and financial entities, should this information be disclosed to consumers prior to them being offered such a product?

7. Is the CFPB coordinating its activities or consulting with other federal or state agencies or departments to share information, gather data, or develop plans to address problems plaguing consumers in this area?

We kindly request that you provide a complete response to these questions by November 18, 2013. Should you have any questions about this request, please have your staff contact Dr. Avenel Joseph at (202) 224-2742. We thank you for your assistance and for your willingness to look into this important issue.

Sincerely,


Edward J. Markey

United States House of Representatives
 Committee on Financial Services
 2109 Rayburn House Office Building
 Washington, D.C. 20517

October 22, 2013

The Honorable Richard Cordray
 Director
 Consumer Financial Protection Bureau
 1700 G Street, NW
 Washington, D.C. 20552

Dear Director Cordray:

We write today to express our concern regarding the CFPB's relationship with a company known as ideas42, an applied behavioral economics firm doing business as Behavioral Ideas Lab, Inc. In September 2012, the CFPB issued a press release announcing the creation of an Academic Research Council (Council), noting that the Council had already held its first meeting in July 2012.¹ To our knowledge, the CFPB never announced its intent to create the Council prior to September 2012, and no disclosure of the Council's July meeting was made public until that September press release. Furthermore, nowhere in the Dodd-Frank Act does Congress mandate, authorize, or mention the creation of an academic research council for the CFPB.² The Council is comprised of six members, at least five of whom have direct ties to ideas42: John Campbell was a presenter at a two-day "masterclass" conducted by ideas42 for "key members of the CFPB" at CFPB headquarters in May 2012, only a month before the Council's first meeting;³ David Laibson was also a presenter at that event and is an official "affiliate" of ideas42; Christine Jolls is listed as an affiliate of ideas42; Richard Thaler is an advisor to ideas42;⁴ and Antoinette Schoar is the Scientific Director and cofounder of ideas42.

¹ Press Release, Consumer Financial Protection Bureau, CFPB Announces Consumer Advisory Board Members (Sept. 12, 2012) available at <http://www.consumerfinance.gov/pressreleases/consumer-financial-protection-bureau-announces-consumer-advisory-board-members/> (last visited Sept. 30, 2013).

² Section 1013(b)(1) of the Dodd-Frank Act, 12 U.S.C. § 5493(b)(1), establishes the Office of Research and Section 1014 of the Dodd-Frank Act, 12 U.S.C. § 5494 creates the Consumer Advisory Board. Nowhere in the statute does the law provide for the creation of an academic consultative body, council, enterprise.

³ Ideas42 Masterclass <http://www.ideas42.org/cfpb-masterclass/> (last visited Sept. 30, 2013).

⁴ Thaler co-authored a paper with Sendhil Mullainathan describing how behavioral economics differs from traditional economics: in essence, behavioral economists believe that consumers exhibit "bounded rationality," "bounded willpower," and "bounded selfishness," all of which result in "departures from rationality . . . both in judgments (beliefs) and in choices," resulting in "suboptimal behavior" by consumers. See Richard H. Thaler & Sendhil Mullainathan, *How Behavioral Economics Differs from Traditional Economics*, Library of Economics and Liberty, available at: <http://www.econlib.org/library/Enc/BehavioralEconomics.html> (last visited Sept. 30, 2013). Put more simply, behavioral economists believe that consumers don't really know what is in their own best interest. Further, Thaler, along with Harvard Professor Cass Sunstein, Director of the Office of Management and Budget's Office of Information and Regulatory Affairs during President Obama's first term, authored a book entitled *Nudge*, which advances a controversial form of behavioral economic theory known as "nudge theory." See Richard H. Thaler & Cass Sunstein, *Nudge: Improving Decisions about Health, Wealth, and Happiness*, Yale Univ. Press (2008). In the book,

Congress created the Federal Advisory Committee Act (FACA) in 1972 to avoid precisely this type of arrangement. FACA is an open-government initiative to ensure, among other things, that "Congress and the public [are] kept informed with respect to the number, purpose, membership, activities, and cost of advisory committees."⁵ When FACA was created, advisory committees had such an impact on the federal decision-making process that they were referred to as the "fifth arm" of the government.⁶ Thus, the goal of FACA was to prohibit "special interest groups [that] use and abuse their predominant membership on advisory committees to unduly influence government decision makers and promote their private concerns."⁷

The CFPB, its Council and ideas42 are intertwined still further. In May 2011, Elizabeth Warren hired Sandhil Mullainathan, a Harvard behavioral economist and the co-founder of ideas42, to run the CFPB's Office of Research.⁸ Mr. Mullainathan is reported to

Thaler and Sunstein reject what they describe as "dogmatic anti-paternalism"—the idea that people should be left to make consumption decisions of their own free will. Instead, they argue that the government should "nudge" people to make the "correct" choices by controlling what information is presented to consumers and how it is presented. Finally, Thaler has worked with the UK Government's Behavioral Insights Team (BIT), or "nudge unit," since its inception to apply behavioral economics and nudge theory to governmental policies. See <http://blogs.cabinetoffice.gov.uk/behavioural-insights-team/2012/11/09/welcome-to-the-bit-blog/> (last visited Sept. 30, 2013).

⁵ Federal Advisory Committee Act, 5 U.S.C. Appendix—Federal Advisory Committee Act; 86 Stat. 770, as amended, 5 U.S.C. app. 2 § 2(b)(5).

⁶ Hearings on Presidential Advisory Committees Before the Subcomm. on Special Studies of the House Comm. on Gov't Operations, 91st Cong., 2d Sess., pt. 2, at 1, 2, 54, 107 (1970).

⁷ Barbara W. Tuerkheimer, *Veto by Neglect: The Federal Advisory Committee Act*, 25 Am. U. L. Rev. 53, 55 (1975). While the Federal Reserve System is exempt from FACA (see 5 U.S.C. app. 2 § 4(b)) this exemption was intended to keep financial information secret that was privileged or confidential. See Tuerkheimer, 25 Am. U. L. Rev. at 58 (noting that FACA exemptions were incorporated from the Freedom of Information Act, which under 5 U.S.C. § 552(h) included "trade secrets and commercial or financial information obtained from a person and privileged or confidential"). Although the CFPB is technically within the Federal Reserve System, Title X of the Consumer Financial Protection Act provides that the CFPB is an "independent agency." 12 U.S.C. § 5491. Moreover, the other advisory committees created under the Dodd-Frank Act—which were explicitly exempt from FACA—still provide basic public disclosures that the Council does not. See SEC Investor Advisory Committee (created under Dodd-Frank Act Sect. 911, exempted from FACA under § 78pp(i), website provides public disclosure of meeting notes, agendas, and webcast archives; available at <https://www.sec.gov/spotlight/investor-advisory-committee-2012.shtml>); Financial Stability Oversight Council (created under Dodd-Frank Act Sect. 113, exempted from FACA under § 5321(g), website provides public disclosure of meeting minutes, annual report, and public notices, available at <http://www.treasury.gov/initiatives/fsoc/council-meetings/Pages/default.aspx>) (last visited Sept. 30, 2013). At the very least, the Council does not seem so separate and distinct as to require special FACA treatment, especially when compared to these other advisory committees operating in the same regulatory space.

⁸ Maya Jackson Randall and Justin Lahart, "Harvard Economist to Join Consumer Bureau," Wall Street Journal (May 11, 2011) available at <http://online.wsj.com/article/SB10001424052748704681904576317503820946870.html> (last visited Sept. 30, 2013); Origins of Ideas42 webpage: <https://www.ideas42.org/about/origins/> (last visited Sept. 30, 2013).

have managed the early stages of the CFPB's data mining program,⁹ even though he later described himself as "very sympathetic" to concerns about the CFPB's massive consumer data repository, and said that the CFPB's current effort "seems invasive."¹⁰ As the Director of the Office of Research, it appears that Mr. Mullainathan received direct reports from the Council.¹¹ In turn, Mr. Mullainathan determined "which issues and/or projects to bring before the Council to solicit advice and expertise."¹² It is unknown what role Mr. Mullainathan may have played in the selection of Council members. However, the fact that the Council (comprised of members overwhelmingly associated with ideas42) worked with a senior employee at the CFPB (who cofounded ideas42) on research that could have influenced CFPB policies and decisions creates the appearance of a conflict of interest that casts doubt upon the independence of the CFPB.

Additionally, the full costs associated with the Council, as well as the method by which the CFPB reimburses or compensates Council members, is unclear. According to the Council's charter, members are afforded "per diem stipends and reimbursement for reasonable travel expenses and incidentals that arise out of and directly relate to work for the Council," and total estimated annual operating costs for the Council are estimated to be \$10,000.¹³ However, the charter cautioned that, beyond the expenses involved with the cost of the Council's annual meeting, "it is likely that Council members will make other visits to the Bureau to present at Lunch & Learn events or the Office of Research seminar series, or to meet with staff about particular projects."¹⁴ Although the charter notes that "[t]he costs of these other trips will be covered by the budget for these other programs or projects," the charter does not indicate what the budgets for "these other programs" are, or whether and at what level these other program budgets may be used to compensate Council members.

Furthermore, in September 2012, the same month that the CFPB announced the formation of the Council and the selection of its ideas42-connected members, the CFPB awarded a large research contract to ideas42 totaling \$5 million.¹⁵ The bid solicitation for the contract published in August 2012—two weeks after the Council's first in-person meeting—was entitled "Innovation Development and Testing Support Services for the

⁹ Richard Pollock, "Elizabeth Warren: 'behavioral economics' birthed CFPB's credit card data-mining," *Washington Examiner* (September 28, 2013), available at <http://washingtonexaminer.com/elizabeth-warren-behavioral-economics-birthed-cfpbs-credit-card-data-mining/article/2536232> (last visited Sept. 30, 2013).

¹⁰ Carter Dougherty, "US Amasses Data on 10 Million Consumers as Banks Object," *Bloomberg* (Apr. 17, 2013), available at <http://www.bloomberg.com/news/2013-04-17/u-s-amasses-data-on-10-million-consumers-as-banks-object.html> (last visited Sept. 30, 2013).

¹¹ Charter of the Academic Research Council, Consumer Financial Protection Bureau http://files.consumerfinance.gov/f/1209_cfpb_arcccharter.pdf (last visited Sept. 30, 2013).

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Federal Business Opportunities, "Innovation Development and Testing Support Services in support of the Consumer Financial Protection Bureau, Solicitation No. BFD-CFP-12-CI-0009, available at <https://www.fbo.gov/index?s=opportunity&mode=form&tab=core&id=7c2c7e133cc31857a21173b953d41657> (last visited Sept. 30, 2013).

Consumer Financial Protection Bureau (CFPB)" (Project).¹⁶ The Statement of Work accompanying the bid solicitation identifying the CFPB's objectives for the Project reads like a description tailor-made for ideas42: to "develop behaviorally-informed and rigorously-evaluated approaches" for "decision-making challenges" for consumer finance.¹⁷ Ideas42 focuses on the area of consumer finance and "believe[s] behavioral economics can help with every social problem" by using a data-based approach to address decision-making challenges.¹⁸ The close relationship between the work requested for the Project and the services offered by ideas42—especially in light of the many connections between the CFPB's staff and ideas42—raises questions about whether the CFPB followed proper procurement policies in designing the Project to ensure that multiple companies would be qualified to compete for the contract and that bids were evaluated impartially.

Accordingly, we write you to request additional information about the relationship between the CFPB and ideas42. Specifically, we are interested in understanding the process by which the CFPB awarded a \$6 million research contract to ideas42; how the CFPB selected members of its Academic Research Council; the activities of that Council; the extent of the interaction between CFPB employees and individuals connected to ideas42; and the relationship between CFPB employees and advisors and the White House Behavioral Insights Team, dubbed the "Nudge Squad."

To assist the Committee in fully assessing the relationship between ideas42 and the CFPB, we respectfully request that the CFPB provide the following:

- (1) All records¹⁹ prepared by you or any other individual employed by, or working on behalf of, the CFPB, ideas42, and/or the Treasury Department (including but not limited to the Bureau of the Public Debt and its contracting officers Carey Grapp and Jacob Oberlin) involving the Federal Business Opportunity "Innovation Development and Testing Support Services for the Consumer Financial Protection Bureau (CFPB)," including without limitation records for solicitation RFI-CFPB-12-0105, solicitation BPD-CFP-12-CI-0009, and contract award TPD-CFP-12-C-0020

¹⁶ See Federal Business Opportunities, "Innovation Development and Testing Support Services," Solicitation No. BFD-CFP-12-CI-0009, available at https://www.fbo.gov/?s=opportunity&mode=form&id=8048e07420f36c171224c7381dff8dba&tab=core&_cview=1 (last visited Sept. 30, 2013).

¹⁷ See RFI Statement of Work, Federal Business Opportunities, "Innovation Pilots and Testing Support Services," Solicitation No. RFI-CFPB-12-0105, available at <https://www.fbo.gov/index?s=opportunity&mode=form&tab=core&id=69d04a60eb64cd20697f35bde51250a2> (last visited Sept. 30, 2013).

¹⁸ Ideas42 "Background," <http://www.ideas42.org/about/background/> (last visited Sept. 30, 2013).

¹⁹ The term "records" means any documents or electronically stored information—including writings, graphs, charts, presentation slides, images, and other data or data compilations—stored in any medium from which information can be obtained in a reasonably usable form in the possession of the CFPB, including without limitation records in the nature of analysis, reviews, recommendations, legal or other memoranda, and correspondence, whether or not actually prepared by you or any other individual employed by, or working on behalf of, CFPB. For the purposes of this request, the term "You" means the Director of the CFPB.

- (2) All records involving the creation, formation, and selection process for the Academic Research Council, including, without limitation, records in the nature of analysis, reviews, recommendations, legal or other memoranda, and correspondence, whether or not actually prepared by you or any other individual employed by, or working on behalf of, the CFPB.
- (3) All records involving the Academic Research Council, including, but not limited to: any meetings, including in person and remote meetings; any projects involving the Academic Research Council members; educational efforts including seminar series and Lunch & Learn lectures; any staff recruitment efforts involving the Academic Research Council, including any involvement in the candidate recruitment and interview processes; CFPB financial and administrative records including per diem stipends, reimbursement for travel expenses, and incidentals that arise out of the work for the Academic Research Council; the biennial review of the Academic Research Council; and all records of the Academic Research Council handled according to the applicable agency records disposition schedule.
- (4) All records generated by Sandhil Mullainathan or any other CFPB employee involving ideas42, including, without limitation, all correspondence with ideas42 team members, advisors, affiliates, or board members during Mr. Mullainathan's employment with the CFPB.
- (5) All records referencing the White House "Behavioral Insights Team" or any member thereof.

Please work with the Financial Services Committee staff to provide the requested documents and communications as soon as practicable but not later than November 5, 2013. We appreciate your prompt attention to this matter. If you have any questions regarding this request, contact Brian Johnson or Jennifer Flitton of Committee staff at (202) 225-7502.

Sincerely,



JEB HENSARLING
Chairman
Committee on Financial Services



PATRICK MCHENRY
Chairman
Subcommittee on Oversight
and Investigations

cc: The Honorable Maxine Waters
cc: The Honorable Al Green

Congress of the United States
Washington, DC 20515

October 29, 2013

Mr. Richard Cordray
Director
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, D.C., 20552

Dear Director Cordray:

We write to request that the Consumer Financial Protection Bureau (CFPB) provide Congress with the full set of materials used to craft guidelines released March 21, 2013 to address alleged discriminatory auto-lending practices. This letter is a follow up on a request to your office made by Congresswoman Terri Sewell and twelve other Members of Congress in a letter dated May 28, 2013.

We do not take allegations of discrimination lightly, and we applaud the Bureau's efforts to identify, confirm and eliminate all such cases. Discriminatory auto lending is particularly harmful, as auto loans provide access to transportation, and are therefore a gateway to full participation in society. The importance of this issue necessitates proper Congressional oversight, yet without complete information, we cannot know if the CFPB is faithfully executing the Equal Credit Opportunity Act's protections against discriminatory lending, or if the Bureau's lending guidelines are unnecessary and counter-productive.

To date, the Bureau has not provided all of the materials requested by Congress and deemed necessary for proper oversight. In response to various inquiries, CFPB has so far provided a generalized methodology that the Bureau claims is in-line with standard practices used to assess discrimination. The methodology as described relies on the use of proxies to identify groups and uses statistically significant differences in basis points as the determinant of disparate impacts. While this could be a reasonable methodology, it is impossible to make a true assessment without the underlying data and specific methodology. With that in mind, we respectfully request that you provide the following:


- The raw data and methodology used to determine disparate impact, including (i) proxies used to determine applicant's background, (ii) statistical controls used to isolate background as a causal factor in pricing disparity, (iii) statistical tests used to assess differences between classes and (iv) outcomes of statistical tests. Recognizing that CFPB uses a case-by-case approach, a set of case studies would be acceptable.
- Any market analysis CFPB performed indicating whether and to what extent the proposed guidelines would affect the cost of credit for consumers, including the impact of industry adoption of flat fees as the mechanism to compensate dealers for arranging financing.
- Recourse available to lenders accused of discriminatory lending: E.g., would those accused of discriminatory lending have access to the data used in the case against them to identify possible methodological shortcomings?

We would like to emphasize that the requests detailed above are for specific, raw data and *not* for a general explanation of CFPB methodology as has been previously provided. We would appreciate your response to this letter by November 15, 2013. Fair and equitable access to credit is the right of every American and we look forward to working together to protect this right in an open and equitable manner.

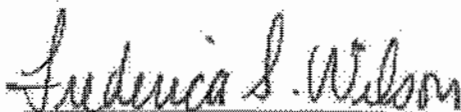
Sincerely,



Colleen W. Hanabusa
Member of Congress



David N. Cicilline
Member of Congress



Frederica S. Wilson
Member of Congress



Consumer Financial
Protection Bureau

1700 D Street, N.W., Washington, DC 20552

October 3, 2013

The Honorable Jeb Hensarling
Chairman, Committee on Financial Services
U.S. House of Representatives
2129 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Hensarling,

Thank you for your recent letter requesting information about the use and maintenance of e-mail accounts to conduct official business at the Consumer Financial Protection Bureau. As always, I welcome the opportunity to discuss the Bureau's operations with you.

The only Bureau senior official granted contemporaneous access rights to more than one government-issued e-mail account is the Director. Given the large volume of communications attendant to that role, I have been issued two Bureau e-mail accounts, both linked to my name and both for official use only. One account contains public and Bureau-wide communications; the other contains communications to and from those officials with whom I consult on a more frequent basis. The Bureau provided one other former senior official, Raj Date, with similar access rights during his tenure. This extremely limited use of dual accounts has not necessitated the issuance of Bureau-wide policies and procedures.

Because the Bureau has utilized the Treasury Department for some of its information technology services, certain senior managers have had both "cfpb.gov" and "do.treas.gov" e-mail addresses. Each address, however, would be associated with one e-mail account on Outlook, and all e-mail sent to or from either address is stored in that single Outlook mailbox.

You have also asked for a list of "all past or present CFPB managers" who have used a private e-mail address to conduct official business. Bureau staff is gathering information concerning these managers who, as defined in your letter, include dozens of both current and former employees. Bureau staff will follow up with your staff on this request.

I appreciate your continued interest in the Bureau's operations and work. Please do not hesitate to contact me or have your staff contact the Bureau's Office of Legislative Affairs with any additional questions. I look forward to collaborating with you on important consumer financial protection issues in the future.

Sincerely,

Richard Cordray
Director

*I appreciated our breakfast and
break discussion the other day.
Ricks*

cc: The Honorable Maxine Waters
Mr. Mark Bialek, Inspector General, Board of Governors of the Federal Reserve System and
Bureau of Consumer Financial Protection

United States Senate

WASHINGTON, DC 20510

October 30, 2013

Mr. Richard Cordray
Director
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, D.C. 20552

Dear Director Cordray:

We write to express concerns regarding the process by which the Consumer Financial Protection Bureau ("CFPB" or "Bureau") has issued guidance that could curtail a pro-competitive feature of the indirect vehicle financing market and to request greater transparency for the Bureau's activity related to this matter.

As you know, indirect vehicle financing is an optional method in which an auto dealer arranges financing for a consumer from a third-party lender, such as a bank, credit union, or other financing source. The dealer typically is compensated for this service by negotiating its retail margin with the consumer. This compensation is capped by contract. This system provides consumers with the opportunity to determine if dealers can "meet or beat" the best financing rate that the consumer can secure from other creditors, which frequently results in consumers obtaining a lower cost of credit than is otherwise available to them.

On March 21, 2013, the Bureau issued a fair lending guidance bulletin widely interpreted as pressuring lenders to eliminate or severely limit an auto dealer's discretion to negotiate competitive financing for their customers, and instead encourage lenders to compensate auto dealers through "a different mechanism... such as a flat fee per transaction." As acknowledged in the guidance bulletin, the CFPB is attempting to bring about this change through a "disparate impact" theory of liability under the Equal Credit Opportunity Act ("ECOA"). Although ECOA does not mandate or even address flat fees, the Bureau's guidance bulletin suggests this change because of its concern that permitting negotiation over a consumer's interest rate creates a "significant risk" of "pricing disparities on the basis of race, national origin, and potentially other prohibited bases."

We support the Bureau's desire to eliminate any unlawful lending practices and are committed to ensuring that credit markets function competitively and efficiently for all consumers. Although the CFPB has alleged that "disparate impact" discrimination is present in the indirect auto financing market, the Bureau has yet to explain its basis for this assertion. Nor has the Bureau released the complete statistical methodology it employs for determining whether disparate impact is present in an auto lender's portfolio and the extent to which it has considered how the practical effect of its guidance will affect competition in the auto loan marketplace.

To promote greater transparency and help ensure that the Bureau issued its fair lending guidance to auto lenders in a proper manner that is consistent with sound public policy, we request that the Bureau:

- (i) Provide complete details concerning the statistical methodology the Bureau employs to determine whether disparate impact is present in an auto creditor's portfolio, including:
 - (1) the quantitative degree of accuracy that applies to that methodology for each group of consumers the Bureau has examined;
 - (2) a complete list of analytical controls the Bureau considers to ensure that consumers being compared are similarly situated; and
 - (3) the numerical basis point threshold at which the Bureau concludes that statistically significant pricing disparities exist for each group of consumers that the Bureau has examined;
- (ii) Identify the full range of the Bureau's coordination with the Board of Governors of the Federal Reserve and the Federal Trade Commission prior to March 21, 2013, concerning its fair lending guidance to auto lenders;
- (iii) Explain the Bureau's decision to avoid the Administrative Procedures Act rulemaking process and instead seek to bring about this market change via a guidance bulletin;
- (iv) Explain why the Bureau did not afford the public an opportunity to comment on the content of the guidance or its potential effect on the marketplace; and
- (v) Describe whether, and to what extent, the Bureau conducted a cost-benefit analysis into how an industry adoption of flat fees as a mechanism to compensate dealers for arranging financing would affect the cost of credit for consumers, including those at the lower end of the credit spectrum.

We note that a bipartisan majority of the House Financial Services Committee recently asked for information about the CFPB's methods and analysis used to justify the March 21 guidance. Unfortunately, the Bureau has not provided complete responses to several of the questions presented by our House colleagues. Given your statements that the CFPB will operate as a transparent and data-driven agency, we request that the data used to support the March 21 guidance be made public.

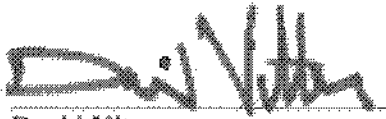
We would appreciate your reply to this letter within 30 days of its receipt. Thank you in advance for your cooperation.



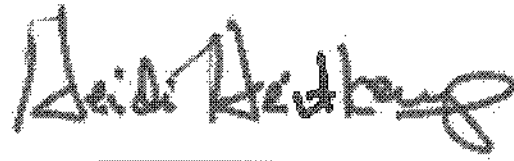
Rob Portman
U.S. Senator




Jeanne Shaheen
U.S. Senator



David Vitter
U.S. Senator



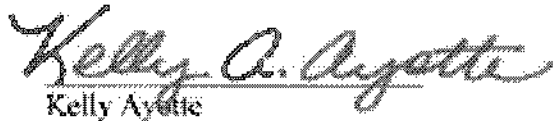
Heidi Heitkamp
U.S. Senator



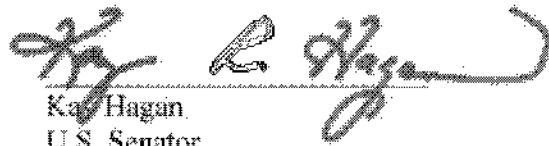
Pat Roberts
U.S. Senator



Amy Klobuchar
U.S. Senator



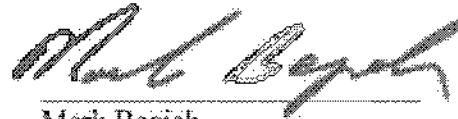
Kelly Ayotte
U.S. Senator



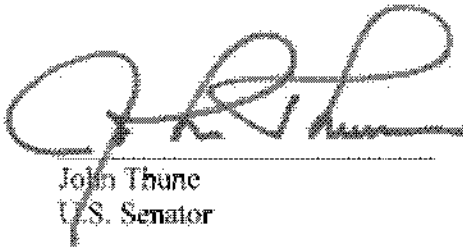
Kay Hagan
U.S. Senator



Deb Fischer
U.S. Senator



Mark Begich
U.S. Senator



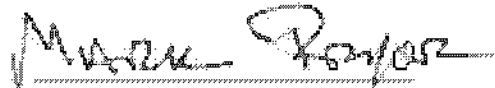
John Thune
U.S. Senator



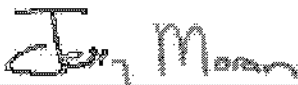
Joe Manchin
U.S. Senator



Richard Burr
U.S. Senator



Mark Pryor
U.S. Senator



Jerry Moran
U.S. Senator




Joe Donnelly
U.S. Senator



Mike Crapo
U.S. Senator



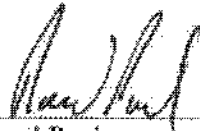
Bill Nelson
U.S. Senator



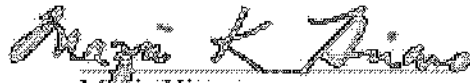
Jeff Sessions
U.S. Senator



Mary Landrieu
U.S. Senator



Rand Paul
U.S. Senator



Mazie Hirono
U.S. Senator



Consumer Financial
Protection Bureau

1700 G Street, N.W., Washington, DC 20562

October 31, 2013

The Honorable Blaine Luetkemeyer
U.S. House of Representatives
2440 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Brad Sherman
U.S. House of Representatives
2242 Rayburn House Office Building
Washington, D.C. 20515

Dear Representatives Luetkemeyer and Sherman:

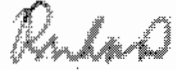
Thank you for your letter about the annual privacy notice requirement under the Gramm-Leach-Bliley Act. I welcome the opportunity to address the Consumer Financial Protection Bureau's authority in this area in more detail.

The Bureau has the authority to commence a rulemaking proceeding to determine whether there are less burdensome means available for providing annual notices of privacy policies. Section 6803(a) of the Gramm-Leach-Bliley Act states that “[a]t the time of establishing a customer relationship with a consumer and not less than annually during the continuation of such relationship, a financial institution shall provide a clear and conspicuous disclosure to such consumer” of the institution's privacy policies and procedures. Section 1016.5(a)(1) of the Bureau's implementing Regulation P requires that financial institutions “must provide a clear and conspicuous notice to customers that accurately reflects your privacy policies and practices not less than annually during the continuation of the customer relationship.” Some financial institutions have expressed concern that providing the annual notice under Regulation P is not helpful to consumers and creates unnecessary burdens for institutions if their privacy practices have not changed since the last time they sent an annual notice to consumers and they do not share nonpublic personal information with other firms. The Bureau has rulemaking authority to refine the standards for how financial institutions provide annual notices. As I indicated at the recent hearing before the House Financial Services Committee, the Bureau does intend to commence a rulemaking proceeding in the relatively near future that will consider addressing such standards. If in the meantime Congress decides instead to move forward with a legislative amendment on annual notices, then of course we would take any actions necessary to implement that change in the law.

Thank you for the opportunity to respond. I appreciate our shared interest in reducing paperwork burdens on institutions while ensuring consumer protection through meaningful disclosures, and I

look forward to collaborating on other consumer financial protection issues that are important to you and your constituents.

Sincerely,



Richard Cordray
Director

Let's stay in touch on these issues, Rick.





Consumer Financial
Protection Bureau

1700 G Street, N.W., Washington, DC 20552

November 4, 2013

The Honorable Spencer Bachus
U.S. House of Representatives
2138 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Bachus,

Thank you for your September 24, 2013 letter about indirect auto lending practices and compliance with anti-discrimination laws, such as the Equal Credit Opportunity Act (ECOA) of 1974. I appreciate the opportunity to continue a dialogue with you on this important issue and have responded to your questions below.

- 1) You asked about the data and assumptions the Consumer Financial Protection Bureau relied upon to substantiate our determination that a commonly-used markup and compensation policy creates fair lending risk for indirect auto lenders.

The Bureau's March 21, 2013 Auto Bulletin was published to offer guidance to all indirect auto lenders within the Bureau's jurisdiction about compliance with the fair lending requirements of ECOA.¹ The Auto Bulletin did not set forth substantiated findings of discrimination, but instead highlighted the fair lending risk inherent in some indirect auto lenders' markup and compensation policies based upon the discretion those policies permit. As we noted in the Auto Bulletin:

...some indirect auto lenders have policies that allow auto dealers to mark up lender-established buy rates and that compensate dealers for those markups in the form of reserve. . . . Because of the incentives these policies create, and the discretion they permit, there is a significant risk that they will result in pricing disparities on the basis of race, national origin, and potentially other prohibited bases.

As we noted in our August 2, 2013 letter to you (August 2, 2013 Letter), the Auto Bulletin explains that the standard practices of indirect auto lenders likely make them "creditors" under ECOA and that a lender's discretionary markup and compensation policies may alone be sufficient to trigger liability under ECOA if the lender regularly participates in a credit decision and its policies result in discrimination. By describing the relevant laws and regulations that apply to indirect auto lending, the Auto Bulletin's intent was to help indirect auto lenders recognize and

¹ Indirect Auto Lending and Compliance with ECOA, CFPB Bulletin 2013-02, Mar. 21, 2013 available at http://files.consumerfinance.gov/f/201303_cfpb_bulletin_2013-02_Auto-Finance-Bulletin.pdf

mitigate the risk of discrimination resulting from discretionary dealer markup and compensation policies. This is the type of fair lending risk of which lenders need to be aware and monitor in their portfolios.

In our press release we stated that “[r]esearch indicates that markup practices may lead to African Americans and Hispanics being charged higher markups. . . .” Our August 2, 2013 Letter to you elaborated on this statement, noting that, historically, the failure to properly or consistently monitor discretionary policies and practices for compliance with anti-discrimination laws has been a contributing factor in discrimination in auto lending and in other product markets, like mortgages. This historical experience has been documented by scholars² and is reflected in relevant case law³ and Department of Justice enforcement actions.⁴ This same research supports the monetary level of consumer harm referenced in the Bureau’s press release.

2) Your letter also requested the detailed methodology that measures whether discrimination is present in an auto creditor’s portfolio.

You specifically requested a more detailed explanation of our proxy methodology, appropriate controls and disparity “threshold.” Demographic information, such as race, sex, and ethnicity, is not collected by non-mortgage lenders. However, this information is vital to assessing fair lending compliance. Thus, federal regulatory and enforcement agencies have long used proxy methods in non-mortgage data analysis. As we noted in the August 2, 2013 Letter, various proxy methodologies are publicly available and have been used for decades in a number of different civil rights contexts, including voting rights cases, Title VII cases, and constitutional challenges, including jury selection and equal protection matters. In addition, federal banking regulators have made clear that proxy methods may be used in fair lending exams to estimate protected characteristics where direct evidence of the protected characteristic is unavailable.⁵

² For example, see Cohen, Mark A. (2012). “Imperfect Competition in Auto Lending: Subjective Markups, Racial Disparity, and Class Action Litigation.” *Review of Law and Economics* vol. 8, no. 1 (21-58). Working Paper available at <http://sims.berkeley.edu/~markc/abstracts/1227>.

³ See, *Columan v. Gen. Motors Acceptance Corp.*, 196 F.R.D. 315 (M.D.Tenn. 2000), *vacated and remanded on unrelated grounds*, 296 F.3d 443 (6th Cir. 2002); *Jones v. Ford Motor Credit Co.*, 2002 WL 88431 (S.D.N.Y. Jan. 22, 2002); *Smith v. Chrysler Fin. Co.*, 2003 WL 328719 (D.N.J. Jan. 15, 2003); *Osborne v. Bank of America Nat’l Ass’n*, 234 F.Supp.2d 804 (M.D. Tenn. 2002); *Wise v. Union Acceptance Corp.*, 2002 WL 31730920 (S.D. Ind. Nov. 19, 2002).

⁴ See, e.g., *United States v. Springfield Ford, Inc.*, No. 2:07-cv-03469-PBT (E.D. Pa. Aug. 21, 2007); *United States v. Pacifico Ford, Inc.*, No. 2:07-cv-03470-PBT (E.D. Pa. Aug. 18, 2007); *United States v. NARA Bank, et al.*, No. 2:09-cv-07124-RGK-JC (C.D. Cal. Nov. 18, 2009); see also *United States v. Countrywide Fin. Corp.*, No. 2:11-cv-10540-PCG-AJW, (C.D. Cal. Dec. 28, 2011); *United States v. AIG Fed. Sav. Bank*, No. 1:99-mc-0999 (D. Del. Mar. 4, 2010).

⁵ See *Interagency Fair Lending Examination Procedures*, at 12-13, available at <http://www.ftlcr.gov/PDF/fairlend.pdf> (explaining that “[a] surrogate for a prohibited basis group may be used” in a comparative file review and providing examples of surname proxies for race/ethnicity and first name proxies for sex); see also, <http://www.philadelphiafed.org/bank-resources/publications/consumer-compliance-outlook/10-12-fair-lending-fair-lending-checklist.cfm>.

In general, the proxy methodology used depends on the characteristic being proxied. For example, to proxy for gender, the Bureau relies on a first-name database from the Social Security Administration that reports counts of individuals by gender and birth year for first names occurring at least five times for a particular gender in a birth year.⁶ The proxy method assigns a probability that a particular applicant is female based on the distribution of the population across gender categories (male or female) for the applicant's first name.

There is a greater variety of methods to proxy for race and national origin. A common method for proxying the probability that an applicant is Hispanic or Asian is to use the surname database published by the Census Bureau.⁷ Another method to proxy for race and national origin—typically referred to as “geocoding”—uses the demographics of the census geography (e.g., census tract or block group) in which an individual's residence is located, and assigns probabilities about the individual's race or national origin based on the demographics of that area. This method is frequently used to proxy the probability that an applicant is African American, and it can be used to proxy for other racial and ethnic groups as well.

Over the last decade, another method to proxy for race and national origin has been developed that integrates the surname and geographical approaches described above. This method was developed by health research economists,⁸ and it combines the respective probabilities generated by the surname and geographical proxies. Published research has found that the integrated approach produces proxies that correlate highly with self-reported race and national origin data and is more accurate than using surname or geography alone.⁹ The Bureau uses the integrated proxy as the primary method for proxying race and national origin in our non-mortgage analyses.

We are aware of proxy methods for race and national origin that use nonpublic information, such as proprietary databases developed in the private sector matching first or middle names to certain racial or ethnic groups. For the purpose of conducting our supervisory work, we have chosen to use proxy methods that rely solely on public data so that lenders can replicate our methods without the need to recreate or purchase proprietary databases as part of their own fair-lending compliance management systems.

You asked about the Bureau's rationale for the statement in the August 2, 2013 Letter that, “[t]he concept of using proxies for unavailable data is a widely accepted mathematical and statistical approach used across many disciplines, including, to our understanding, by the auto industry itself for marketing purposes.” This observation did not speak to the legal relevance of proxies with respect to ECOA liability, but rather to their widespread acceptance and adoption.

⁶ <http://www.ssa.gov/oaat/babynames/index.html>.

⁷ <http://www.census.gov/ipeds/data/www/ipeds/2000/ethnicity/surnames/index.html>.

⁸ Marc N. Elliott et al., *A New Method for Estimating Race/Ethnicity and Associated Disparities Where Administrative Records Lack Self-Reported Race/Ethnicity*, HEALTH SERVICES RESEARCH 43:5, Part 1 (Oct. 2008).

⁹ Marc N. Elliott et al., *Using the Census Bureau's Surname List to Improve Estimates of Race/Ethnicity and Associated Disparities*, HEALTH SERVICES & OUTCOMES RESEARCH METHODOLOGY (2009) 9:69-83.

You have also asked about other available proxy methods. As we noted above, proxy methods vary based on the characteristic being proxied (race, national origin, or gender), and there are several reasonable methods of proxying for each of these characteristics. Some methods, for example, use solely surname or geocoding. The Federal Reserve Board, which publicly released some of its proxy methods in July, uses a surname Census database to determine if a borrower is Hispanic and geocoding to determine majority minority census tracts.¹⁰ Other methods, like the Bureau's, integrate the same sources of data into a single proxy for race and national origin. We have chosen the integrated method because we consider it appropriate and helpful in evaluating the large and complex portfolios of the auto lenders supervised by the Bureau. Similarly, we expect lenders to choose a proxy method that will support a compliance management system commensurate with their size, organizational complexity, and risk profile.

You also inquired about controls applied to the analysis of dealer participation. As we explained in our August 2, 2013 Letter, each supervisory examination or enforcement investigation is based upon the particular facts presented by the entity under review. Thus, in our analyses we consider analytical controls which are appropriate to each particular entity. The controls are dependent upon the particular lender's policies, practices, and procedures. We further noted in our August 2, 2013 Letter that when lenders share with us the nature and results of their own analyses, we are open to hearing specific explanations for the decisions they have made to include particular analytical controls that reflect a legitimate business need. Because of this case-by-case determination we cannot identify each control that we apply in the analysis to ensure that borrowers are similarly situated.

You have also asked about "the threshold at which the Bureau determines that statistically significant disparate impact is present." Consistent with the Bureau's peer agencies, the Bureau makes case-by-case assessments of whether to pursue supervisory or enforcement activity in response to statistically significant disparities. This assessment is not based solely on the size of statistical disparities, but rather varies based on a number of additional relevant factors, for example the extent of consumer harm, the nature of the activity under consideration (e.g., underwriting, pricing, fees), and whether the statistical findings are supported by additional evidence of discrimination.

- 3) You requested an explanation of how the issuance of the Bureau's March 21, 2013 Auto Bulletin is consistent with federal law.

As a preliminary matter, it is helpful to note that the Bureau has a number of tools at its disposal when dealing with practices that cause consumer harm, including nonpublic supervisory action, enforcement actions, rulemaking, and consumer education, among others. There are many factors that the Bureau considers when deciding which tools to use, and in determining what is the most appropriate tool to address a certain issue. When we consider whether to engage in rulemaking, a

¹⁰ <http://www.philadelphiafed.org/bank-resources/publications/consumer-compliance-outlook/outlook-five/2013/080813.pdf>

¹¹ 15 U.S.C. § 1691 *et seq.*; 12 C.F.R. pt. 1002 *et seq.*

key question is whether existing laws, regulations, and official commentary already address the topic under consideration.

The ECOA and Regulation B, which was the result of notice and comment, make it illegal for a "creditor" to discriminate in any aspect of a credit transaction because of race, color, religion, national origin, sex, marital status, age, receipt of income from any public assistance program, or the exercise, in good faith, of a right under the Consumer Credit Protection Act.¹¹

The Bureau published the Auto Bulletin to remind lenders of their responsibilities under ECOA and to offer guidance on how to address the identified risks to all indirect auto lenders within the jurisdiction of the Bureau. Consistent with Bureau procedures, the Bulletin was reviewed prior to issuance to ensure compliance with all legally applicable requirements. The Administrative Procedure Act (APA) sets out the principles by which federal agencies engage in regulatory activity and in applicable cases allows for comments from affected parties and the general public concerning an agency's activity. The APA does not impose a notice and comment requirement for general statements of policy, non-binding informational guidelines, or interpretive memoranda. Accordingly, the Bureau was not statutorily required to solicit comments about the Auto Bulletin.

The Bureau advised the Federal Reserve Board and the Federal Trade Commission, who are also responsible for administering and/or enforcing ECOA, about the Auto Bulletin prior to its publication.

You have asked whether the application of the Auto Bulletin is prospective in nature or also applies to market conduct occurring prior to its issuance. The ECOA was enacted nearly four decades ago and the relevant provisions of Regulation B and its Official Staff Commentary were in effect more than a decade ago. Both the ECOA and Regulation B govern discrimination in any aspect of a credit transaction, including conduct that pre-dates the Auto Bulletin.

- 4) Your letter requested the Bureau's measurement of how an industry move to compensate dealers for arranging financing through a "flat fee per transaction" would affect the marketplace and the consumers it serves.

The Auto Bulletin expresses the Bureau's views regarding the fair lending risks present in any indirect automobile lending program that permits dealers discretion to increase consumers' interest rates for reasons not supported by a legitimate business need. The Bulletin advises lenders that the Bureau will closely review the operations of indirect auto lenders subject to its jurisdiction and employ the appropriate tool to address any unlawful conduct. The Bureau frequently provides information highlighting the existing risk of certain behaviors for which lenders should monitor in their compliance programs.

¹¹ 15 U.S.C. § 1691 *et seq.*; 12 C.F.R. pt. 1002 *et seq.*

Flat fees are mentioned in the Bulletin merely as one example of a non-discretionary compensation mechanism; the Bulletin does not mandate flat fees or any other particular system of dealer compensation. It is our understanding that a number of indirect auto lenders currently compensate auto dealers using a variety of non-discretionary or flat fee programs, and lenders may choose to adopt a variety of means, including, but not limited to, alternative compensation policies, to address fair lending risk. However, the Bureau has not undertaken a study of how market-wide adoption of a single non-discretionary compensation program would affect the availability of credit, nor has it attempted to analyze the impact of all the potential actions lenders may take to eliminate discrimination from their indirect auto lending programs. As a general matter, however, the Bureau believes that fair lending and the legitimate business needs of creditors are compatible.

Thank you for bringing your concerns to the Bureau's attention and for the opportunity to respond. I look forward to working with you on this important issue as the Bureau continues to work to help markets operate more fairly and effectively for consumers and businesses.

Sincerely,



Richard Cordray
Director



Consumer Financial
Protection Bureau

1700 G Street, N.W., Washington, DC 20552

November 4, 2013

The Honorable Carolyn B. Maloney
2308 Rayburn Housing Office Building
Washington, DC 20515-3212

Dear Representative Maloney:

Thank you for your letter about increasing consumer protections with regard to the provision of SAFE Act education courses. I appreciate your continued support of the Consumer Financial Protection Bureau, and the opportunity to discuss the Bureau's work with you.

As you note in your letter, Congressman Gary Miller asked at a hearing last year about an emerging practice of lenders providing SAFE Act pre-licensing and continuing education courses to their own employees, and you asked to what extent the Bureau has looked into this issue. You also asked that the Bureau consider protections to ameliorate specific concerns raised by the practice of self-training. At my request following the hearing at which Congressman Miller raised this issue, Bureau staff carefully reviewed the relevant provisions of the SAFE Act and its implementing regulations and held discussions with staff at the Conference of State Bank Supervisors. The Bureau also reviewed CSBS's response to Congressman Miller's concerns in a letter dated June 20, 2012.

The Bureau noted that the SAFE Act requires mortgage loan originators (MLOs) seeking a state license to complete education courses that have been approved by the Nationwide Mortgage Licensing System and Registry (NMLSR). In addition, each of these MLOs must pass a written test developed by the NMLSR that adequately measures the MLO's knowledge and comprehension in certain subject areas related to mortgage origination. The Bureau further noted the SAFE Act expressly provides that, in order to maintain the independence of the education course approval process, the NMLSR cannot itself offer education courses and that the statute provides that NMLSR apply reasonable standards for course review and approval. It does not, however, prohibit lenders or other entities from providing such courses, as long as they meet reasonable standards established by NMLSR. The Bureau also confirmed that 35 states currently permit the approval of in-house training providers for purposes of meeting the SAFE Act's education requirements.

Under the SAFE Act, the Bureau has backup authority to provide for the establishment of a system for licensing and registration where a state or the NMLSR fails to meet the statutory requirements. For that reason, the Bureau shares your concern for ensuring that the education and testing of MLOs are conducted consistent with the statutory requirements. However, the SAFE Act also clearly recognizes the primary role of the states in this area, and explicitly encourages the states, through the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators, to establish a Nationwide Mortgage Licensing System and Registry for the residential mortgage industry.

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Based on this review, and the emphasis in the SAFE Act on the central role of the states in the Act's implementation, the Bureau does not conclude that action by the Bureau with respect to the practice of self-training is appropriate at this time. A majority of states currently permit the approval of in-house training providers, and the Bureau is not aware of any widespread negative impacts upon consumers linked to such practices in those states as compared to consumers in states that do not permit such practices. However, the concerns you have raised have highlighted this area for the Bureau's consideration, and we will be mindful of the need to be alert to signs that such practices are resulting in negative impacts to consumers.

The Bureau will continue to work with stakeholders to assure that MLOs receive the education and training needed to protect consumers and public interests. I look forward to future collaboration with you on important consumer financial protection issues.

Sincerely,

Richard
Richard Cordray
Director

*Thank you for your trust and attention to
Toro matter, which has disrupted cases,
and kudos again on the progress our
recent report found the CFPB Act is
making in consumer -
Rock*



Consumer Financial
Protection Bureau

1700 G Street, N.W., Washington, DC 20562

November 4, 2013

The Honorable Rob Portman
U.S. Senate
448 Russell Senate Office Building
Washington, DC 20510

The Honorable Jeanne Shaheen
U.S. Senate
520 Hart Senate Office Building
Washington, DC 20510

Dear Senators Portman and Shaheen,

Thank you for your October 30, 2013 letter about indirect auto lending practices and compliance with anti-discrimination laws, such as the Equal Credit Opportunity Act (ECOA) of 1974. The Consumer Financial Protection Bureau (Bureau) shares your commitment to ensuring that lending practices are fair and equitable and that credit markets function competitively and efficiently for all consumers and honest businesses. We appreciate the opportunity to work with you on these important goals.

As you note in your letter, credit markets should function competitively and efficiently for all consumers. The Bureau takes seriously its duty to address discrimination across the consumer credit industry, including indirect auto lending by depository and nonbank institutions. Certain policies and practices that allow discretion in pricing can create a significant risk of discrimination on the basis of race, national origin, and other prohibited bases, such as sex. Historically, the failure to properly or consistently monitor such policies and practices for compliance with anti-discrimination laws has been a contributing factor in discrimination, both in auto lending and in other product markets, like mortgages. This historical experience has been documented by scholars¹ and is reflected in relevant case law² and Department of Justice enforcement actions.³

¹ For example, see Cohen, Mark A. (2012). "Imperfect Competition in Auto Lending: Subjective Markups, Racial Disparity, and Class Action Litigation." *Review of Law and Economics* vol. 8, no. 1 (21-58). Working Paper available at <http://ssrn.com/abstract=251827>.

² See, Coleman v. Gen. Motors Acceptance Corp., 196 F.R.D. 315 (M.D. Tenn. 2000), *vacated and remanded on unrelated grounds*, 296 F.3d 443 (6th Cir. 2002); Jones v. Ford Motor Credit Co., 2002 WL 88431 (S.D.N.Y. Jan. 22, 2002); Smith v. Chrysler Fin. Co., 2003 WL 328719 (D.N.J. Jan. 15, 2003); Osborne v. Bank of America Nat'l Ass'n, 234 F.Supp.2d 804 (M.D. Tenn. 2002); Wise v. Union Acceptance Corp., 2002 WL 31730920 (S.D. Ind. Nov. 19, 2002).

³ See, e.g., United States v. Springfield Ford, Inc., No. 2:07-cv-03469-PBT (E.D. Pa. Aug. 21, 2007); United States v. Pacific Ford, Inc., No. 2:07-cv-03470-PBT (E.D. Pa. Aug. 18, 2007); United States v. NABA Bank, et al., No. 2:09-cv-07124-BGK-JC (C.D. Cal. Nov. 18, 2009); see also United States v. Countrywide Fin. Corp., No. 2:11-cv-10540-PCJ-AJW, (C.D. Cal. Dec. 28, 2011); United States v. AIG Fed. Sav. Bank, No. 1:99-inc-0999 (D. Del. Mar. 4, 2010).

The Bureau's March 21, 2013 Auto Bulletin was published to offer guidance to all indirect auto lenders within the Bureau's jurisdiction about compliance with the fair lending requirements of ECOA.⁴

The Auto Bulletin explains that the standard practices of indirect auto lenders likely make them "creditors" under ECOA and that a lender's discretionary markup and compensation policies may alone be sufficient to trigger liability under ECOA if the lender regularly participates in a credit decision and its policies result in discrimination. By describing the relevant laws and regulations that apply to indirect auto lending, the Auto Bulletin's intent was to help indirect auto lenders recognize and mitigate the risk of discrimination resulting from discretionary dealer markup and compensation policies. This is the type of fair lending risk of which lenders need to be aware and monitor in their portfolios.

- 1) Your letter requested the detailed methodology that measures whether discrimination is present in an auto creditor's portfolio.

You specifically requested a more detailed explanation of the accuracy of the methodology, appropriate controls, and disparity "threshold." Demographic information, such as race, sex, and ethnicity, is not collected by non-mortgage lenders. However, this information is vital to assessing fair lending compliance. Thus, federal regulatory and enforcement agencies have long used proxy methods in non-mortgage data analysis. Various proxy methodologies are publicly available and have been used for decades in a number of different civil rights contexts, including voting rights cases, Title VII cases, and constitutional challenges, including jury selection and equal protection matters. In addition, federal banking regulators have made clear that proxy methods may be used in fair lending exams to estimate protected characteristics where direct evidence of the protected characteristic is unavailable.⁵

In general, the proxy methodology used depends on the characteristic being proxied. For example, to proxy for gender, the Bureau relies on a first-name database from the Social Security Administration that reports counts of individuals by gender and birth year for first names occurring at least five times for a particular gender in a birth year.⁶ The proxy method assigns a probability that a particular applicant is female based on the distribution of the population across gender categories (male or female) for the applicant's first name.

There are a greater variety of methods to proxy for race and national origin. A common method for proxying the probability that an applicant is Hispanic or Asian is to use the surname database

⁴ Indirect Auto Lending and Compliance with ECOA, CFPB Bulletin 2013-02, Mar. 21, 2013 available at http://files.consumerfinance.gov/f/201303_cfpb_march_Auto-Finance-Bulletin.pdf

⁵ See *Interagency Fair Lending Examination Procedures*, at 12-13, available at <http://www.ffiec.gov/PDF/fairlend.pdf> (explaining that "[a] surrogate for a prohibited basis group may be used" in a comparative file review and providing examples of surname proxies for race/ethnicity and first name proxies for sex); see also, <http://www.philadelphiafed.org/bank-resources/publications/consumer-compliance-outlook/2012/first-quarter/fair-lending-webinar.cfm>.

⁶ <http://www.ssa.gov/oact/babynames/limits.html>.

published by the Census Bureau.⁷ Another method to proxy for race and national origin—typically referred to as “geocoding”—uses the demographics of the census geography (e.g., census tract or block group) in which an individual’s residence is located, and assigns probabilities about the individual’s race or national origin based on the demographics of that area. This method is frequently used to proxy the probability that an applicant is African American, and it can be used to proxy for other racial and ethnic groups as well.

Over the last decade, another method to proxy for race and national origin has been developed that integrates the surname and geographical approaches described above. This method was developed by health research economists,⁸ and it combines the respective probabilities generated by the surname and geographical proxies. Published research has found that the integrated approach produces proxies that correlate highly with self-reported race and national origin data and is more accurate than using surname or geography alone.⁹ The Bureau uses the integrated proxy as the primary method for proxying race and national origin in our non-mortgage analyses.

We are aware of proxy methods for race and national origin that use nonpublic information, such as proprietary databases developed in the private sector (matching first or middle names to certain racial or ethnic groups). For the purpose of conducting our supervisory work, we have chosen to use proxy methods that rely solely on public data so that lenders can replicate our methods without the need to recreate or purchase proprietary databases as part of their own fair lending compliance management systems.

As we noted above, proxy methods vary based on the characteristic being proxied (race, national origin, or gender), and there are several reasonable methods of proxying for each of these characteristics. Some methods, for example, use solely surname or geocoding. The Federal Reserve Board, which publicly released some of its proxy methods in July, uses a surname Census database to determine if a borrower is Hispanic and geocoding to determine majority minority census tracts.¹⁰ Other methods, like the Bureau’s, integrate the same sources of data into a single proxy for race and national origin. We have chosen the integrated method because we consider it appropriate and helpful in evaluating the large and complex portfolios of the auto lenders supervised by the Bureau. Similarly, we expect lenders to choose a proxy method that will support a compliance management system commensurate with their size, organizational complexity, and risk profile.

You have also inquired about controls applied to the analysis of dealer participation. Each supervisory examination or enforcement investigation is based upon the particular facts presented by the entity under review. Thus, in our analyses we consider analytical controls which are appropriate to each particular entity. The controls are dependent upon the particular lender’s

⁷ <http://www.census.gov/genalogy/www/data/2000/surnames/index.html>.

⁸ Marc N. Elliott et al., *A New Method for Estimating Race/Ethnicity and Associated Disparities Where Administrative Records Lack Self-Reported Race/Ethnicity*, HEALTH SERVICES RESEARCH 43:5, Part I (Oct. 2008).

⁹ Marc N. Elliott et al., *Using the Census Bureau’s Surname List to Improve Estimates of Race/Ethnicity and Associated Disparities*, HEALTH SERVICES & OUTCOMES RESEARCH METHODOLOGY (2009) 9:69-89.

¹⁰ <http://www.philadelphiafed.org/bank-resources/publications/consumer-compliance-outlook/outlook-live/2013/080613.pdf>.

policies, practices, and procedures. When lenders share with us the nature and results of their own analyses, we are open to hearing specific explanations for the decisions they have made to include particular analytical controls that reflect a legitimate business need. Because of this case-by-case determination we cannot identify each control that we apply in the analysis to ensure that borrowers are similarly situated.

You have also asked about the “threshold at which the Bureau concludes that statistically significant pricing disparities exist.” Consistent with the Bureau’s peer agencies, the Bureau makes case-by-case assessments of whether to pursue supervisory or enforcement activity in response to statistically significant disparities. This assessment is not based solely on the size of statistical disparities, but rather varies based on a number of additional relevant factors, for example the extent of consumer harm, the nature of the activity under consideration (e.g., underwriting, pricing, fees), and whether the statistical findings are supported by additional evidence of discrimination.

- 2) You requested an explanation of how the issuance of the Bureau’s March 21, 2013 Auto Bulletin is consistent with federal law, including the Administrative Procedures Act.

As a preliminary matter, it is helpful to note that the Bureau has a number of tools at its disposal when dealing with practices that cause consumer harm, including nonpublic supervisory action, enforcement actions, rulemaking, and consumer education, among others. There are many factors that the Bureau considers when deciding which tools to use, and in determining what is the most appropriate tool to address a certain issue. When we consider whether to engage in rulemaking, a key question is whether existing laws, regulations, and official commentary already address the topic under consideration.

The ECOA and Regulation B, which was the result of notice and comment, make it illegal for a “creditor” to discriminate in any aspect of a credit transaction because of race, color, religion, national origin, sex, marital status, age, receipt of income from any public assistance program, or the exercise, in good faith, of a right under the Consumer Credit Protection Act.¹¹

The Bureau published the Auto Bulletin to remind lenders of their responsibilities under ECOA and to offer guidance on how to address the identified risks to all indirect auto lenders within the jurisdiction of the Bureau. Consistent with Bureau procedures, the Bulletin was reviewed prior to issuance to ensure compliance with all legally applicable requirements. The Administrative Procedure Act (APA) sets out the principles by which federal agencies engage in regulatory activity and in applicable cases allows for comments from affected parties and the general public concerning an agency’s activity. The APA does not impose a notice and comment requirement for general statements of policy, non-binding informational guidelines, or interpretive memoranda. Accordingly, the Bureau was not statutorily required to solicit comments about the Auto Bulletin.

¹¹ 15 U.S.C. § 1681 *et seq.*; 12 C.F.R. pt. 1002 *et seq.*

The Bureau advised the Federal Reserve Board and the Federal Trade Commission, who are also responsible for administering and/or enforcing ECOA, about the Auto Bulletin prior to its publication.

- 3) Your letter requested whether the Bureau conducted a cost-benefit analysis of how an industry move to compensate dealers for arranging financing through "flat fees" would affect the marketplace and the consumers it serves.

Cost-benefit analysis is an approach that is often utilized, when appropriate, in the administrative rulewriting process to assess the impact of changes to regulatory requirements. As discussed above and below, the Auto Bulletin does not change or create any new regulatory requirements. Accordingly, a formal cost-benefit analysis is not appropriate in this circumstance.

The Auto Bulletin was issued pursuant to the Bureau's supervisory and enforcement authority and expresses the Bureau's views regarding the fair lending risks present in any indirect automobile lending program that permits dealers discretion to increase consumers' interest rates for reasons not supported by a legitimate business need. The Auto Bulletin advises lenders that the Bureau will closely review the operations of indirect auto lenders subject to its jurisdiction and employ the appropriate tool to address any unlawful conduct. The Bureau frequently provides information highlighting the existing risk of certain behaviors for which lenders should monitor in their compliance programs.

Flat fees are mentioned in the Bulletin merely as one example of a non-discretionary compensation mechanism; the Bulletin does not mandate flat fees or any other particular system of dealer compensation. It is our understanding that a number of indirect auto lenders currently compensate auto dealers using a variety of non-discretionary or flat fee programs, and lenders may choose to adopt a variety of means, including, but not limited to, alternative compensation policies, to address fair lending risk. However, the Bureau has not undertaken a study of how market-wide adoption of a single non-discretionary compensation program would affect the availability of credit, nor has it attempted to analyze the impact of all the potential actions lenders may take to eliminate discrimination from their indirect auto lending programs. As a general matter, however, the Bureau believes that fair lending and the legitimate business needs of creditors are compatible.

Thank you for bringing your concerns to the Bureau's attention and for the opportunity to respond. I look forward to working with you on this important issue as the Bureau continues to work to help markets operate more fairly and effectively for consumers and businesses.

Sincerely,



Richard Cordray
Director

cc: The Honorable David Vitter
The Honorable Heidi Heitkamp
The Honorable Pat Roberts
The Honorable Amy Klobuchar
The Honorable Kelly Ayotte
The Honorable Kay Hagan
The Honorable Deb Fischer
The Honorable Mark Begich
The Honorable John Thune
The Honorable Joe Manchin
The Honorable Richard Burr
The Honorable Mark Pryor
The Honorable Jerry Moran
The Honorable Joe Donnelly
The Honorable Mike Crapo
The Honorable Bill Nelson
The Honorable Jeff Sessions
The Honorable Mary Landrieu
The Honorable Rand Paul
The Honorable Mazie Hirono

Congress of the United States
Washington, DC 20515

November 5, 2013

The Honorable Richard Cordray
Director
Bureau of Consumer Financial Protection
1700 G Street, NW
Washington, DC 20552

Dear Director Cordray:

We are writing you today to express concern about the implementation period for the mortgage rules that are scheduled to be effective in January 2014.


Pursuant to title XIV of the Dodd Frank Wall Street Reform and Consumer Protection Act, the Consumer Financial Protection Bureau (CFPB) promulgated six rules providing new regulations for mortgage products and services in January of this year. These rules will fundamentally change our nation's mortgage market. Most notable is the Ability to Repay and Qualified Mortgage Standards under the Truth in Lending Act (Regulation Z). In addition the CFPB released four amendments to the rules, the most recent being September 13, 2013.

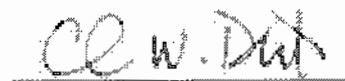
The mortgage rules released in January combined with the amendments released in May, July, and September present financial institutions with over 4,000 pages of new regulations that they must be in compliance by January 2014. This task is especially difficult for community financial institutions that may only have one or two compliance officers. Furthermore, many financial institutions rely on software systems for managing their operations. We have heard concerns from many community financial institutions that they simply will not be able to meet the January 2014 deadline to have their systems on line and in place.

If financial institutions are unable to comply with these rules by the January 2014 deadline there could be significant distortions in the mortgage market affecting the availability of credit for consumers. Therefore, we urge you to defer implementation of these rules until January 1, 2015 in order to ensure financial institutions are able to transition their systems to be in full compliance with the rules.

We thank you in advance for your consideration of this matter and look forward to your response by December 1, 2013.

Sincerely,

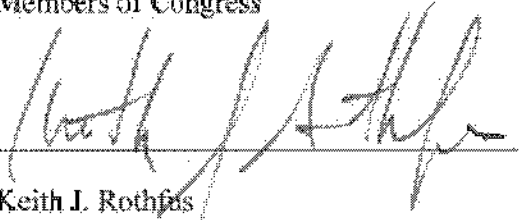

Shelley Moore Capito
Member of Congress


Charles W. Dent
Member of Congress




Erik Paulsen

Members of Congress



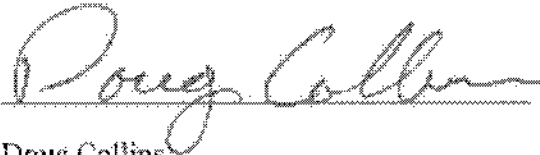
Keith J. Rothfus

Member of Congress



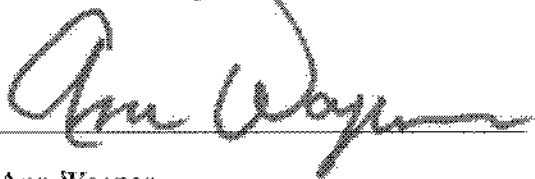
George Holding

Member of Congress



Doug Collins

Member of Congress



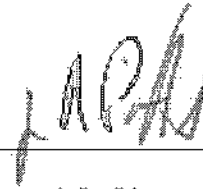
Ann Wagner

Member of Congress



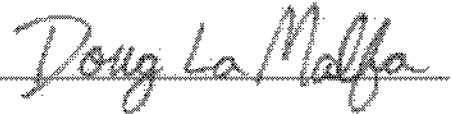
Richard Hudson

Member of Congress



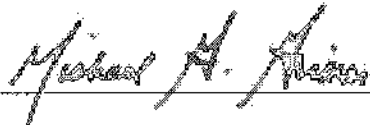
Joseph R. Pitts

Members of Congress



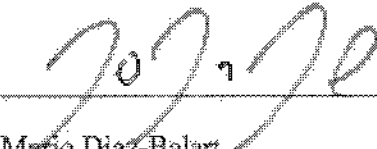
Doug LaMalfa

Member of Congress



Michael G. Grimm

Member of Congress



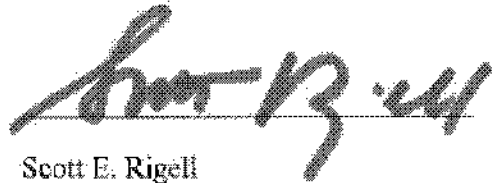
Mario Diaz-Balart

Member of Congress



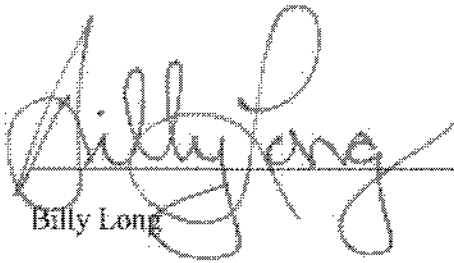
Tom Graves

Member of Congress



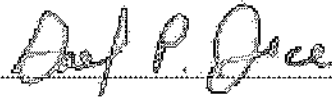
Scott E. Rigell

Member of Congress



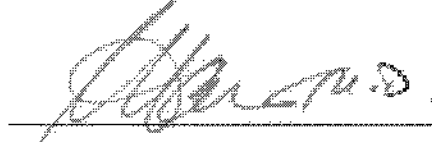
Billy Long

Member of Congress



David P. Joyce

Member of Congress



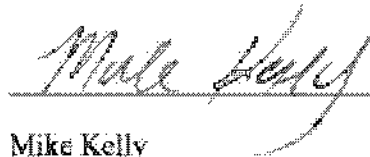
Andy Harris

Member of Congress



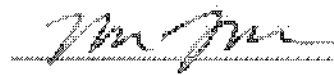
Jim Jordan

Member of Congress



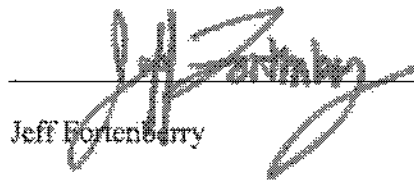
Mike Kelly

Member of Congress



Mark Meadows

Member of Congress



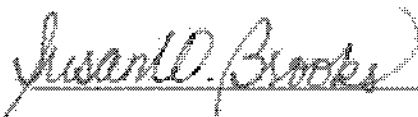
Jeff Fortenberry

Member of Congress



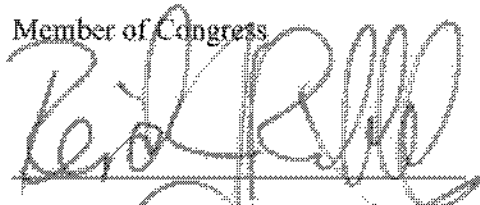
Diane Black

Member of Congress



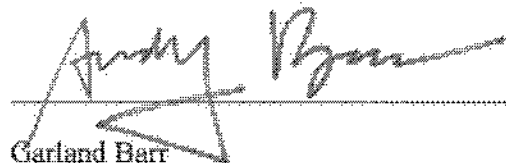
Susan Brooks

Member of Congress



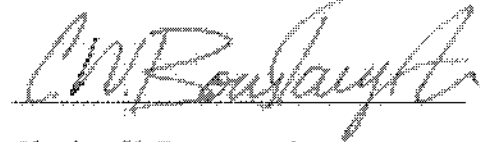
Reid J. Ribble

Member of Congress



Garland Barr

Member of Congress



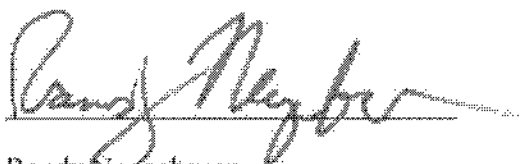
Charles W. Boustany, Jr.

Member of Congress



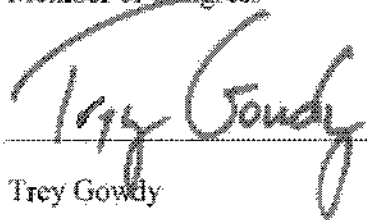
Alan Nunnelee

Member of Congress



Randy Schegebauer

Member of Congress



Trey Gowdy

Member of Congress



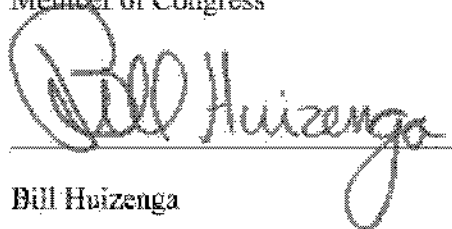
Kristi L. Noem

Member of Congress



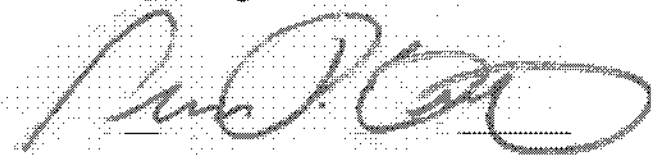
Tim Griffin

Member of Congress




Bill Huizenga

Member of Congress



Sean P. Duffy

Member of Congress



Mick Mulvaney

Member of Congress



Trey Radel

Member of Congress



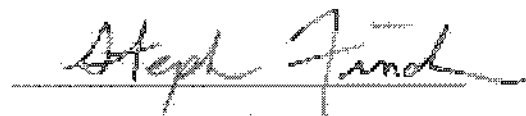
Lynn Jenkins

Member of Congress



Steve Womack

Member of Congress



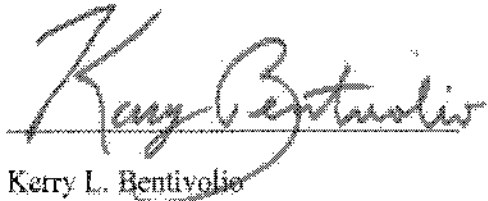
Stephen Lee Fincher

Member of Congress



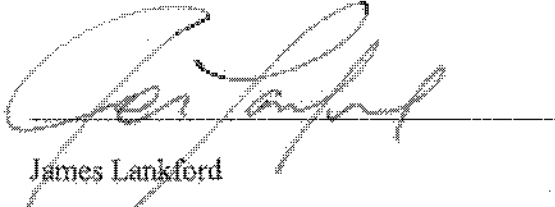
Dennis A. Ross

Member of Congress



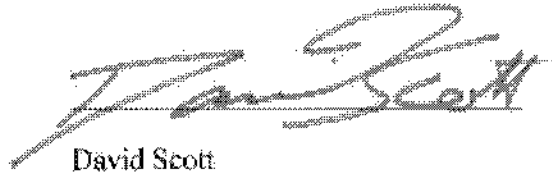
Kerry L. Bentivolio

Member of Congress



James Lankford

Member of Congress



David Scott

Member of Congress



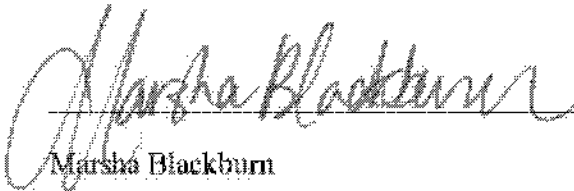
Robert Pittenger

Member of Congress



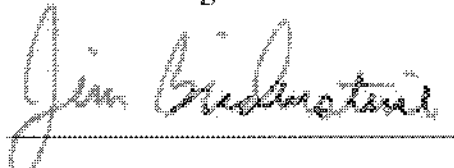
Scott R. Tipton

Member of Congress



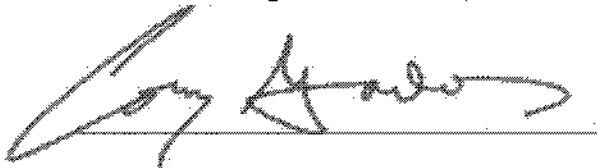
Marsha Blackburn

Member of Congress




Jim Bridenstine

Member of Congress



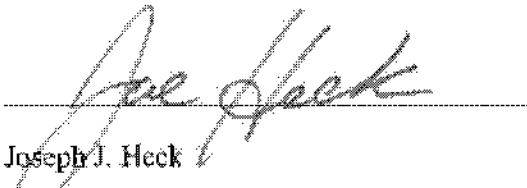
Cory Gardner

Member of Congress



Steve Daines

Member of Congress



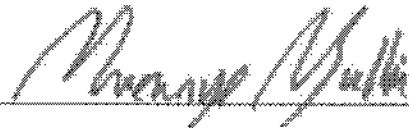
Joseph J. Heck

Member of Congress

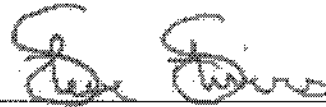


Tim Huelskamp

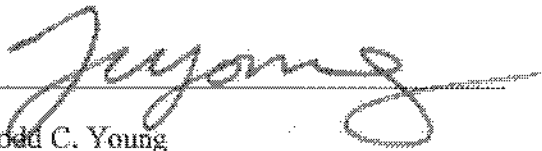
Member of Congress




Markwayne Mullin
Member of Congress



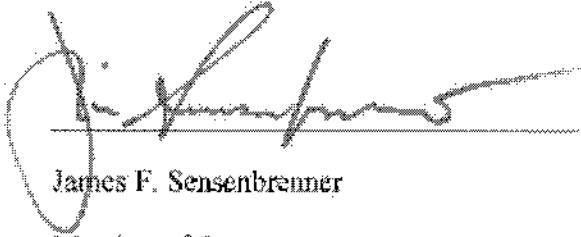
Steve Stivers
Member of Congress



Todd C. Young
Member of Congress



Larry Bucshon
Member of Congress



James F. Sensenbrenner
Member of Congress



Tom Cole
Member of Congress



Thomas E. Petri
Member of Congress



K. Michael Conaway
Member of Congress



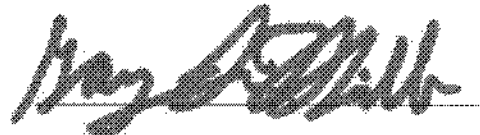
Jim Gerlach
Member of Congress



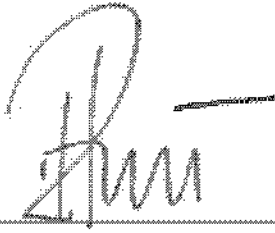
John Kline
Member of Congress



Blaine Luetkemeyer
Member of Congress



Gary G. Miller
Member of Congress



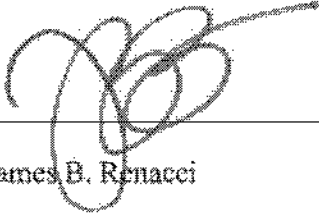
Robert Hurt

Member of Congress



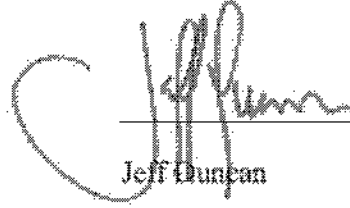
Bill Posey

Member of Congress



James B. Renacci

Member of Congress



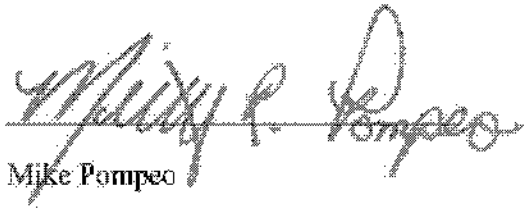
Jeff Duncan

Member of Congress



Lou Barletta

Member of Congress



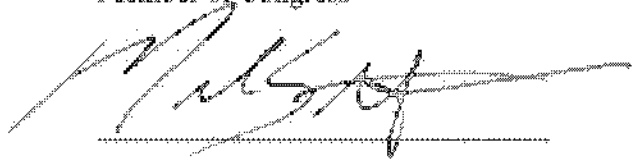
Mike Pompeo

Member of Congress



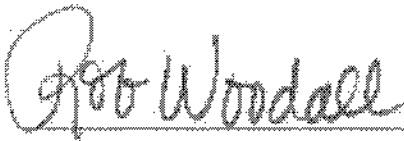
Patrick J. Tiberi

Member of Congress



Marlin A. Stutzman

Member of Congress



Robert Woodall

Member of Congress



Michael G. Fitzpatrick

Member of Congress



Eric A. Crawford

Member of Congress



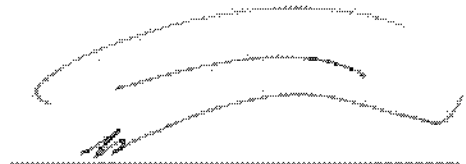
Christopher P. Gibson

Member of Congress



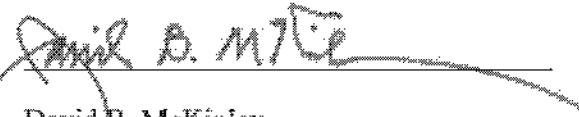
Tom Cotton

Member of Congress



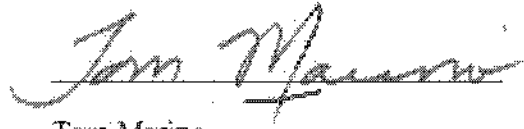
Scott DesJarlais

Member of Congress



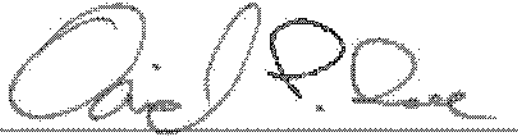
David B. McKinley

Member of Congress



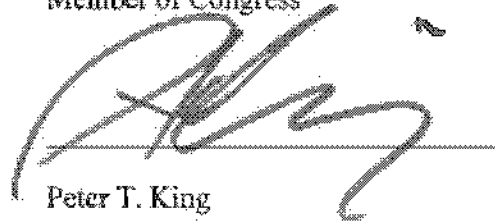
Tom Marino

Member of Congress



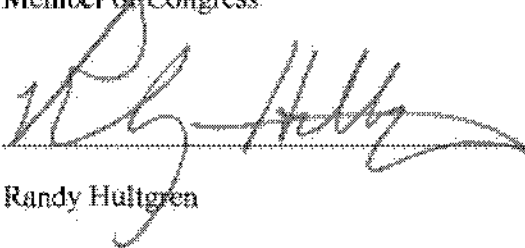
David P. Roe

Member of Congress



Peter T. King

Member of Congress



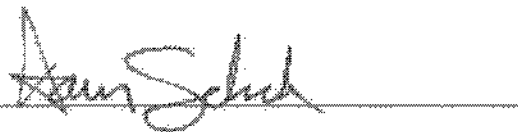
Randy Hultgren

Member of Congress



Steven M. Palazzo

Member of Congress




Aaron Schock

Member of Congress



Tom Rice

Member of Congress



Mark Sanford

Member of Congress



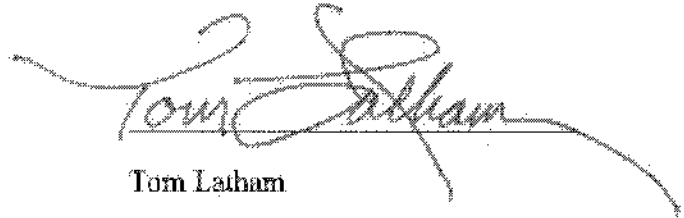
Brett Guthrie

Member of Congress



Jason T. Smith

Member of Congress



Tom Latham

Member of Congress



Joe Wilson

Member of Congress



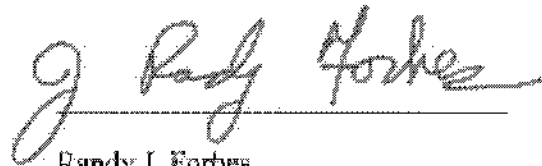
John Barrow

Member of Congress



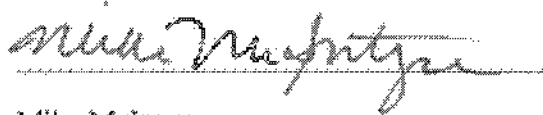
Edward R. Royce

Member of Congress



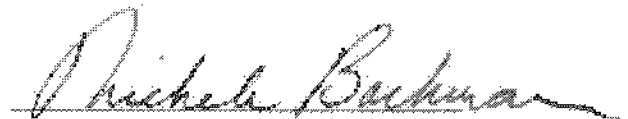
Randy J. Forbes

Member of Congress



Mike McIntyre

Member of Congress



Michele Bachmann

Member of Congress



Robert E. Latta

Member of Congress



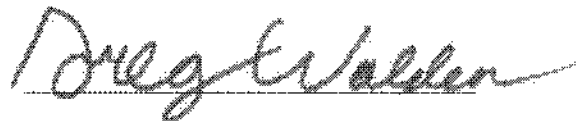
Jim Matheson

Member of Congress



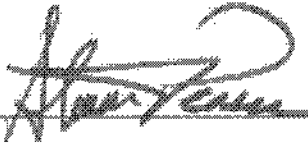
Steve Scalise

Member of Congress



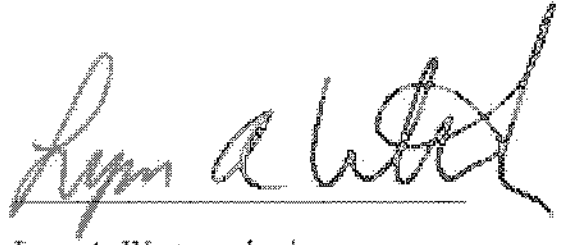
Greg Walden

Member of Congress



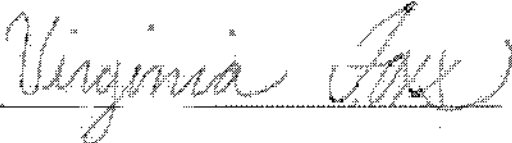
Stevan Pearce

Member of Congress



Lynn A. Westmoreland

Member of Congress



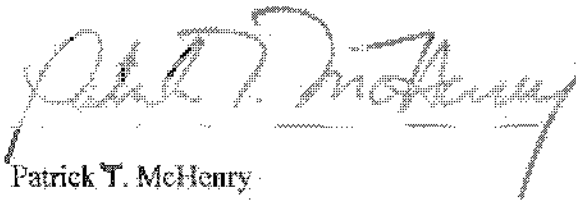
Virginia Foxx

Member of Congress



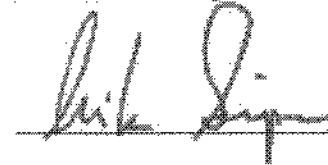
Jack Kingston

Member of Congress



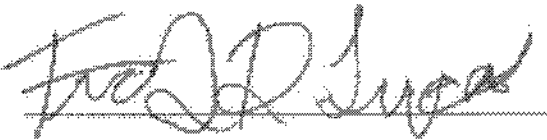
Patrick T. McHenry

Member of Congress




Michael K. Simpson

Member of Congress



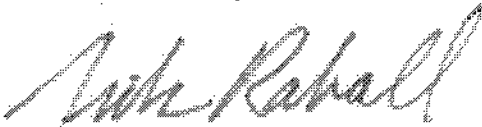
Frank D. Lucas

Member of Congress



Bob Goodlatte

Member of Congress



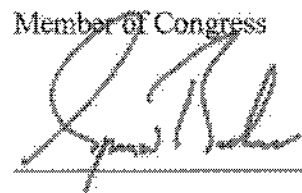
Nick J. Rahall

Member of Congress



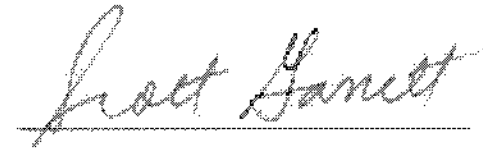
Lee Terry

Member of Congress



Spencer Bachus

Member of Congress



Scott Garrett

Member of Congress



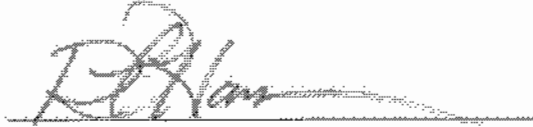
Pete P. Gallego

Member of Congress



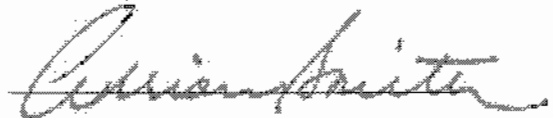
Renee L. Ellmers

Member of Congress



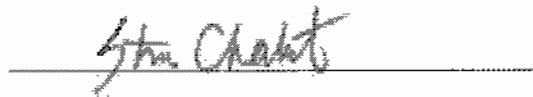
Richard L. Hanna

Member of Congress



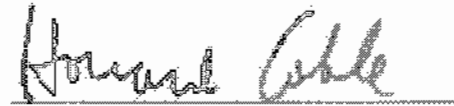
Adrian Smith

Member of Congress



Steve Chabot

Member of Congress



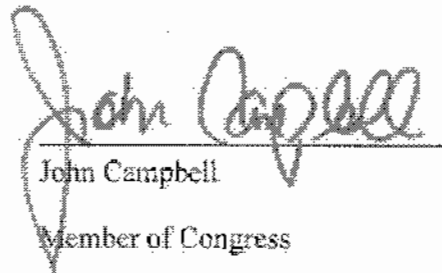
Howard Coble

Member of Congress



Kevin Yoder

Member of Congress



John Campbell

Member of Congress

United States Senate

WASHINGTON, DC 20510

November 6, 2013

The Honorable Richard Cordray
Director
Consumer Financial Protection Bureau
1700 G Street, N.W.
Washington, D.C. 20552

Dear Director Cordray:

As the Consumer Financial Protection Bureau (CFPB) continues implementing rules intended to protect our nation's homeowners, we ask that you give manufactured housing (MH) loans appropriate consideration.

The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) expanded Home Ownership and Equity Protection Act's definition of high-cost mortgages to include: 1) first mortgages with interest rates that are 6.5 percent greater than the average prime offer rate or 8.5 percent greater than the prime offer rate for mortgages on properties under \$50,000; and 2) mortgages with points and fees in excess of 5 percent of the total transaction amount for loans of at least \$20,000 or 8 percent of the total transaction cost or \$1,000, whichever is greater, for loans under \$20,000. According to the Census Bureau, in 2012, the average sales price for a new single-section manufactured home was \$41,100 and the average price of an existing manufactured home was \$30,000. Both figures are substantially below the \$50,000 interest rate trigger threshold, resulting in interest rates and fees that are often a larger percentage of MH mortgage costs, and putting many of these mortgages over the high-cost mortgage triggers, even with the distinct rules for loans with lower balances.

Representatives of the MH industry believe that lenders will be highly unlikely to make certain high-cost loans. We are concerned that overly broad high-cost triggers could limit credit availability for low-income borrowers taking out loans to purchase MH. As you have noted in the past, under Section 103(bb)(2)(A) of the Truth in Lending Act, as amended by 1431 of the Dodd-Frank Act, the CFPB has the authority to make adjustments to the applicable percentage rate triggers if the CFPB determines that the adjustment is "consistent with the consumer protections against abusive lending" and "warranted by the need for credit."

Over the past few months, the largest MH industry actors have shared evidence regarding the range of reasonable adjustments that could be made that would balance preserving the intent of high-cost triggers with ensuring the wide availability of credit. We urge the CFPB to continue working with the MH industry to better understand the issues involved with applying high-cost triggers to MH loans, and to exercise its discretion to adopt high-cost loan regulations that take into consideration the special circumstances involved in manufactured home mortgages.

As the CFPB considers adjustments to the high-cost triggers for MH, we urge you to delay applying the high-cost rules that are currently scheduled to take effect on January 1, 2014, to MH

loans. It seems overly burdensome to require an industry to comply with a rule that is under review and that could change several months after it took effect.

Thank you for considering our views on this important matter.

Sincerely,

Shirley Brown

John Bergman

Mark Boyce

Paul Carter

Paul Hackett

Laura Alexander

Joe Donnelly

Bowen

Jay Ruppel

Kristina
Donnelly



Consumer Financial
Protection Bureau

1700 G Street, N.W., Washington, DC 20002

November 5, 2013.

The Honorable Steve Stivers
U.S. House of Representatives
1022 Longworth House Office Building
Washington, DC 20515

Dear Representative Stivers,

Thank you for your letter raising concerns about access to banking services by nonbank lenders. I welcome the opportunity to address this issue in further detail.

As I have said in the past, all lenders should be mindful of state and federal law and must comply with all of the laws applicable to them. Full compliance with the law is essential to the operation of a fair, transparent and competitive market. The marketplace in which payday lenders operate is increasingly diverse and the Consumer Financial Protection Bureau is committed to ensuring that consumers receive the full protection of Federal consumer financial law. Although the Bureau's role is to enforce federal law, we work collaboratively with other federal and state partners in the markets where more than one governmental entity may have authority to take action.

Your letter raises concerns about nonbank lenders obtaining and maintaining banking relationships, and you request that the Bureau ensure that its work and the work of the Federal Deposit Insurance Corporation not result in limiting banking services to lenders. The Bureau works collaboratively with the FDIC, and I take my role as a member of the FDIC board very seriously. As your comment highlights, however, the Bureau is not the sole regulator of banking relationships and, in particular, does not engage in the same kind of safety and soundness regulation as the federal prudential regulators, who operate under a statutory mandate distinct from that conferred upon the Bureau. The Bureau's job is to ensure that lenders comply with Federal consumer financial law, and I agree with you that all payday lenders conducting business in Ohio and across the United States should be complying with all applicable state and federal laws. Those who ignore applicable state or federal laws are at legal risk for doing so, as I stated in response to questions you raised during my testimony before the House Financial Services Committee on September 12, 2013.

Thank you for bringing your concerns to our attention and for your continuing interest in the Bureau's work.

Steve,
We are continuing to work through these times.
Rich

Sincerely,



Richard Cordray
Director

cc: The Honorable Jeb Hensarling, Chairman, House Financial Services Committee
The Honorable Maxine Waters, Ranking Member, House Financial Services Committee



Consumer Financial
Protection Bureau

1700 G Street, N.W., Washington, DC 20552

November 8, 2013

The Honorable Jeb Hensarling
Chairman
U.S. House Committee on Financial Services
2129 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Hensarling,

Enclosed is the Semiannual Report to Congress for the Office of the Inspector General for the Consumer Financial Protection Bureau, as required under Section 5 of the Inspector General, as amended. This report covers the six-month period from April 1, 2013 to September 30, 2013.

Should you have any questions concerning this report, please feel free to contact me at 202-435-9711.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Galicia'.

Catherine Galicia
Assistant Director for Legislative Affairs



Consumer Financial
Protection Bureau

1700 G Street, N.W., Washington, DC 20567

November 8, 2013

The Honorable Jeb Hensarling
Chairman
U.S. House Committee on Financial Services
2129 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Hensarling,

I am pleased to present the Semi-Annual Report of the Consumer Financial Protection Bureau, as required under Section 1016 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

Should you have any questions concerning this report, please feel free to contact me at 202-435-9711.

Sincerely,

A handwritten signature in black ink, appearing to read 'Catherine Galicia'.

Catherine Galicia
Assistant Director for Legislative Affairs



Consumer Financial
Protection Bureau

1700 G Street, N.W., Washington, DC 20562

November 8, 2013

The Honorable Maxine Waters
Ranking Member
U.S. House Committee on Financial Services
B301-C Rayburn House Office Building
Washington, DC 20515

Dear Ranking Member Waters,

Enclosed is the Semiannual Report to Congress for the Office of the Inspector General for the Consumer Financial Protection Bureau, as required under Section 5 of the Inspector General, as amended. This report covers the six-month period from April 1, 2013 to September 30, 2013.

Should you have any questions concerning this report, please feel free to contact me at 202-435-9711.

Sincerely,

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Catherine Galicia
Assistant Director for Legislative Affairs



Consumer Financial
Protection Bureau

1700 G Street, N.W., Washington, DC 20552

November 8, 2013

The Honorable Maxine Waters
Ranking Member
U.S. House Committee on Financial Services
B301-C Rayburn House Office Building
Washington, DC 20515

Dear Ranking Member Waters,

I am pleased to present the Semi-Annual Report of the Consumer Financial Protection Bureau, as required under Section 1016 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

Should you have any questions concerning this report, please feel free to contact me at 202-435-9711.

Sincerely,

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Catherine Galicia
Assistant Director for Legislative Affairs



Consumer Financial
Protection Bureau

1700 G Street, N.W., Washington, DC 20552

November 8, 2013

The Honorable John Boehner
Speaker
U.S. House of Representatives
H-232 United States Capitol
Washington, DC 20515

Dear Speaker Boehner,

I am pleased to present the Semi-Annual Report of the Consumer Financial Protection Bureau, as required under Section 1016 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

Should you have any questions concerning this report, please feel free to contact me at 202-435-9711.

Sincerely,

A handwritten signature in black ink, appearing to read 'Catherine Galicia'.

Catherine Galicia
Assistant Director for Legislative Affairs



Consumer Financial
Protection Bureau

1700 G Street, N.W., Washington, DC 20552

November 8, 2013

The Honorable John Boehner
Speaker
U.S. House of Representatives
H-232 United States Capitol
Washington, DC 20515

Dear Speaker Boehner,

Enclosed is the Semiannual Report to Congress for the Office of the Inspector General for the Consumer Financial Protection Bureau, as required under Section 5 of the Inspector General, as amended. This report covers the six-month period from April 1, 2013 to September 30, 2013.

Should you have any questions concerning this report, please feel free to contact me at 202-435-9711.

Sincerely,

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Catherine Galicia
Assistant Director for Legislative Affairs



Consumer Financial
Protection Bureau

1700 G Street, N.W., Washington, DC 20562

November 8, 2013

The Honorable Mitch McConnell
Minority Leader
United States Senate
S-230 United States Capitol
Washington, DC 20510

Dear Minority Leader McConnell,

Enclosed is the Semiannual Report to Congress for the Office of the Inspector General for the Consumer Financial Protection Bureau, as required under Section 5 of the Inspector General, as amended. This report covers the six-month period from April 1, 2013 to September 30, 2013.

Should you have any questions concerning this report, please feel free to contact me at 202-435-9711.

Sincerely,

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Catherine Galicia
Assistant Director for Legislative Affairs



Consumer Financial
Protection Bureau

1700 G Street, N.W., Washington, DC 20552

November 8, 2013

The Honorable Mitch McConnell
Minority Leader
United States Senate
S-236 United States Capitol
Washington, DC 20510

Dear Minority Leader McConnell,

I am pleased to present the Semi-Annual Report of the Consumer Financial Protection Bureau, as required under Section 1016 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

Should you have any questions concerning this report, please feel free to contact me at 202-435-9711.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Galicia'.

Catherine Galicia
Assistant Director for Legislative Affairs



Consumer Financial
Protection Bureau

1700 G Street, N.W., Washington, DC 20562

November 8, 2013

The Honorable Nancy Pelosi
Democratic Leader
U.S. House of Representatives
H-204 United States Capitol
Washington, DC 20515

Dear Leader Pelosi,

Enclosed is the **Semiannual Report to Congress for the Office of the Inspector General for the Consumer Financial Protection Bureau**, as required under Section 5 of the Inspector General, as amended. This report covers the six-month period from April 1, 2013 to September 30, 2013.

Should you have any questions concerning this report, please feel free to contact me at 202-435-9711.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Galicia'.

Catherine Galicia
Assistant Director for Legislative Affairs



Consumer Financial
Protection Bureau

1700 G Street, N.W., Washington, DC 20543

November 8, 2013

The Honorable Nancy Pelosi
Democratic Leader
U.S. House of Representatives
H-204 United States Capitol
Washington, DC 20515

Dear Leader Pelosi,

I am pleased to present the Semi-Annual Report of the Consumer Financial Protection Bureau, as required under Section 1016 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

Should you have any questions concerning this report, please feel free to contact me at 202-435-9711.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Galicia'.

Catherine Galicia
Assistant Director for Legislative Affairs



Consumer Financial
Protection Bureau

1700 G Street, N.W., Washington, DC 20552

November 8, 2013

The Honorable Harry Reid
Majority Leader
United States Senate
S-212 United States Capitol
Washington, DC 20510

Dear Majority Leader Reid,

Enclosed is the Semiannual Report to Congress for the Office of the Inspector General for the Consumer Financial Protection Bureau, as required under Section 5 of the Inspector General, as amended. This report covers the six-month period from April 1, 2013 to September 30, 2013.

Should you have any questions concerning this report, please feel free to contact me at 202-435-9711.

Sincerely,

Catherine Galicia
Assistant Director for Legislative Affairs



Consumer Financial
Protection Bureau

1701 G Street, N.W., Washington, DC 20562

November 8, 2013

The Honorable Harry Reid
Majority Leader
United States Senate
S-212 United States Capitol
Washington, DC 20510

Dear Majority Leader Reid,

I am pleased to present the Semi-Annual Report of the Consumer Financial Protection Bureau, as required under Section 1016 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

Should you have any questions concerning this report, please feel free to contact me at 202-435-9711.

Sincerely,

A handwritten signature in black ink, appearing to read 'CAGALIA'.

Catherine Galicia
Assistant Director for Legislative Affairs



Consumer Financial
Protection Bureau

1700 G Street, N.W., Washington, DC 20542

November 8, 2013

The Honorable John D. Rockefeller IV
Chairman
U.S. Senate Committee on Commerce, Science and Transportation
254 Russell Senate Office Building
Washington, DC 20510

Dear Chairman Rockefeller,

Enclosed is the Semiannual Report to Congress for the Office of the Inspector General for the Consumer Financial Protection Bureau, as required under Section 5 of the Inspector General, as amended. This report covers the six-month period from April 1, 2013 to September 30, 2013.

Should you have any questions concerning this report, please feel free to contact me at 202-435-9711.

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Catherine Galicia
Assistant Director for Legislative Affairs



Consumer Financial
Protection Bureau

1700 G Street, N.W., Washington, DC 20552

November 8, 2013

The Honorable John D. Rockefeller IV
Chairman
U.S. Senate Committee on Commerce, Science and Transportation
254 Russell Senate Office Building
Washington, DC 20510

Dear Chairman Rockefeller,

I am pleased to present the Semi-Annual Report of the Consumer Financial Protection Bureau, as required under Section 1016 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

Should you have any questions concerning this report, please feel free to contact me at 202-435-9711.

Sincerely,

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Catherine Gabicia
Assistant Director for Legislative Affairs



Consumer Financial
Protection Bureau

1700 G Street, N.W., Washington, DC 20552

November 8, 2013

The Honorable John Thune
Ranking Member
U.S. Senate Committee on Commerce, Science and Transportation
560 Dirksen Senate Office Building
Washington, DC 20510

Dear Ranking Member Thune,

Enclosed is the Semiannual Report to Congress for the Office of the Inspector General for the Consumer Financial Protection Bureau, as required under Section 5 of the Inspector General, as amended. This report covers the six-month period from April 1, 2013 to September 30, 2013.

Should you have any questions concerning this report, please feel free to contact me at 202-435-9711.

Sincerely,

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Catherine Galicia
Assistant Director for Legislative Affairs



Consumer Financial
Protection Bureau

1700 G Street, N.W., Washington, DC 20552

November 8, 2013

The Honorable John Thune
Ranking Member
U.S. Senate Committee on Commerce, Science and Transportation
560 Dirksen Senate Office Building
Washington, DC 20510

Dear Ranking Member Thune,

I am pleased to present the Semi-Annual Report of the Consumer Financial Protection Bureau, as required under Section 1016 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

Should you have any questions concerning this report, please feel free to contact me at 202-435-9711.

Sincerely,

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Catherine Galicia
Assistant Director for Legislative Affairs



Consumer Financial
Protection Bureau

1100 G Street, N.W., Washington, DC 20552

November 8, 2013

The Honorable Fred Upton
Chairman
U.S. House Committee on Energy & Commerce
2125 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Upton,

Enclosed is the Semiannual Report to Congress for the Office of the Inspector General for the Consumer Financial Protection Bureau, as required under Section 5 of the Inspector General, as amended. This report covers the six-month period from April 1, 2013 to September 30, 2013.

Should you have any questions concerning this report, please feel free to contact me at 202-435-9711.

Sincerely,

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Catherine Galicia
Assistant Director for Legislative Affairs



Consumer Financial
Protection Bureau

1700 G Street, N.W., Washington, DC 20562

November 8, 2013

The Honorable Fred Upton
Chairman
U.S. House Committee on Energy & Commerce
2125 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Upton,

I am pleased to present the Semi-Annual Report of the Consumer Financial Protection Bureau, as required under Section 1016 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

Should you have any questions concerning this report, please feel free to contact me at 202-435-9711.

Sincerely,

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Catherine Galicia
Assistant Director for Legislative Affairs



Consumer Financial
Protection Bureau

1700 D Street, N.W., Washington, DC 20552

November 8, 2013

The Honorable Henry Waxman
Ranking Member
U.S. House Committee on Energy & Commerce
2322-A Rayburn House Office Building
Washington, DC 20515

Dear Ranking Member Waxman,

Enclosed is the Semiannual Report to Congress for the Office of the Inspector General for the Consumer Financial Protection Bureau, as required under Section 5 of the Inspector General, as amended. This report covers the six-month period from April 1, 2013 to September 30, 2013.

Should you have any questions concerning this report, please feel free to contact me at 202-435-9711.

Sincerely,

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Catherine Galicia
Assistant Director for Legislative Affairs



Consumer Financial
Protection Bureau

1700 G Street, N.W., Washington, DC 20552

November 8, 2013

The Honorable Henry Waxman,
Ranking Member
U.S. House Committee on Energy & Commerce
2322-A Rayburn House Office Building
Washington, DC 20515

Dear Ranking Member Waxman,

I am pleased to present the Semi-Annual Report of the Consumer Financial Protection Bureau, as required under Section 1016 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

Should you have any questions concerning this report, please feel free to contact me at 202-435-9711.

Sincerely,

Catherine Galicia
Assistant Director for Legislative Affairs

TIM GRIFFIN
U.S. Senator, Arkansas
ARRESTED MILDRED WOOD

COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON HUMAN RESOURCES
SUBCOMMITTEE ON SOCIAL SECURITY

Congress of the United States
House of Representatives
Washington, DC 20515-0402

October 23, 2013

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LITTLE ROCK, AR 72202
PHONE: (501) 334-3341
FAX: (501) 334-4533

1106 EAST STREET
SUITE 12
CONWAY, AR 72034
PHONE: (501) 358-3461
FAX: (501) 358-3494

1202 CONGRESS HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
PHONE: (202) 225-2800
FAX: (202) 225-5043

The Honorable Richard Cordray
Director
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20036

Dear Director Cordray:

I write today to request information regarding the Fair Credit Reporting Act. One of my constituents, BorrowersAuthorization.com, is a provider of electronic signature technology for the lending industry and helps businesses obtain the proper authorization for credit checks in compliance with relevant regulations. Specifically, they wish to obtain answers to the following inquiries:

1. Is it the interpretation of the Consumer Financial Protection Bureau (CFPB) that under the Fair Credit Reporting Act, there must be written authorization obtained by a third party prior to obtaining a consumer credit report?
2. Does an electronic or digital signature satisfy the requirements of obtaining written authorization to obtain a consumer credit report?
3. How does the CFPB define electronic or digital signature?

If for any reason the CFPB cannot provide answers to these inquiries, please advise as to the best procedures for obtaining such answers.

I appreciate your prompt attention to this matter and your providing my office with a response by Friday, November 8, 2013. If you or your office has any questions, and my office contact for this issue is Holli Heiles, who can be reached at (202) 225-2506 or holli.heiles@mail.house.gov. Thank you for your consideration of this request.

Sincerely,



Tim Griffin
Member of Congress



Consumer Financial
Protection Bureau

1700 G Street, N.W., Washington, DC 20552

November 12, 2013

The Honorable Jeff Merkley
United States Senate
313 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Mark Kirk
United States Senate
524 Hart Senate Office Building
Washington, D.C. 20510

Dear Senators Merkley and Kirk:

Thank you for your letter about the impact of medical debt on credit reports. We at the Consumer Financial Protection Bureau (Bureau) share your concern about the potential negative impact that medical debt can have on consumers' credit reports and credit scores. The Bureau continues to study the extent to which consumers are affected by this issue, and assess how its potential negative impact might be reduced.

Except in the unusual case in which medical providers report information about unpaid medical bills directly to the credit bureaus, most medical debt on consumer credit records is reported by collection agencies. Medical collections account for about one-half of all accounts reported by collection agencies and affect the credit records of one-in-five American consumers.

Some medical collection items are the result of medical bills that consumers, many of them uninsured, were unable to pay. However, our consumer complaint data and other sources suggest that many of these items may reflect debts that the consumer does not recognize or may be the result of a billing dispute between a medical provider and the consumer's health insurance company. In many cases, the consumer may not even be aware that these debts exist.

Many reasonable people rightfully question whether medical debt implies the same things about a consumer's future creditworthiness as non-medical debt. Our Research, Markets, and Regulations Division is currently studying our Consumer Credit Panel, a sample of de-identified credit records that the Bureau has purchased from Experian to study consumer-credit-related issues like medical debt, to better understand the issues surrounding the reporting of medical debt and its use in credit scoring models. Once this analysis has been completed, the Bureau expects to make the results publicly available.

Practices involving collection of medical debt by third party collection agencies are covered under the Fair Debt Collection Practices Act, pursuant to which the Bureau has rulemaking and enforcement authority. Likewise, the furnishing of information about medical debts to consumer reporting agencies by medical providers or collection agencies is covered under the Fair Credit Reporting Act. The Bureau intends to use its authorities to monitor collection and reporting practices related to medical debts. When practices that harm consumers in the market for medical debt are identified, the Bureau will take appropriate action.

to monitor collection and reporting practices related to medical debts. When practices that harm consumers in the market for medical debt are identified, the Bureau will take appropriate action.

The Bureau is also monitoring efforts of other regulators that may improve the collection and reporting of medical debts, and assessing its impact. For instance, earlier this year, the Internal Revenue Service issued proposed regulations covering the billing and collection practices of tax-exempt hospitals under Section 501(r) of the Internal Revenue Code pursuant to the Patient Protection and Affordable Care Act. Under the proposal, reporting to a consumer reporting agency is defined as one of several "extraordinary collection activities" that hospitals may not pursue until making reasonable efforts to determine whether the patient is eligible for financial assistance, including allowing a minimum timeframe to make this determination. These rules may delay and/or reduce the amount of medical debt that is being reported to the credit reporting agencies overall.

Thank you again for your continued interest in the Bureau's work in this area. I look forward to working with you on the important consumer financial protection issues that impact the constituents that you represent.

Sincerely,



Richard Cordray
Director

*we will make an effort to keep you
posted on these issues of mutual interest.*

Rich



Consumer Financial
Protection Bureau

1700 G Street, N.W., Washington, DC 20002

November 12, 2013

The Honorable Ren Wyden
United States Senate
221 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator Wyden:

Thank you for your letter raising concerns about two categories of practices relating to homeowners: practices related to third-party investment in tax lien sales programs and practices by property management firms acting as third-party contractors to banks. We share your concern that consumers who are struggling to maintain homeownership are being affected by these practices. As described in greater detail below, we are committed to using the various tools that we have at our disposal to prevent illegal activity and protect consumers to the extent it is within our statutory authority to do so.

You have asked the Consumer Financial Protection Bureau (Bureau) and the Department of Justice to clarify the state of existing federal laws and regulations governing third-party tax collection practices and resulting property seizures. With respect to federal laws and regulations within the jurisdiction of the Bureau, we are unaware of any laws or regulations that expressly apply to these practices, which typically empower third-party collectors to step into the shoes of the government and pursue its sovereign remedies on its behalf.

State and local governments frequently request that the Bureau provide them with technical assistance in cases where the Bureau's position as a national overseer of consumer financial protection issues gives it knowledge of federal law, consumer financial product markets, or consumer issues. In recognition of the states' sovereign authorities and the comity among the states and the federal government on issues such as taxation and foreclosure law, the Bureau will provide technical assistance on consumer protection issues related to tax liens to state or local governments that request it, but we have no authority to supervise or enforce federal laws against government officials or those exercising delegated authority on their behalf.

You also asked about current oversight of third-party vendors hired by mortgage holders or servicers during the foreclosure process. We share your concerns about the performance of third-party vendors hired by mortgage holders and servicers, particularly those vendors who perform services in connection with foreclosures. On April 12, 2012, the Bureau issued Bulletin 2012-03,

providing guidance to supervised banks and nonbanks concerning third-party vendors.¹ The Bureau advised that retaining a third-party vendor does not relieve the principal entity of its responsibility for complying with federal consumer financial law. The Bureau also outlined the process it expects supervised banks and nonbanks to follow when retaining third-party vendors. This process includes establishing contractual consequences for the vendor's violations of any compliance-related responsibilities, and performing ongoing monitoring to evaluate the vendor's compliance with federal consumer financial law.

The Bureau has used its supervisory authority, including conducting on-site examinations, to scrutinize mortgage servicers' oversight of third-party vendors. On multiple occasions, the Bureau has cited mortgage servicers for insufficient vendor oversight and directed the servicers to take corrective action. The Bureau also has enforcement authority over both mortgage servicers and their service providers.

In addition, this past January the Bureau promulgated new mortgage servicing rules, which take effect on January 10, 2014. The new rules require mortgage servicers to maintain policies and procedures that facilitate oversight of, and compliance by, service providers.² Among other things, these policies and procedures must be reasonably designed to facilitate periodic reviews or audits of the vendor's compliance with contractual and legal obligations, as well as ensure that any vendor performing foreclosure services has accurate and up-to-date information regarding foreclosure or loss mitigation processes on the borrower's account. The Bureau expects mortgage servicers to fully comply with these new requirements and we will take appropriate action to correct any deficient oversight of third-party vendors.

You have asked me to clarify the state of existing federal laws and regulations governing such third-party vendors and their interactions with homeowners, as well as the rights that homeowners enjoy in such circumstances. With respect to federal laws and regulations that the Bureau administers, such third party vendors are generally subject to the prohibition on unfair, deceptive, or abusive acts and practices contained in sections 1031 and 1036 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, 12 U.S.C. §§ 5531 and 5536. Such laws would apply in the context of mortgage servicing and property management activities to protect homeowners, in addition to any rights homeowners enjoy under applicable state laws.

Finally, you requested information about ways to inform consumers at risk of foreclosure or in the foreclosure process of their legal rights. At the Bureau, we believe that consumers with financial knowledge and tools are an essential part of a fair, transparent, and competitive market. The Bureau's office of Consumer Education and Engagement (CEE) works to share ideas and information with consumers. CEE's goal is to help consumers understand the costs, risks, and benefits of financial products as they decide whether to buy those products. CEE pursues this

¹ See http://files.consumerfinance.gov/f/201204_cfpb_bulletin_service-providers.pdf

² See 12 CFR 1024.38(b)(3) (effective January 10, 2014).

objective by identifying proven, effective forms of education that help consumers understand the financial choices they need to make so that they can make their own sound financial choices.

As part of this work, CEE has developed multiple tools to help consumers understand their rights and obligations under a mortgage, including a mortgage in delinquency or foreclosure. The Bureau's Know Before You Owe Mortgages page allows consumers to review and comment on a new Truth in Lending and Real Estate Settlement Procedures Act combined disclosure form.³ The Bureau's Mortgage Help page connects consumers to housing counselors sponsored by the U.S. Department of Housing and Urban Development.⁴ And the Bureau's Ask CFPB pages contain answers to multiple questions consumers have raised with the Bureau related to tax liens, including "I received a bill from my city or county saying that my servicer did not pay my taxes. What can I do?"⁵ and "What is an escrow or impound account?"⁶ The Bureau is also adding an Ask CFPB page specifically on tax lien issues.

While each state has its own laws regarding the rights and notice requirements for consumers facing foreclosure, the Bureau makes these additional resources available to consumers and state and local governments alike to help consumers better understand their options.

Thank you again for taking the time to share your concerns with us. We look forward to working with you on these and other important consumer financial protection issues that affect consumers across the country.

Sincerely,



Richard Cordray
Director

cc: The Honorable Jeff Merkley, United States Senator
The Honorable Elizabeth Warren, United States Senator
The Honorable Edward J. Markey, United States Senator
The Honorable Mark Warner, United States Senator
The Honorable Bernard Sanders, United States Senator
The Honorable Robert Menendez, United States Senator
The Honorable Tim Kaine, United States Senator
The Honorable Christopher Murphy, United States Senator
The Honorable Bill Nelson, United States Senator
The Honorable Mark Begich, United States Senator

³ See <http://www.consumerfinance.gov/knowbeforeyouowe/>

⁴ See <http://www.consumerfinance.gov/mortgagehelp/>

⁵ See <http://www.consumerfinance.gov/askcfpb/218/i-received-a-bill-from-my-city-or-county-saying-that-my-servicer-did-not-pay-my-taxes-what-can-i-do.html>

⁶ See <http://www.consumerfinance.gov/askcfpb/140/what-is-an-escrow-or-impound-account.html>

The Honorable Richard Blumenthal, United States Senator
The Honorable Stuart F. Delery, Assistant Attorney General, Civil Division, United States
Department of Justice



Consumer Financial
Protection Bureau

1700 G Street, N.W., Washington, DC 20552

November 12, 2013

The Honorable Jeb Hensarling
Chairman, House Committee on Financial Services
U.S. House of Representatives
2129 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Hensarling:

Thank you for your October 22, 2013 letter regarding the Consumer Financial Protection Bureau's publication titled "Payday Loans and Deposit Advance Products: A White Paper of Initial Data Findings."

The Bureau's White Paper is perhaps the largest study to date on the short-term, small-dollar loan market. With this White Paper, the Bureau endeavored to provide a shared set of facts from which stakeholders of all types could engage in conversations with the Bureau on issues related to short-term, small dollar loans.

The Bureau's findings were developed from information obtained from a number of storefront payday lenders over a 12 month period. For each account with activity in the first month of the study period, the Bureau studied all activity over 12 months. The Bureau's deposit advance findings were developed from information obtained from depository institutions offering this product. For this group, we examined for a 12 month period a random sample of accounts that were eligible to receive a deposit advance during the first month of our study or during the quarter prior to the start of our study. The White Paper, which outlines how the underlying data was assembled and the analytical methodology employed by the Bureau, conforms to the Bureau's information quality guidelines, which are directed toward ensuring the utility and objectivity of factual data disseminated by the Bureau to the public.

The Bureau is keen on providing you with background on the White Paper that would be useful to you. To that end, I have instructed Bureau staff to work closely with your staff to provide a comprehensive briefing regarding the publication. If you have any questions, please contact me or have your staff contact Catherine Galicia or Tim Sheehan of the Bureau's Office of Legislative Affairs.

Sincerely,

Richard Cordray
Director

cc: The Honorable Maxine Waters
Mr. Mark Bialek, Inspector General, Board of Governors of the Federal Reserve System and
the Consumer Financial Protection Bureau

CAROL SHEA-PORTER
Representative, New Hampshire

1139 S OGDEN ST HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-4498
(202) 225-5822 (fax)

93 LINCOLN SQUARE
MANASSAS, VA 20108
(703) 841-3839
(703) 841-9801 (fax)

90 NORTH MAIN STREET
ROCHESTER, NH 03602
(603) 866-7759
(603) 866-7700 (fax)



Congress of the United States
House of Representatives
Washington, DC 20515

COMMITTEE ON ARMED SERVICES

Protection
Military Programs

COMMITTEE ON NATURAL RESOURCES

Public Lands and Environmental Regulation
Forestry, Wildlife, Oceanic,
and Inland Affairs

www.sheaporter.house.gov

November 13, 2013

The Honorable Richard Cordray
Director
Bureau of Consumer Financial Protection
1700 G Street, NW
Washington, DC 20552

Dear Director Cordray:

I am writing to you to express my concerns about whether adequate steps are being taken to ensure that proposed mortgage rules scheduled to go into effect in January of next year do not disproportionately burden small community banks.

As a supporter of the Dodd-Frank Wall Street Reform and Consumer Protection Act and the establishment of the Consumer Finance Protection Bureau (CFPB), I have been very pleased to see many of the steps taken by your agency to protect consumers and stop predatory financial practices. In the aftermath of the housing bubble that led to the 2008 financial crisis, reexamining the mortgage products offered to consumers, and the process through which they are sold, needed to be a high priority. While I am disappointed in the delay in imposing these regulations, I am glad to see that the agency is moving forward with Regulation Z, the Ability to Repay and Qualified Mortgage Standards Under the Truth in Lending Act, and I thank you for the good work you do.

However, while it is clear that these limitations are necessary to prevent abuse by Wall Street, I have concerns that their implementation will have negative impacts on community banks like those in New Hampshire. Indeed, I have heard repeatedly from bankers in my District that the proposed regulations are too burdensome and that the exemptions available for these banks are inadequate for the business that they do. Also, due to their limited size, they are less able to easily interpret and comply with lengthy regulations than larger firms. I am concerned that, without adequate outreach and education, these banks will have significant difficulty complying with the rules in a timely manner. As such, I have several questions that I hope you would be able to answer about implementation of these rules.

First, I would like to know what outreach efforts are being made to communicate with small banks about their options under the regulations. Based on my interactions with my constituents, they have received very little information from the CFPB on these regulations and how they can operate under them. Additional outreach and education should be a priority as the rules are implemented in 2014.

Second, I would like to know what feedback you have received on the recently submitted amendments that were offered in September. I am deeply concerned about the ability for smaller firms to process and comment on proposals with such a short turnaround time.

Lastly, I would like to know if the CFPB has considered taking additional steps to accommodate smaller banks, whether through increasing the asset cap from \$2 billion or raising the cap on mortgage originations above \$100. I would also appreciate a better explanation of the Temporary QM and plans for phasing out of this product.

I thank you for your consideration of this request, and I look forward to your response.

Sincerely,

A handwritten signature in cursive script that reads "Carol Shea-Porter".

Carol Shea-Porter
Member of Congress

BLAINE LUTHEMEYER
MEMBER OF CONGRESS
3RD DISTRICT, MISSOURI

COMMITTEE ON
SMALL BUSINESS
VICE CHAIRMAN
HEALTH AND TECHNOLOGY
AGRICULTURE, ENERGY AND TRADE

COMMITTEE ON
FINANCIAL SERVICES
HEARING AND INVESTMENT
VICE CHAIRMAN
FINANCIAL INSTITUTIONS
AND CONSUMER CREDIT

Congress of the United States House of Representatives

Washington, DC 20515

November 15, 2013

The Honorable Richard Cordray
Director
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, D.C. 20552

Dear Director Cordray:

I write to express my continued concern over the compliance steps outlined in the Consumer Financial Protection Bureau's (CFPB) guidance of March 21, 2013 (CFPB Bulletin 2013-02), the accompanying press release entitled "Consumer Financial Protection Bureau to Hold Auto Lenders Accountable for Illegal, Discriminatory Markup," and subsequent statements by the CFPB regarding intended enforcement using a disparate impact theory of law. This enforcement activity was also referenced in other correspondence, including a May 28th letter to you from several of my Democratic colleagues on the House Financial Services Committee and a June 20th letter from House Republicans.

I appreciate and share your conviction that discrimination has no place in the extension of credit. Financial institutions in the indirect auto finance space are subject to fair lending regulations, as they should be. I firmly believe that, if there is evidence of a pattern of intentional discrimination by auto dealers, it should be dealt with aggressively through enforcement of existing law by the Federal Trade Commission and the Department of Justice, the agencies responsible for overseeing dealers.

However, there is a difference between disparate treatment targeting members of protected classes versus facially-neutral treatment that may inadvertently result in disparate impact. Disparate impact is not an appropriate way to enforce consumer protection laws against indirect auto lenders who, in many cases, never see a customer or have knowledge of a customer's race.

To the best of my knowledge, the Equal Credit Opportunity Act does not contain a disparate impact theory of discrimination. I am concerned that, with the recent steps taken, the Bureau is articulating entirely new dimensions of public policy surrounding fair lending, and doing so outside of the rulemaking process and without meaningful, public stakeholder input. Moreover, it is my understanding that the CFPB has not studied how the recommended shift to a flat fee structure for reserve compensation would affect the cost of credit to borrowers, particularly low- and moderate-income borrowers, who currently benefit from the many options available in a competitive auto finance marketplace.

It is imperative that the Bureau take the opportunity to conduct an in-depth study on this issue, including the ways in which the cost of credit for automobile purchases would be affected by

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PHONE: (636) 327-7055
FAX: (636) 327-3454

608 HANSON STREET
WASHINGTON, MO 63099
PHONE: (636) 338-2370
FAX: (636) 298-0478

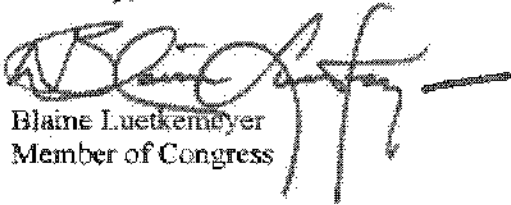
2112 HANCOCK BLVD
JEFFERSON CITY, MO 65109
PHONE: (636) 434-7233
FAX: (636) 636-8647

<http://blainelutheyr.com>

moving to a flat fee dealer compensation structure. Additionally, I request that you thoroughly analyze the manner in which those caps affect the price of auto credit for consumers and how those caps will ultimately impact the March 21st guidance. It is important that you determine whether your actions may undermine a thriving automobile marketplace that has been one of the bright spots of an otherwise sluggish economic recovery.

I thank you for your consideration of this request and look forward to your response.

Sincerely,



Blaine Luetkemeyer
Member of Congress



Consumer Financial
Protection Bureau

1700 G Street, N.W., Washington, DC 20543

November 13, 2013

The Honorable Jeanne Shaheen
United States Senate
520 Hart Senate Office Building
Washington, DC 20510

Dear Senator Shaheen:

Thank you for your letter about the issues facing community banks. We at the Consumer Financial Protection Bureau (Bureau) share your belief that community banks play an essential role in the consumer financial services markets and in communities across the United States.

The Bureau also shares your concern that regulations should not place unnecessary burdens on community banks. We recognize that, with few exceptions, community banks and credit unions did not engage in the type of risky lending that led to the mortgage crisis. We also understand, as your letter makes clear, that if the regulations implementing the Dodd-Frank Wall Street Reform and Consumer Financial Protection Act are too burdensome, these institutions may be more likely to retreat from the mortgage market, which could restrict access to credit for some borrowers.

For these reasons, the Bureau takes special care to ensure that its rules are balanced for community banks and credit unions and the consumers they serve. As you noted, the Bureau has tailored the Ability-to-Repay rule and the standards for qualified mortgages (QMs) to encourage small creditors to continue providing certain credit products, while carefully balancing consumer protections.

To address concerns such as those you raised, the Bureau created a QM provision specifically for small-creditor portfolio loans. Under that provision, portfolio loans made by small creditors generally qualify to be QMs—even if the 43 percent debt-to-income ratio is exceeded—as long as the creditor considered debt-to-income or residual income before making the loan, and as long as the loan meets the other requirements for qualified mortgages (including the prohibitions on risky product features).

The main goal of the small creditor QM provision, as explained in the rule, is to allow those community banks engaged in relationship lending to have QM status for their portfolio loans. The provision is based on the understanding that these banks, properly defined, will not suffer from the consumer protection issues that arise when either loans are sold to others or when creditors do not have the same incentives, scale, and qualitative local knowledge as those inherent under this

relationship model of lending. Accordingly, as explained in the final rule, the Bureau believed that both an originations limit and asset limit were consistent with the purposes of the small creditor QM provision:

The Bureau intended and believes that both elements of the threshold play independent and important roles. The Bureau believes that an originations limit is the most accurate means of limiting § 1026.43(e)(5) to the class of small creditors the business model of which the Bureau believes will best assure that the qualified mortgage definition facilitates access only to responsible, affordable credit. However, the Bureau believes that an asset limit is nonetheless important to preclude a very large creditor with relatively modest mortgage operations from taking advantage of a provision designed for much smaller creditors with much different characteristics and incentives. Due to general scale, such a creditor would not have the same type of community focus and reputational and balance-sheet incentives to assess ability to repay with sufficient care as smaller, community-based creditors, and is generally better able from a systems perspective to handle compliance functions.

Based on estimates from publicly available HMDA and call report data, the Bureau understands that, under the proposed criteria, the likelihood of falling within the scope of § 1026.43(e)(5) decreases as a creditor's size increases. The proposed limits include approximately 95 percent of creditors with less than \$500 million in assets, approximately 74 percent of creditors with assets between \$500 million and \$1 billion, and approximately 50 percent of creditors with assets between \$1 billion and \$2 billion. These percentages are entirely consistent with the Bureau's rationale for § 1026.43(e)(5), as described above. As the size of an institution increases, it is to be expected that the scale of its lending business will increase as well. As the scale of a creditor's lending business increases, the likelihood that the institution is engaged in relationship-based lending and employing qualitative or local knowledge in its underwriting decreases. The Bureau therefore continues to believe that the proposed limit of 500 total first-lien originations is consistent with the rationale underlying § 1026.43(e)(5) and appropriate to ensure that consumers have access only to responsible, affordable mortgage credit.¹

As you know, the Bureau is committed to incorporating the perspectives of all stakeholders into our policy-making process. We created the Community Bank Advisory Council in early 2012 to enhance engagement with the community banking community. CBAC helps the Bureau by providing information on emerging practices in the consumer financial products and services industry, including regional trends and concerns. The Bureau also created the Office of Financial Institutions and Business Liaison, whose focus is to work directly with industry participants

¹ 78 Fed. Reg. 35429, 35486 (final rule) (June 12, 2013).

including community banks and credit unions. They meet regularly with industry stakeholders and trade groups in order to ensure that their views are heard. You may also be interested to know that the Bureau held a roundtable with Maine and New Hampshire community bankers in Portland, Maine on July 10, 2013.

Additionally, the Bureau has embarked on an implementation plan to prepare mortgage businesses for the rules that take effect in January. We have published plain-English summaries that we will update as necessary. We have also launched a series of videos explaining our rules. We are trying to make our rules more understandable and more user-friendly – setting out what lenders need to know and what they need to do in order to comply.² We intend these efforts to be especially helpful to smaller institutions where regulatory burden weighs more heavily on fewer employees.

Thank you again for taking the time to share your concerns with me. I look forward to working with you on the important consumer financial protection issues that impact the constituents that you represent.

Sincerely,



Richard Cordray
Director

*We will continue to monitor the effect
of these and other mortgage rules programs
on the market - please stay in touch with
us about what you folks are seeing and
hearing - Thanks
Rick*

² See <http://www.consumerfinance.gov/regulatory-implementation/>



Consumer Financial
Protection Bureau

1700 G Street, N.W., Washington, DC 20552

November 18, 2013

The Honorable Ed Markey
United States Senate
218 Russell Senate Office Building
Washington, D.C. 20510

Dear Senator Markey:

Thank you for your letter dated October 22, 2013, regarding medical credit cards. In the letter you express your concerns about the practices associated with medical credit cards and the potential harms posed to American consumers by inappropriate marketing of such cards. You reference a recent article in *The New York Times*¹ that highlights issues related to the terms of these cards and marketing practices by medical offices offering these medical credit cards and installment loan products. We share your concerns and appreciate this opportunity to respond.

The Consumer Financial Protection Bureau (Bureau) has the authority to issue and enforce regulations for credit cards under the Truth in Lending Act (TILA) as amended by the Credit Card Accountability Responsibility and Disclosure (CARD) Act of 2009, and that includes medical credit cards. Earlier this month, the Bureau released a study detailing how the CARD Act has impacted the credit card market since its passage in 2009. The study highlighted some key areas of concern in the credit card market, and one such area is deferred interest credit cards, a product your letter mentions. With these cards, if the balance isn't paid in full by a defined date, the consumer owes the accumulated interest. Our report offers a look at deferred interest plans overall, including borrower profile, and the rate at which borrowers repay the full amount borrowed prior to the end of the repayment period.² However, this information may not necessarily be directly indicative of medical credit card deferred interest programs in particular.

Under TILA, financial institutions are required to disclose the terms of the product to the consumer, including the specific details of the deferred interest component of the financing where appropriate. To the extent such institutions rely on others, including medical providers, to provide these disclosures it is in their interest to ensure that such agents are trained and informed about the product. However, if such agents fail to provide the required disclosures, the institution remains responsible for any violations of the applicable disclosure requirements.

We are concerned that consumers, especially those preparing to pay for medical care, may not be given accurate or complete information about these cards when they sign up at their medical

¹ http://www.nytimes.com/2013/10/20/opinion/sunday/alariming-abuses-of-medical-credit-cards.html?_r=0

² http://files.consumerfinance.gov/f/201309_cfpb_card-act-report.pdf, pages 79-81

provider's office. For instance, a consumer may be told that there is "no interest" for a certain time period, without also being told of the deferred interest. Consumers who don't understand the terms of the deal may find themselves with unexpected interest charges.

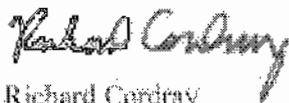
The Bureau is currently reviewing information about what consumers are being told about their medical credit cards, and how accurate that information is. Where we see consumers improperly being taken advantage of, we will take action.

In addition to this review, the Bureau's Consumer Response team receives approximately 18,000 complaints per year on credit cards.³ The Bureau screens all complaints submitted by consumers based on several criteria. These criteria include whether the complaint falls within the CFPB's primary enforcement authority, whether the complaint is complete, and whether it is a duplicate of a prior submission by the same consumer. If a particular complaint does not involve a product or market that is within the Bureau's enforcement authority or that is currently being handled by the Bureau, Consumer Response refers it to the appropriate regulator. Screened complaints are sent via a secure web portal to the appropriate company. The company reviews the information, communicates with the consumer as needed, and determines what action to take in response. Then, the company reports back to the consumer and the Bureau via the secure "company portal", and the Bureau invites the consumer to review the response and provide feedback. Consumer Response reviews the feedback consumers provide about company responses, using this information along with other information such as the timeliness of the company's response, for example, to help prioritize complaints for investigation. Consumers who have submitted complaints to the Bureau through Consumer Response can log onto the secure "consumer portal" available on the Bureau's website, or call a toll-free number, to receive status updates, provide additional information, and review responses provided to the consumer by the company.

As you know, the Bureau strives to be a data-driven agency, and we believe that analyzing relevant data is crucial to understanding the dynamics in this market. The Bureau is actively engaged and works closely with other federal and state agencies as it relates to the issues in the medical credit card arena, and that includes cooperating with State Attorneys General, the FTC, and the prudential bank regulators. We have MOU's in place that allow us to share data and consult where appropriate.

Thank you for your interest and concern in this area. I am always glad to make appropriate staff available to brief you or your staff on these issues and any others that you identify as being of interest to you. We stand ready to do so at your convenience.

Sincerely,



Richard Cordray
Director

³The Bureau does not track medical credit card complaints separately from other credit card complaints.
consumerfinance.gov

United States Senate

WASHINGTON, DC 20510

COMMITTEES:
APPROPRIATIONS
BANKING, HOUSING,
AND URBAN AFFAIRS
BUDGET
ENVIRONMENT AND
PUBLIC WORKS

November 19, 2013

Hon. Richard Cordray
Director
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

Dear Director Cordray:

I appreciate the Consumer Financial Protection Bureau's (CFPB) efforts to provide guidance regarding fair lending requirements of the Equal Credit Opportunity Act (ECOA). The guidance bulletin, issued on March 21, 2013, regarding indirect auto lending and compliance with ECOA has brought forth important questions about discrimination in the extension of credit, and about the flexibility necessary to conduct legitimate, non-discriminatory automobile financing.

While the March 21 bulletin doesn't mandate flat fees from lenders to dealers for originating a loan, auto dealers in my state are concerned that this is the real consequence necessary to protect dealers from charges of discrimination. Moreover, dealers fear that such flat fees are not in the buyers' best interest. For example, dealers indicate that flexible fees allow them to "meet or beat" a competition's financing offer by cutting into their own fees.

No one should be incentivized to push a borrower into a trick-or-trap loan that is designed to explode on him or her. However – and correct me if I'm wrong – these loans do not do that. Rather, they simply give the auto dealer the ability to keep the consumer's business by negotiating the price and financing of the car within the structure of an otherwise plain vanilla auto loan.

I would appreciate it if the CFPB could do two things. First, it would be helpful to have a study of discrimination in the auto marketplace to identify the real problem. Second, until such study can shed light on policy options, please ensure that the CFPB is not in practice mandating flat fees that could potentially hurt both dealers and customers. In doing so, please explore options for addressing discrimination that maintain flexibility for an auto dealer to give the consumer the best rate possible.

Finally, the CFPB may also wish to expand its communications with auto dealers and indirect auto lenders to clarify any misconceptions that may exist regarding whether the guidance mandates any particular type of compensation model.

I appreciate the steps you have taken in recent days to begin to address some of these concerns and urge that you to continue to engage with all parties on these matters. I look forward to working with you to ensure that the issues raised in the March 21 bulletin are fully examined and understood.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffrey A. Merkley". The signature is written in a cursive style with a horizontal line underneath the name.

Jeffrey A. Merkley

U.S. Senator

United States Senate

WASHINGTON, DC 20510

November 21, 2013

The Honorable Richard Cordray
Director
Consumer Financial Protection Bureau
1700 G Street, N.W.
Washington, D.C. 20552

Dear Director Cordray:

We are writing to express concern about the Bureau's proposed implementation agenda for the new mortgage rules that are scheduled to go into effect in January 2014.

Many institutions, particularly community banks and credit unions in our respective states, have reached out to us to express concerns about the multiple rules that the Bureau has proposed since January 2013. Our constituents are concerned that they will be hard pressed to come into compliance with the significant changes called for under these rules by the current deadline. Among these new rules are the Ability to Repay and Qualified Mortgage Standards under the Truth in Lending Act (Regulation Z) governing mortgage products and services. We note that the Bureau also released several amendments to its proposed mortgage rules in May, July, and September 2013.

These proposed new rules and amendments present our nation's financial institutions with thousands of pages of new regulations with which they must comply by January 2014. Our constituents advise that this compliance task will prove daunting for the nation's community banks and credit unions with few compliance officers. Many financial institutions also rely on software systems for managing their operations, and they have indicated to us that they will not be able to have the necessary software in place and operating by a deadline of January 2014.

If financial institutions are unable to fully comply with the Bureau's new mortgage rules by the January 2014 deadline, it could lead to market distortions. These distortions could adversely affect the availability of mortgage credit for consumers in our states, particularly in rural or remote areas of the country. With these problems in mind, as expressed by our constituents, we respectfully request that you consider providing appropriate relief, including deferring implementation of these new mortgage rules until a date when all financial institutions can transition their systems to be fully compliant with the Bureau's new mortgage rules.

We thank you in advance for your attention to this matter and look forward to hearing from you within the next two weeks.

1

Sincerely,

<u>Kay Bunker</u>	<u>Mark Baych</u>
<u>Kelly A. Ayotte</u>	<u>Joe</u>
<u>Mark</u>	<u>Kay Bunker</u>
<u>John</u>	<u>John Barrasso</u>
<u>Joe</u>	<u>Mark</u>
<u>Barney</u>	<u>Jeff</u>
<u>John</u>	<u>Jerry Moran</u>

Pat Fitch [Signature]

Sally Chantler John Bozman

Lee Pearson Chuck Grasley

Wainwright Michael B. King

Bob Dieder Tom Colm

D. A. V. Mike Johnson

U.S. Senator Roger F. Wicker
U.S. Senator Mark Begich
U.S. Senator Kelly A. Ayotte
U.S. Senator Tim Scott
U.S. Senator Marco Rubio
U.S. Senator Roy Blunt
U.S. Senator John Thune
U.S. Senator John Barrasso
U.S. Senator James M. Inhofe
U.S. Senator Thad Cochran
U.S. Senator Pat Toomey
U.S. Senator Jeff Sessions
U.S. Senator John Hoeven
U.S. Senator Jerry Moran
U.S. Senator Jeff Flake
U.S. Senator Pat Roberts
U.S. Senator Saxby Chambliss
U.S. Senator John Boozman
U.S. Senator Lisa Murkowski
U.S. Senator Chuck Grassley
U.S. Senator Mike Lee
U.S. Senator Michael B. Enzi
U.S. Senator Deb Fischer
U.S. Senator Tom Coburn
U.S. Senator David B. Vitter
U.S. Senator Mike Johanns



Consumer Financial
Protection Bureau

1700 G Street, N.W., Washington, DC 20562

December 2, 2013

The Honorable Shelley Moore Capito
U.S. House of Representatives
2266 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Capito,

Thank you for your letter about the implementation of our mortgage rules. I appreciate the opportunity to address this issue with you and your colleagues in more detail.

The Consumer Financial Protection Bureau's mortgage rules will be important in addressing some of the most serious problems that had undermined the mortgage market during the financial crisis. Congress established a specific deadline for the effective date of the rules it directed the Bureau to write, and the effective date reflects that deadline. The Ability-to-Repay rule, in particular, has been broadly expected since the passage of the Dodd-Frank Wall Street Reform and Consumer Protection Act in July 2010 and actually requires little more than the sound underwriting practices that have become standard in the years since the crisis. And the general contours of the mortgage servicing rules track the problems that have been identified in this industry for more than five years, most of which were squarely addressed in the standards set by the National Mortgage Servicing Settlement adopted in 2011.

The Bureau shares your concern that regulations should not place unnecessary burdens on community banks. We recognize that, with few exceptions, community banks and credit unions did not engage in the type of risky lending that led to the mortgage crisis. To that end, the Bureau took special care to ensure that our rules are balanced for community banks and credit unions and the consumers they serve. For instance, the Bureau has tailored the Ability-to-Repay rule and the standards for Qualified Mortgages to encourage small creditors to continue providing certain credit products, while carefully balancing consumer protections.

In addition, as we became aware of critical operational or interpretive issues with the rules, we have addressed them. The Bureau made a commitment to respond to substantial interpretive questions that significantly affect implementation decisions in writing through amendments to the official interpretations and, if need be, to the rules themselves. The Bureau issued various amendments over the course of the year with a single aim in mind: to ensure the effectiveness of our rules by making it easier for industry to comply. By addressing and clarifying industry questions, the Bureau has reduced the need for individual institutions to spend time reaching their own uncertain judgments on these matters.

The Bureau has also embarked on an implementation plan to prepare mortgage businesses for the rules that take effect in January. To that end, we published plain-language compliance guides that

will be updated as necessary. We launched a series of videos explaining our rules. We worked closely with the other financial regulators to develop examination guidelines that reflect a common understanding of what the rules do and do not require, which were published well in advance of the effective date. We intend these efforts to be especially helpful to smaller institutions where regulatory burden weighs more heavily on fewer employees.

We understand this poses a challenge for industry, just as the writing of such a substantial set of mortgage rules by last January posed a significant challenge for our new agency. Had we failed to do so, many key statutory provisions that Congress had enacted, would have taken effect in their own right, which in many respects would have been harder for industry to comply with and much worse for the mortgage market.

Additionally, oversight of the new mortgage rules in the early months will be sensitive to the progress made by those lenders and servicers who have been squarely focused on making good-faith efforts to come into substantial compliance on time – a point that we have also been discussing with our fellow regulators.

It is critical that we move forward so these rules can deliver the new protections intended for consumers and provide the certainty that industry representatives have been seeking. Thank you for your continuing interest in the Bureau's work.

Sincerely,



Richard Cordray
Director

cc: The Honorable Charles Dent
The Honorable Erik Paulsen
The Honorable Joseph R. Pitts
The Honorable Keith J. Rothfus
The Honorable Doug LaMalfa
The Honorable George Holding
The Honorable Michael Grimm
The Honorable Doug Collins
The Honorable Mario Diaz-Balart
The Honorable Ann Wagner
The Honorable Tom Graves
The Honorable Richard Hudson
The Honorable Scott E. Rigell
The Honorable Billy Long
The Honorable David P. Joyce
The Honorable Andy Harris
The Honorable Jim Jordan
The Honorable Mike Kelly

The Honorable Mark Meadows
The Honorable Jeff Fortenberry
The Honorable Diane Black
The Honorable Susan Brooks
The Honorable Reid J. Ribble
The Honorable Andy Barr
The Honorable Charles W. Boustany, Jr.
The Honorable Alan Nunnetee
The Honorable Randy Neugebauer
The Honorable Trey Gowdy
The Honorable Kristi L. Noem
The Honorable Tim Griffin
The Honorable Bill Huizenga
The Honorable Sean Duffy
The Honorable Mick Mulvaney
The Honorable Trey Radel
The Honorable Lynn Jenkins
The Honorable Steve Womack
The Honorable Stephen Fincher
The Honorable Dennis Ross
The Honorable Kerry L. Bentivolio
The Honorable James Lankford
The Honorable David Scott
The Honorable Robert Pittenger
The Honorable Scott R. Tipton
The Honorable Marsha Blackburn
The Honorable Jim Bridenstine
The Honorable Cory Gardner
The Honorable Steve Daines
The Honorable Joseph J. Heck
The Honorable Tim Huelskamp
The Honorable Markwayne Mullin
The Honorable Steve Stivers
The Honorable Todd C. Young
The Honorable Larry Bucshon
The Honorable James Sensenbrenner
The Honorable Tom Cole
The Honorable Thomas E. Petri
The Honorable Michael Conaway
The Honorable Jim Gerlach
The Honorable John Kline
The Honorable Blaine Luetkemeyer
The Honorable Gary Miller
The Honorable Robert Hurt
The Honorable Bill Posey
The Honorable James B. Renacci

The Honorable Jeff Duncan
The Honorable Lou Barletta
The Honorable Mike Pompeo
The Honorable Patrick J. Tiberi
The Honorable Marlin Stutzman
The Honorable Robert Woodall
The Honorable Michael G. Fitzpatrick
The Honorable Eric A. Crawford
The Honorable Christopher P. Gibson
The Honorable Tom Cotton
The Honorable Scott DeJarlais
The Honorable David B. McKinley
The Honorable Tom Marino
The Honorable David P. Roe
The Honorable Peter T. King
The Honorable Randy Hultgren
The Honorable Steven M. Palazzo
The Honorable Aaron Schock
The Honorable Tom Rice
The Honorable Mark Sanford
The Honorable Brett Guthrie
The Honorable Jason T. Smith
The Honorable Tom Latham
The Honorable Joe Wilson
The Honorable John Barrow
The Honorable Edward R. Royce
The Honorable Randy J. Forbes
The Honorable Mike McIntyre
The Honorable Michele Bachman
The Honorable Robert E. Latta
The Honorable Jim Matheson
The Honorable Steve Scalise
The Honorable Greg Walden
The Honorable Stevan Pearce
The Honorable Lynn Westmoreland
The Honorable Virginia Foxx
The Honorable Jack Kingston
The Honorable Patrick T. McHenry
The Honorable Michael K. Simpson
The Honorable Fred D. Lucas
The Honorable Bob Goodlatte
The Honorable Nick J. Rahall
The Honorable Lee Terry
The Honorable Spencer Bachus
The Honorable Scott Garrett

Dec 5, 2013



Dear Senator Hironaka

It was a pleasure to speak with you today. Thank you for your concern for the financial wellbeing of our nation's military and veterans. I look forward to working with you and your staff on military initiatives and hope the stars will align for a return visit to Minnesota one day soon.

Sincerely,

Holly Robinson

Asst. Dir. Servicemember Affairs



Consumer Financial
Protection Bureau

1700 E Street, N.W., Washington, DC 20562

December 9, 2013

The Honorable Sherrod Brown
United States Senate
713 Hart Senate Office Building
Washington, DC 20510

Dear Senator Brown:

Thank you for your letter concerning the implementation of our mortgage rules and their impact on manufactured housing loans. I appreciate the opportunity to address the issue with you and your colleagues.

The Consumer Financial Protection Bureau's (Bureau) mortgage rules were designed to restrict specific practices and foster a thriving, more sustainable marketplace. As you know, the Bureau finalized several mortgage rules in January 2013. Among these rules, the Ability-to-Repay rule protects consumers from irresponsible mortgage lending by requiring that lenders generally make a reasonable, good-faith determination that prospective borrowers have the ability to repay their loans. The mortgage servicing rules establish strong protections for homeowners facing foreclosure, and the loan originator compensation rules address certain practices that incentivized steering borrowers into risky or high-cost loans. The Bureau also finalized rules that strengthened consumer protections for high-cost mortgages and instituted a requirement that escrow accounts be established for a minimum of five years for certain higher-priced mortgage loans.

These mortgage rules will be extremely important in addressing some of the most serious problems that had undermined the mortgage market during the financial crisis. Congress established specific deadlines for certain rules it required the Bureau to write, and the effective dates reflect these deadlines.

In September 2013, the Bureau finalized amendments and clarifications to its January 2013, mortgage rules in order to help industry comply and to better protect consumers. In this process, effort was made to further address manufactured housing loans and facilitate compliance. For retailers of manufactured homes and their employees, the revisions clarify what compensation must be counted toward certain thresholds for points and fees under the Ability-to-Repay and

high-cost mortgage rules. The revisions also clarify when employees of manufactured housing retailers may be considered loan originators.

The final high-cost mortgage rule does provide more relaxed treatment for “smaller-sized manufactured home loans” that are secured by liens on personal property. The CFPB provided the same accommodation that Congress prescribed in this respect. In so doing, as in its approach to all of its rulemakings under title XIV of the Dodd-Frank Act, the Bureau has remained mindful of the need to ensure that regulations do not unduly restrict access to credit in any market, including manufactured housing.

The Bureau has met jointly with representatives from the manufactured housing industry and consumer advocates. Following that meeting, the Bureau requested additional data from a larger set of manufactured housing lenders to gain a more complete understanding of their concerns regarding the potential effects of this as well as other rules on the market for manufactured home loans. The Bureau will evaluate the information it receives, but it must not prejudge any future decisions. For that reason the Bureau has not committed, and cannot commit, to making any further modifications to the rules it has adopted.

The Bureau has also embarked on an implementation plan to prepare mortgage businesses for the rules that take effect next January. To that end, we published plain-language compliance guides that will be updated as necessary. We launched a series of videos explaining our rules. We worked closely with the other financial regulators to develop examination guidelines that reflect a common understanding of what the rules do and do not require, which were published well in advance of the effective date.

We understand this poses a challenge for industry. Oversight of the new mortgage rules in the early months will be sensitive to the progress made by those lenders and servicers who have been squarely focused on making good-faith efforts to come into substantial compliance on time – a point that we have also been discussing with our fellow regulators. It is critical that we move forward so these rules can provide new protections for consumers and provide certainty that the industry has been seeking. Rest assured that we will continue to monitor the situation closely for any evidence of significant impact on this segment of the mortgage market.

Thank you again for taking the time to share your concerns with me. I look forward to working with you on the important consumer financial protection issues that impact the constituents that you represent.

Sincerely,

Richard

Richard Cordray
Director

We will keep in touch with representatives from the industry, share your interest and concerns, and are glad to hear your further thoughts as we go — Rick

Cc: The Honorable John Boozman, United States Senator
The Honorable Mark Pryor, United States Senator
The Honorable Thad Cochran, United States Senator
The Honorable Joe Manchin, United States Senator
The Honorable Lamar Alexander, United States Senator
The Honorable Joe Donnelly, United States Senator
The Honorable Bob Corker, United States Senator
The Honorable Jay Rockefeller, United States Senator
The Honorable Roger Wicker, United States Senator
The Honorable Pat Toomey, United States Senator

Notably, Goldman Sachs has now run an analysis and concluded that, had our new rules been in place then, a full 50% of the loans that defaulted to bring about the financial crisis would not have been made — Rick

Congress of the United States
Washington, DC 20515

December 10, 2013

The Honorable Richard Cordray
Director
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, D.C. 20552

Dear Director Cordray:

We are writing you to express concern about the implementation period for the mortgage rules that are scheduled to be effective in January 2014.

Pursuant to Title XIV of the Dodd-Frank Wall Street Reform and Consumer Protection Act, the Consumer Financial Protection Bureau (CFPB) has promulgated new regulations for mortgage products and services which go into effect in January. While we realize that these are final rules, we do believe that it is crucial to the stability of the mortgage market in our State and across the country that implementation be extended.


Banks and credit unions in our districts have expressed to us their serious concern that it will be impossible for them to assure that the necessary software updates and other compliance efforts are in place by the current deadline. Further, they have stated that banks and credit unions will not be able to lend unless they are certain they are in full compliance with these rules. Ultimately, we fear that consumers and borrowers could ultimately pay the price in limited credit and difficulty obtaining home mortgages.

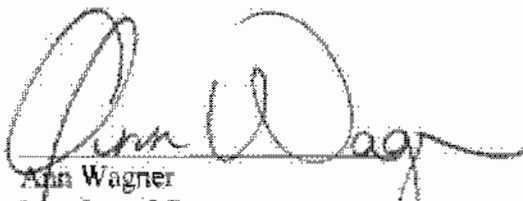
Missouri is home to both rural and urban communities, and we have grave concerns about the impact that this implementation could have in those areas.

We urge you to extend implementation of these rules until January 1, 2015, in order to ensure adequate time for the transition so that financial institutions are able to be in full compliance with the rules.

We thank you in advance for your consideration of this important matter and look forward to your response by December 17, 2013.

Sincerely,


Blaine Luetkemeyer
Member of Congress

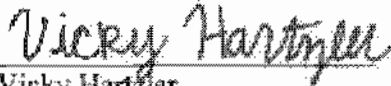

Ann Wagner
Member of Congress



Jason Smith
Member of Congress



Sam Graves
Member of Congress



Vicky Hartzler
Member of Congress



Billy Long
Member of Congress

Congress of the United States
Washington, DC 20515

December 18, 2013

The Honorable Richard Cordray
Director
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

Dear Director Cordray:

As members of the Florida Congressional delegation, we write to express our concerns regarding guidance issued by the Consumer Financial Protection Bureau (CFPB) on March 21, 2013 that could negatively impact the auto dealer industry, indirect vehicle financing market, and consumers in our state and nationwide. It is our understanding that the CFPB issued this guidance based on an assessment of disparate impact under the *Equal Credit Opportunity Act* (ECOA), and that it believes there to be the potential for pricing disparities based on race, national origin, and other prohibited factors. Allegations of discriminatory lending practices are deeply troubling, and therefore it is extremely important that we understand the methodologies and analyses used to reach this conclusion. With that in mind, we ask that the CFPB fully respond to all Congressional requests for the raw data and specific methodology used to determine instances of "disparate impact" and formulate the new guidance.

The auto dealer industry contributes greatly to our nation's economy and that of our state and local communities. In particular, auto dealer sales represent about \$47 billion annually. Florida ranks as the third-largest state in the country in terms of number of vehicles, the sale of which account for 16 percent of retail sales tax. Furthermore, there are approximately 850 new car dealers in Florida, providing tens of thousands of direct jobs and supporting millions more in related sectors. Auto lending, including the indirect auto financing market, helps many hardworking individuals afford the vehicles they need to access job opportunities and support their families. As a result of the CFPB's new guidance, we understand that 17,000 price discounters stand to be eliminated from the auto finance marketplace.

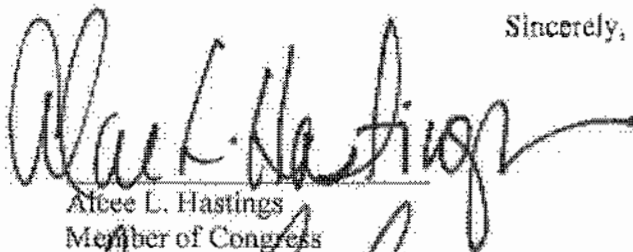
Prior to the CFPB's fair lending guidance bulletin, auto dealers have been able to offer consumers a competitive interest rate through indirect vehicle financing with a third-party lender, such as a bank, credit union, or other financial institution. The ability of auto dealers to negotiate their retail margin in order to provide this service empowers consumers to make an informed decision regarding their financing options. Frequently, it results in them obtaining a lower cost of credit than they would otherwise be able to secure from other creditors. Although the compensation afforded to auto dealers is capped by contract, the totality of the CFPB's guidance, press release, and reported enforcement actions suggests efforts to remove or significantly limit an auto dealer's ability to negotiate competitive financing for their customers, and pressure lenders to replace the system of compensation with a flat fee per transaction or other mechanism.

We have a responsibility to ensure that consumers are best served by a competitive and efficient credit market. While we commend the CFPB for its commitment to addressing unlawful lending practices, we are concerned that Congress has yet to be provided with the complete data and other information necessary to conduct proper oversight of this matter. For example, we note that it is unclear from your responses to date whether the Bureau is including the amount financed amongst the "appropriate analytical controls" used to determine whether a specific policy results in unlawful differences on a prohibited basis.

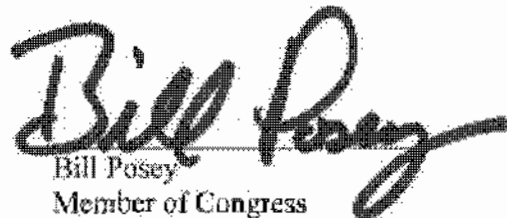
We fear that the CFPB's decision to issue guidance, without public comment or a formal rulemaking process, will significantly restrict consumer choice and services. As you know, a bipartisan majority of the House Financial Services Committee, as well as 22 of our colleagues in the Senate, have written to you expressing similar concerns. We share their request for specific explanations detailing the CFPB's assessment of disparate impact in the indirect auto financing market, especially the extent to which it studied and considered the potential effects of its guidance on the cost of credit to consumers, auto dealers, and competition in the auto loan market.

In order to meet the highest levels of transparency and maximize access to credit for consumers in a manner that is fair and equitable, we urge the CFPB to respond to the aforementioned Congressional inquiries as soon as possible. Without finality regarding this guidance, consumers will ultimately bear the cost as auto dealers will remain restricted in their ability to offer them the most competitive auto loan rates. We thank you for your cooperation and look forward to your response.

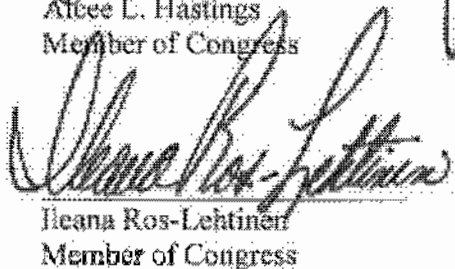
Sincerely,



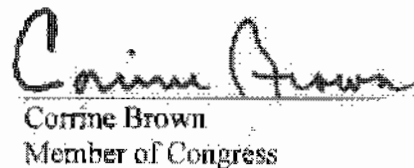
Alcee L. Hastings
Member of Congress



Bill Posey
Member of Congress



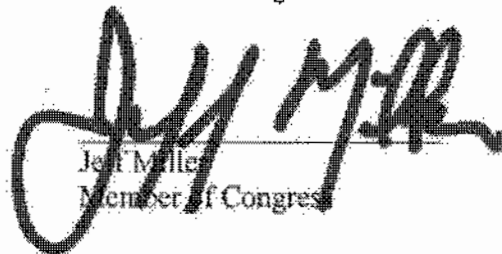
Illeana Ros-Lehtinen
Member of Congress



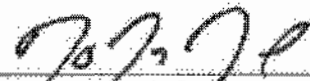
Corinne Brown
Member of Congress

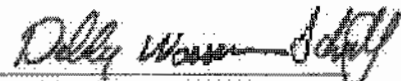



John Mica
Member of Congress





Jeff Miller
Member of Congress


Mario Diaz-Balart
Member of Congress

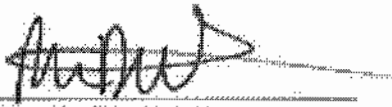

Debbie Wasserman Schultz
Member of Congress

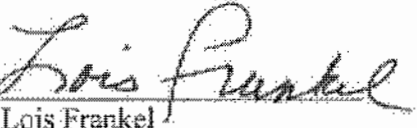

Theodore E. Deutch
Member of Congress

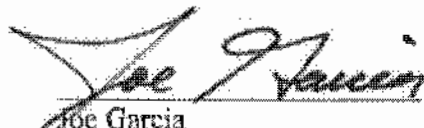

Richard B. Nugent
Member of Congress

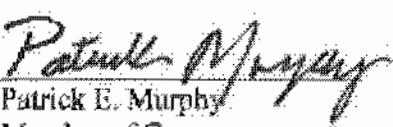

Dennis A. Ross
Member of Congress


Frederica S. Wilson
Member of Congress


Ron DeSantis
Member of Congress


Lois Frankel
Member of Congress


Joe Garcia
Member of Congress


Patrick E. Murphy
Member of Congress