AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

OVERSIGHT OF THE CONSUMER FINANCIAL PROTECTION BUREAU

HEARING

BEFORE THE

SUBCOMMITTEE ON FINANCIAL INSTITUTIONS AND CONSUMER CREDIT

OF THE

COMMITTEE ON FINANCIAL SERVICES

U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED TWELFTH CONGRESS

FIRST SESSION

MARCH 16, 2011

Printed for the use of the Committee on Financial Services

Serial No. 112–18

U.S. GOVERNMENT PRINTING OFFICE

65–677 PDF WASHINGTON : 2011

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2104 Mail: Stop IDCC, Washington, DC 20402–0001

HOUSE COMMITTEE ON FINANCIAL SERVICES

SPENCER BACHUS, Alabama, *Chairman*

JEB HENSARLING, Texas, *Vice Chairman*
PETER T. KING, New York
EDWARD R. ROYCE, California
FRANK D. LUCAS, Oklahoma
RON PAUL, Texas
DONALD A. MANZULLO, Illinois
WALTER B. JONES, North Carolina
JUDY BIGGERT, Illinois
GARY G. MILLER, California
SHELLEY MOORE CAPITO, West Virginia
SCOTT GARRETT, New Jersey
RANDY NEUGEBAUER, Texas
PATRICK T. MCHENRY, North Carolina
JOHN CAMPBELL, California
MICHELE BACHMANN, Minnesota
KENNY MARCHANT, Texas
THADDEUS G. McCOTTER, Michigan
KEVIN McCARTHY, California
STEVAN PEARCE, New Mexico
BILL POSEY, Florida
MICHAEL G. FITZPATRICK, Pennsylvania
LYNN A. WESTMORELAND, Georgia
BLAINE LUETKEMEYER, Missouri
BILL HUIZENGA, Michigan
SEAN P. DUFFY, Wisconsin
NAN A. S. HAYWORTH, New York
JAMES B. RENACCI, Ohio
ROBERT HURT, Virginia
ROBERT J. DOLD, Illinois
DAVID SCHWEIKERT, Arizona
MICHAEL G. GRIMM, New York
FRANCISCO "QUICO" CANSECO, Texas
STEVE STIVERS, Ohio

BARNEY FRANK, Massachusetts, *Ranking Member*
MAXINE WATERS, California
CAROLYN B. MALONEY, New York
LUIS V. GUTIERREZ, Illinois
NYDIA M. VELÁZQUEZ, New York
MELVIN L. WATT, North Carolina
GARY L. ACKERMAN, New York
BRAD SHERMAN, California
GREGORY W. MEEKS, New York
MICHAEL E. CAPUANO, Massachusetts
RUBÉN HINOJOSA, Texas
WM. LACY CLAY, Missouri
CAROLYN MCCARTHY, New York
JOE BACA, California
STEPHEN F. LYNCH, Massachusetts
BRAD MILLER, North Carolina
DAVID SCOTT, Georgia
AL GREEN, Texas
EMANUEL CLEAVER, Missouri
GWEN MOORE, Wisconsin
KEITH ELLISON, Minnesota
ED PERLMUTTER, Colorado
JOE DONNELLY, Indiana
ANDRÉ CARSON, Indiana
JAMES A. HIMES, Connecticut
GARY C. PETERS, Michigan
JOHN C. CARNEY, JR., Delaware

LARRY C. LAVENDER, *Chief of Staff*

SUBCOMMITTEE ON FINANCIAL INSTITUTIONS AND CONSUMER CREDIT

SHELLEY MOORE CAPITO, West Virginia, *Chairman*

EDWARD R. ROYCE, California, *Vice Chairman*
DONALD A. MANZULLO, Illinois
WALTER B. JONES, North Carolina
JEB HENSARLING, Texas
PATRICK T. MCHENRY, North Carolina
THADDEUS G. McCOTTER, Michigan
KEVIN McCARTHY, California
STEVAN PEARCE, New Mexico
LYNN A. WESTMORELAND, Georgia
BLAINE LUETKEMEYER, Missouri
BILL HUIZENGA, Michigan
SEAN P. DUFFY, Wisconsin
JAMES B. RENACCI, Ohio
ROBERT J. DOLD, Illinois
FRANCISCO "QUICO" CANSECO, Texas

CAROLYN B. MALONEY, New York, *Ranking Member*
LUIS V. GUTIERREZ, Illinois
MELVIN L. WATT, North Carolina
GARY L. ACKERMAN, New York
RUBÉN HINOJOSA, Texas
CAROLYN MCCARTHY, New York
JOE BACA, California
BRAD MILLER, North Carolina
DAVID SCOTT, Georgia
NYDIA M. VELÁZQUEZ, New York
GREGORY W. MEEKS, New York
STEPHEN F. LYNCH, Massachusetts
JOHN C. CARNEY, JR., Delaware

CONTENTS

	Page
Hearing held on:	
March 16, 2011	1
Appendix:	
March 16, 2011	47

WITNESSES

WEDNESDAY, MARCH 16, 2011

Warren, Elizabeth, Special Advisor to the Secretary of the Treasury for the Consumer Financial Protection Bureau (CFPB), U.S. Department of the Treasury	8

APPENDIX

Prepared statements:	
Warren, Elizabeth	48

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

Capito, Hon. Shelley Moore:	
Written statement of the National Association of Federal Credit Unions (NAFCU)	82
Watt, Hon. Melvin:	
Speech given by Elizabeth Warren on September 29, 2010, with a personal note to Representative Watt	84
Warren, Elizabeth:	
Written responses to questions submitted by Representative Capito	90
Written responses to questions submitted by Representative McHenry	91
Written responses to questions submitted by Representative Meeks	92
Written responses to questions submitted by Representative Westmoreland	97

OVERSIGHT OF THE CONSUMER FINANCIAL PROTECTION BUREAU

Wednesday, March 16, 2011

U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON FINANCIAL INSTITUTIONS
AND CONSUMER CREDIT,
COMMITTEE ON FINANCIAL SERVICES,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:02 a.m., in room 2128, Rayburn House Office Building, Hon. Shelley Capito [chairwoman of the subcommittee] presiding.

Members present: Representatives Capito, Royce, Manzullo, McHenry, McCotter, Pearce, Westmoreland, Luetkemeyer, Huizenga, Duffy, Dold, Canseco; Maloney, Gutierrez, Watt, Ackerman, Hinojosa, McCarthy of New York, Baca, Miller of North Carolina, Scott, and Lynch.

Ex officio present: Representative Bachus.

Also present: Representatives Neugebauer, Garrett, and Green.

Chairwoman CAPITO. The committee is called to order. I would like to welcome everyone to what I believe will be one of the most important hearings that the subcommittee will hold this Congress.

We are joined this morning by Professor Elizabeth Warren, Special Advisor to the Secretary of the Treasury for the Consumer Financial Protection Bureau, who will be answering questions from the members of the subcommittee about the creation of the Consumer Financial Protection Bureau which we are going to call the CFPB, because I can't get those four words out in great succession very quickly.

So I would like to welcome her and thank her for her participation. She has made a request because of her scheduling issues; she can only be in the hearing until 12:30. So we want to respect that. And I think we will have a good and vibrant hearing and plenty of time to do that.

The debate over the creation of the CFPB was intense, with many members having very different opinions on the best way to modernize the financial regulatory system for consumer protection. I think we can all agree that there were lapses in oversight and inherent problems within the regulatory structure.

That said, many of my colleagues in the House of Representatives have serious concerns about the creation of a new bureaucracy with little congressional oversight. Many of us would have preferred to truly cut the red tape and create a modern regulatory structure that demands better communication between Federal reg-

ulators and provides consumers with the tools they need to report fraud in the system.

What consumers need is a regulatory structure that allows for them to obtain information on a variety of financial products and then make an informed decision about which products best suit their financial needs. And from reading the professor's statements, she will be addressing those issues.

One of my concerns with the creation of the CFPB was that consumers could start to lose the ability to choose from a wide variety of products. It would be better for all parties if a portion of the bureau's budget was a part of the annual appropriations process. Claiming that congressional oversight is present because Congress has the ability to overturn rules, I don't believe is the most effective way to conduct oversight.

Additionally, I have questions about the role the staff of the bureau are playing in ongoing rulemaking. It has come to light that representatives from the bureau have been playing an active role in settlement discussions between large mortgage servicers, regular regulators and State attorneys general.

By statute, the bureau will not be operational until July of this year. I think the involvement of bureau employees in these discussions raises some questions. I have many more questions for Professor Warren and realize that time is limited. I would like to thank her again for joining us today and for her willingness to meet so many Members of Congress. In her statement, she mentions that she has met with over 60 Members, and certainly, as one of those Members, I appreciate that very much.

I would like to now recognize the ranking minority member, the gentlelady from New York, Mrs. Maloney, for the purpose of an opening statement, and I am going to scoot out very quickly, but I will be back.

Mrs. MALONEY. But not before I thank you for calling this hearing and for your friendship and for your leadership on so many important issues including this one.

And thank you and welcome to Elizabeth Warren, who has been at the forefront of the effort to create a consumer bureau for years. Thank you for your service and for your commitment to all American families. You have a been a true champion for the American consumer and for fair and you—and I am getting reports from all sectors, all stakeholders and our financial community that you have reached out to them and you have been fair and balanced in your approach.

History has long shown us that our country is at its most secure and most prosperous when the middle class is economically vibrant and growing. Recent history has also shown us that the reverse is true. Though it is hard to come by an exact figure, in 2008, the worst year of the "Great Recession," household wealth in America fell by more than $11 trillion. Let me repeat that stunning figure, $11 trillion.

And the middle class by any reasonable measure has borne the brunt of the economic damage. Millions lost their jobs, lost their homes, lost the chance to go to college, lost the hope of a better and brighter future. That hard and inescapable fact was one of the

most compelling reasons for the enactment of the Dodd-Frank Act and the creation of the Consumer Financial Protection Bureau.

We took a huge step forward toward creating a more level playing field for the American consumer and the American middle class. For far too long in our financial system, regulatory concerns about consumer protection came in a distant second or third or were not considered at all.

But now, for the first time, anyone who opens a checking account or savings account, anyone who takes out a student loan or a mortgage, anyone who opens a credit card or takes out payday loan will have someone looking out for them and a Federal agency on their side to be fair and balanced and to protect them.

For the first time, consumer protection authority will be held in one place, the CFPB, with an independent, appointed director, an independent budget and an autonomous rule-making authority. For the first time, a truly independent authority will be able to write new rules for non-bank financial firms including payday lenders, debt collectors, mortgage brokers, and other financial institutions.

And very importantly, for the first time, consumers will have a seat at the table at the Financial Stability Oversight Council (FSOC). And the Council will have the authority to nullify any rule it believes will harm an institution's safety and soundness. This kind of evenhandedness and commonsense oversight of our financial system with strong consumer protections will ensure the safety and soundness of the system as a whole and is clearly in the best interests of the American consumer and the driving force of the American economy.

Elizabeth Warren has been at the helm since September 2010, as the agency gets off the ground. So I will be very interested to hear how the process is going as well as what the agency's initial priorities are going to be when authority is officially transferred to the agency in July.

I thank the Chair again for calling this hearing, and I welcome Ms. Warren. Thank you.

Mr. ROYCE. [presiding] Thank you very much.

Welcome, Professor Warren. It is good to see you.

I would just like to make a couple of observations here. One is that a number of people in the regulatory community and a number of economists have raised concerns about some of the unintended consequences of the titles in Dodd-Frank, Titles I through IX, there are provisions throughout the legislation that weren't really thought through.

But Title X seems to be particularly problematic and I will explain some of the concerns. Beginning July 21st, the Federal Reserve has to transfer to the bureau whatever funds the bureau's director has requested despite the fact that neither the Fed nor Congress will have any say into the bureau's budget. Now, that is unique and that is one concern that has been raised.

The second observation is, the byproduct of that, when you think it through, really raises two problems. First, this agency will be able to act outside of the normal appropriations process in the way Dodd-Frank set it up, which means that it will not be held accountable for the actions taken. And the other problem comes from put-

ting safety and soundness protection behind consumer protection in our regulatory structure.

This is something you and I have talked about, but we have tried this model with the GSEs and it did not work. Both the acting and former heads of the FHFA have said that the competing regulatory structure, OFHEO versus HUD, contributed to the failure of Fannie and Freddie. And here, instead of abolishing that model, we have with Dodd-Frank replicated that regulatory model throughout the financial system. That gives cause for all of us, I think, to ponder whether this was done correctly.

And the final concern I have with Title X is the assault on preemption. Regardless of our political affiliation, I think we should all be able to agree that one uniform standard is much simpler, much more effective. We already have 97 percent of the lawsuits in the world today that occur here encouraging more litigation and more uncertainty in this.

I just think Dodd-Frank takes a major step back; we now have every single State attorney general interpreting Federal laws and banks' subsidiaries will now have to comply with State consumer protection laws instead of one national uniform interpretation here. And I think that is going to be a boon for the trial lawyers but it will do little to protect consumers or make our capital markets more competitive.

So it is my hope this committee will take the next necessary steps to correct these failures in the Dodd-Frank legislation.

And we now go to Mr. Scott of Georgia for his 5 minutes.

Mr. SCOTT.. Thank you very much, Mr. Royce, I appreciate that.

Welcome, Ms. Warren. Ms. Warren, I think that you have sort of a delicate balance that you have to walk here. On the one hand, you have to make sure that the consumers have not only the proper information to educate them about some of the practices in our financial services industry but you also have the requirement to make sure that what you do will not thwart access to capital for our consumers, for the banking community, particularly for small businesses, while at the same time give the confidence today that you will also protect the American consumer, protect access to capital to them, protect the consumer.

I would also like for you to address just what impact my good friend on the other side of the aisle—Representative Neugebauer has a bill and that bill basically seeks to defund and keep you in Treasury. I would like for you to address just what this means to you. How will this either make your duties better or make your duties worse with this bill?

And then finally, I would like for you to address the concerns of the banking industry. The banking industry is scared to death of this. They feel this is a threat, while at the same time; the banking industry is the heart of our economic system. It pumps the money which basically is sort of like the blood, the life source throughout our system.

It might be good for you to address that, to ease some of the concerns within the Banking Committee that you are not the threat or the evil empire that perhaps some of them might think. And so, I think that this is a very timely hearing and you do have a delicate balance. And I hope that you will address some of these con-

cerns, and that we all will leave this hearing far more wiser and more confident in your ability and the operations of this new bureau, that it is not a threat. But it is a much needed solution and approach in a very trying economic time.

Thank you, and I yield back the balance of my time.

Mr. ROYCE. We are going to go to Chairman Bachus. Before we do that, I ask unanimous consent, without objection, to allow Representative Al Green of Texas to participate in the hearing. I will now go to Chairman Bachus.

Chairman BACHUS. Thank you.

Director Warren, you are probably directing the most powerful agency that has ever been created in Washington. It is not a commission; it is one single person. And it will regulate all providers of credit, savings, payment, and consumer financial products and services.

A covered person is defined as any person who engages in offering or providing a financial product or service. The definition of a financial product or service, you—or whomever at the agency—will define what that is. It is not defined in the statute.

And also, you will have the ability to identify and ban any financial product or service that is deemed unfair, deceptive, or abusive. But there is really no legal definition of abusive, so you—or whomever heads this agency—will have the right to make that determination.

And your budget, you have as much as $500 million from the Federal Reserve available—and you can seek appropriations of $200 million more. That compares to: the CFTC, which has $169 million; the FTC, which has $300 million; and the SEC, which has $900 million.

I will start by saying that no one questions your commitment to consumer protection, and I want to acknowledge that. But you will basically make the decision as to when consumers are protected and when they are not and what products will be offered and which products won't. And you will have quite a budget. You have not been nominated by the President. I don't know when that will happen or whether you will be nominated. We asked Secretary Geithner in September and he said that nomination will be made soon. It is 6 months later, and I think you would like a nomination to be made. Certainly, no one has been confirmed by the Senate.

And yet, you have a lot of discretion and a lot of power, but I see very little accountability. We have almost just a good faith reliance on your abilities, integrity, and judgment. That is quite a burden for you and quite a burden for us and I think it adds to a great deal of uncertainty. So, I look forward to hearing your testimony.

But I will tell you that since last July when we passed the Dodd-Frank Act, I have advocated for a commission all along. And I believe that having a board is a much better approach because I think it is asking one person to do too much. Thank you.

Chairwoman CAPITO. Thank you, Mr. Chairman.

I would like to recognize Mr. McHenry from North Carolina for 1 minute.

Mr. MCHENRY. I thank the chairwoman.

When the CFPB was debated, many of us were concerned that your agency would have a great deal of power with very little con-

gressional oversight, after all, as the chairman mentioned, the appropriations process is one point of congressional oversight which you will not have.

We were concerned that severe economic consequences would arise from the separation of consumer protection and safety and soundness duties. While that question was before us in theory, it is now in front of us in a very real way in the form of the recently released mortgage servicer settlement term sheet.

Our economy is still very fragile and recovery in the housing market will play a big part in getting our Nation back on its feet. A number of the provisions of the term sheet could cause a crippling slowdown in that recovery.

I look forward to speaking with you about this and other matters.

And I appreciate, Chairwoman Capito, your holding this hearing.

Chairwoman CAPITO. Thank you.

I would like to recognize Mr. Pearce from New Mexico for 1 minute.

Mr. PEARCE. Thank you, Madam Chairwoman.

And thank you, Ms. Warren, for being here today. We appreciate that—as everyone is saying here—your new agency is going to wield a lot of power.

The basic problem in the country is that we are spending $3.5 trillion a year and our revenues are $2.2 trillion a year. Our economy has frozen in place. The recovery is—out by regulations which are causing uncertainty.

The health care regulation and the whole health care bill is causing people to lay off employees, to get below caps. It is freezing the creation of jobs in the medical field.

We see the regulators freezing loans. Banks have money to lend and they are afraid to lend it because they are not faced with $50,000 fines that used to be simply be simply write-ups.

So, I would be interested to see what you are doing to unfreeze the market to create certainty instead of the uncertainty that is coming out of the government right now. Without that, our economy is doomed to fail. It is doomed to fail if we continue on the path that we are on.

I look forward to talking with you on this briefing.

I yield back.

Chairwoman CAPITO. I recognize Mr. Luetkemeyer from Missouri for 1 minute.

Mr. LUETKEMEYER. Thank you, Madam Chairwoman.

And welcome, Ms. Warren.

I understand that the Consumer Financial Protection Bureau will be a self-regulated, unchecked body governed by one individual and funded outside the congressional appropriations process.

This bureau promises to promulgate rules to regulate every financial product available. All American financial firms, not just the ones who played a role in the financial crisis, will be subject to its regulatory authority in some way, and all these powers will be given with little or no mechanism for oversight.

As a former bank regulator, I am concerned that this agency puts consumer protection ahead of the safety and soundness of our financial institutions. In a time when we are just now seeing signs

of recovery, the last thing our lenders need is for an intrusive one-size-fits-all government regulatory agency submitting more regulation to them.

I thank our witness for attending. I look forward to the hearing.

Thank you, Madam Chairwoman. I yield back.

Chairwoman CAPITO. Thank you.

I would like to recognize Mr. Dold from Illinois for 1 minute for the purpose of giving an opening statement.

Mr. DOLD. Thank you, Madam Chairwoman.

And I want to thank you, Professor Warren, for your time today.

I think all of us on the panel are certainly concerned about consumer protection. However, we can't let theoretical consumer protection become the vehicle for categorically eliminating consumer choices or for effectively prohibiting new customized or sophisticated financial products.

Doing so, I believe, would not protect consumers or jobs. Ultimately, the question comes down to, who makes the best decisions about financial products for consumers? Unelected or unaccountable bureaucrats in Washington or the consumers themselves? At both the State and Federal levels, we already have countless relevant laws, regulations, and regulators, not to mention great incentives for class action lawyers to privately enforce these preexisting legal standards.

Do we really need to superimpose another multibillion dollar bureaucracy on top of preexisting legal infrastructure? If so, shouldn't that new Federal bureaucracy at least be accountable to the American people through their elected representatives?

And shouldn't Congress give the new bureaucracy more guidance than relying on abstract concepts like whether a product is unfair, whether it is deceptive or risky? And should we also ensure that this new bureaucracy never jeopardizes bank safety and soundness in the name of consumer protection?

Our economy is already struggling with enough uncertainty and dislocation. I hope that we will all carefully reflect on whether any theoretical bureaucratic benefits justify the risk that this new bureaucracy itself poses to consumers, to jobs and to our economic growth.

Thank you. I yield back.

Chairwoman CAPITO. Thank you.

And I would like to recognize Mr. Canseco from Texas for 1 minute for the purpose of giving an opening statement.

Mr. CANSECO. Thank you, Madam Chairwoman.

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

Now, on its face, the Consumer Financial Protection Bureau seems like a good idea, an agency whose mission is to protect the consumers. Unfortunately, like so much else within the Dodd-Frank bill, the unintended consequences of the CFPB continue to come to light.

It turns out that consumer protection really means consumer restriction, consumer control. Having the Federal Government restrict the choices available to consumers in the name of protection sets a terrible precedent.

Professor Warren has styled herself as an advocate for families. There is no greater advocate for families than a husband and a

wife sitting down at the table, pen and pen paper in hand, planning their family's finances without government interference or oversight; there is no room for a third seat at that table, one occupied by a faceless bureaucrat who does not even know their names much less what is in their best interest.

American families deserve the dignity of being able to make their financial decisions by themselves. Decisions about credit cards and mortgages belong to the family at the family table, not a Washington bureaucracy.

Thank you, and I look forward to your comments.

Chairwoman CAPITO. Thank you.

That concludes our opening statements. So, I welcome the professor back, and I look forward to hearing her testimony. Thank you.

STATEMENT OF MS. ELIZABETH WARREN, SPECIAL ADVISOR TO THE SECRETARY OF THE TREASURY FOR THE CONSUMER FINANCIAL PROTECTION BUREAU (CFPB), U.S. DEPARTMENT OF THE TREASURY

Ms. WARREN. Thank you, Chairwoman Capito, Ranking Member Maloney, and members of the subcommittee for inviting me to testify about the work of the Consumer Financial Protection Bureau.

This is the first oversight hearing for the new consumer agency, and I welcome it. I hope you will permit me to begin with a personal note. I didn't come to Washington because I yearned to be a government official. I came to Washington because Congress asked me here.

My first job started 2½ years ago when I was appointed to the Congressional Oversight Panel, where I served as Chair. At the Oversight Panel, we worked to produce detailed reports for you about TARP every single month.

During that time, I came to Capitol Hill on many occasions to testify about our oversight of TARP and to answer your questions. You schooled me early on the importance of oversight and I believe in it.

Since taking the job of putting together the new bureau, I have had more than 60 one-on-one conversations with Members of Congress. I have sought your good council on many issues.

For today's hearing, I have prepared 34 pages of detailed written testimony to document our start-up effort. The testimony describes our vision for the new consumer bureau and the progress we have made so far. I hope it is helpful in guiding your oversight efforts.

The consumer bureau's mission is straightforward—make prices clear, make risks clear so consumers can compare one product to two or three others. Fine print is great for those who want to hide something, but not good for families who want to know what they are getting into. Mortgages, credit cards, checking accounts, America's families have a right to see the deal right upfront.

There is another issue that I know many of you are concerned about, and I would like to address it head on, reports of serious deficiencies at mortgage servicers. The Department of Justice through the Financial Fraud Enforcement Task Force, has been coordinating with other Federal agencies and 50 State attorneys general to review and address these deficiencies.

Last month, this country's chief banking regulator came to Congress and said these deficiencies have resulted in violations of State and local foreclosure laws. And they have damaged mortgage markets and the U.S. economy at large.

As you know, this new consumer agency is still getting started and doesn't yet have any enforcement authority. Therefore, we will not be a party to any formal settlement with mortgage servicers.

However, later this year, the bureau will receive authority to set standards for the mortgage servicing industry. For this reason, Secretary Geithner, the Justice Department and other agencies have requested the consumer agency to provide advice on this matter.

We have provided our comments, and let me tell you why. If there had been a cop on the beat with the authority to hold mortgage servicers accountable a half dozen years ago, if there had been a consumer agency in place, the problems in mortgage servicing would have been exposed early and fixed while they were still small, long before they became a national scandal.

The mortgage servicing problem illustrates the importance of fair, consistent enforcement. We need a cop on the beat that American families can count on. It is critical that we get this right, a real cop on the beat.

Right now, our government is trying to work out a settlement to end this scandal. This is a law enforcement matter. It includes a bipartisan or nonpartisan roster of law enforcement officials at Federal agencies, at the Department of Justice and 50 State attorneys general.

While it would be inappropriate for me or for anyone else in government to disclose the substance of the discussions regarding an ongoing enforcement matter, I do want to say that I am glad that the consumer agency has been able to provide assistance in this important matter.

I thank Congress for creating this agency to help provide a voice for American families; that is why we are here and that is what we are doing.

Thank you, Congresswoman.

[The prepared statement of Ms. Warren can be found on page 48 of the appendix.]

Chairwoman CAPITO. Thank you, Professor Warren.

I will start the questioning and then we will go through the various members.

In reading your statement and looking at the goals for the bureau that have been lined out in your statement, you have mentioned repeatedly going back in and looking at old regulations, removing old regulations and determining which of those are obsolete instead of piling more and more on top.

But as I was reading, I couldn't really see where you would actually—actually that is an effort that is moving forward in terms of weeding out and regulatory reform with the existing regulations.

Can you give me just a brief update on where you are on that particular issue?

Ms. WARREN. Yes, ma'am.

I really am glad that you asked this question because what it permits us to talk about is not just our overall, but we really are trying to look through regulations and find places where they can

be more efficient and I should mention this, our process for doing that.

We have reached out particularly to community banks, to credit unions, to the financial industry, to people across the spectrum to try to learn from them where the regulations are most problematic.

We have settled on our first priorities for this agency, and that is to take two forms: one is called the TILA form; and the other is called the RESPA form. These are forms you may remember from the last time you bought a home or did a mortgage refinancing, somewhere in those stack of documents that you dealt with.

These are two forms that community bankers tell me have roughly about an 80 percent overlap in terms of the content. But they are written differently. They are organized differently. They have different pieces to them.

And as a result, they are expensive to fill out. They have regulatory compliance cost, that is they have to show that they comply with the regulations. And there are real regulatory consequences if they get something wrong, if they leave something blank.

In fact in several meetings, I have had community bankers and credit unions come to me and show me these forms and show me what it is like, and how much time they have to spend, and how much training it takes to fill these out.

So, what we have proposed to do at the consumer agency, and we are very much doing this in concert with the banking industry and with the mortgage industry is to bring those two forms together.

And I want to pause here to say, you would think that wouldn't be a hard thing to do if there is that much overlap. Because financial regulation has been scattered, the consumer issues have been scattered among seven different agencies, this particular one has been held by two different agencies. And there have been negotiations for more than 15 years to try to merge those two forms into one.

Now, they are both coming to the new Consumer Financial Protection Bureau. We are now able to work with the community banks and the credit unions and with others in the industry. And we are going to put those together. What we are looking for is a one-page mortgage shopping sheet that is simpler, easier, shorter, and more valuable to the consumer. So, lower regulatory cost, higher value to the consumer.

We regard that as the sweet spot for this agency.

Chairwoman CAPITO. All right. Thank you.

I am interested in your response. You mentioned more than a few times community banks and credit unions. I am sure that is not by accident. But in creating this bureau, those entities were led to believe that they were going to be exempted from the purview of the CFPB, an impression which your comment pretty much nullifies.

You are going to them for ideas. You are creating a form. And I applaud that effort, having bought homes before. It is very confusing. And nobody can read through those forms. We all know that.

But, I think, you are backing up what my banker, community banker, Charles Natty, said when he testified before this committee, that he has already had a thousand pages of new proposed rules. There will be thousands more. He has already had to hire one person in a community bank to meet these challenges.

And I think this is a question that goes to the heart of the overreach or implicitly exempting these community banks which don't have the $10 billion level. And actually, they are a part of this.

And I will say just—because I am running out of time, I only have 24 seconds, in terms of the servicer issue, I am glad. Obviously, we addressed that a lot in our opening statements. You kept saying, "cop on the beat, cop on the beat."

The real question is, this agency doesn't really go into effect until July and are you really a cop on the beat? Can you perform as the cop on the beat when you really haven't had your, I don't know, your training yet or you haven't been equipped yet?

And I think that the properness of that is what has come into question.

So with that, I will ask Mrs. Maloney—

Mrs. MALONEY. Thank you.

Thank you very much. First of all, I would like to ask unanimous consent to place in the record an article that was in The Wall Street Journal yesterday on the CFPB's efforts to reach out to the community, to the financial institutions across our Nation, and outlining some of their efforts to get input and to respond to concerns of the public.

Chairwoman CAPITO. Without objection, it is so ordered.

Mrs. MALONEY. Thank you so much.

The Dodd-Frank Act has a slew of checks and balances that are imposed on the CFPB so that it is accountable to the American people and Congress. Could you identify some of those and go through some of those checks and balances?

Ms. WARREN. Yes. Thank you, Congresswoman.

I would just like to start by making the point about accountability. As I said, I came here originally because Congress asked me to be part of the effort to oversee TARP through the Congressional Oversight Panel.

But I hope that every time we talk about accountability that we are also talking about the accountability of financial institutions, that there will be someone, that there will be a cop on the beat to make sure that they follow the law.

So, in terms of accountability, accountability for the financial services industry, accountability for this new bureau, let me remind everyone of the structure of this new bureau.

It is the only agency in all of government—let me underline that—the only agency whose rules can be overruled, obliterated, wiped out, negated by other agencies. The structure of Dodd-Frank is quite frankly to make this the one agency that other agencies can come in and say under the Financial Stability Oversight Council, "We don't like that rule. And so, we are not going to permit that rule to become law."

That is not true for any other agency.

The second thing is to focus on banking regulators. In case of banking regulators throughout American history, it has been the

case that banking regulators are funded outside the political process. They have always had independent funding. And the consumer agency, the one voice for American families, should have that same independence. So, I think the reasons for making banking regulators independent is pretty obvious given the way that the process works.

But I will say again, here in terms of the budget, that unlike any of the other banking regulators, the consumer banking regulator will not be able to set his own budget if the budget is capped. It is capped by statute in Dodd-Frank.

If the consumer agency thinks that it doesn't have enough money to put enough cops on the beat in order to supervise the lending industry or to supervise mortgage servicers, the consumer agency has to come back to Congress and ask Congress for more money.

That means in these two critical respects, the consumer agency is not the strongest agency in government. It is the most constrained and the most accountable agency in government.

I should also note in the overall structure of Dodd-Frank, because I think it is important, is that there are about 18 Federal statutes that have bits and pieces and chunks of consumer financial protection.

Currently, those 18 statutes are scattered among 7 different Federal agencies, 7 different agencies which have responsibility for rule writing and responsibility for enforcement in different bits and pieces. But most critically, for no agency is it of first importance.

What the Consumer Financial Protection Bureau, what Dodd-Frank provided in its first point was to say, we are going to take existing law, not change existing law, we are going to take existing law and we are going to gather it up. And instead of having the duplication, the conflict, the inability the chairman and I were talking about to be able to negotiate and get a single form, we are going to sweep that inefficiency out. We are going to sweep that inattention out. And we are going to concentrate on exactly one agency that will be accountable on consumer issues.

Now, there are many more cases, and I have referred to them in my testimony, Congresswoman. I apologize for going on so long. But I think the issue of accountability is really important. And I just wanted to hit the three highlights.

Thank you.

Chairwoman CAPITO. Thank you.

I would like to recognize the chairman of the full committee, Mr. Bachus, for questioning.

Chairman BACHUS. Thank you.

Professor Warren, you have participated in the foreclosure settlement discussions with the banks. And you have acknowledged that earlier?

Ms. WARREN. Actually, Congressman, let me put this more clearly. We have been asked for advice by the Department of Justice, by the Secretary of the Treasury, and by other Federal agencies. And when asked for advice, we have given our advice.

Chairman BACHUS. Sure. And did you give that as advice from the Consumer Financial Protection Board? Was it given—were they consulting you in that role? In what role were you acting when you say, "We were asked for advice?" Who is the "we?"

Ms. WARREN. Right now, as you know, Congressman, we are a part of Treasury. We are just a division.

Chairman BACHUS. The CFPB, when you say, "we are."

Ms. WARREN. That is right. The consumer, the standing up of the consumer agency.

Chairman BACHUS. So, you were asked, in your role as the CFPB?

Ms. WARREN. As part of Treasury, sir.

Chairman BACHUS. Right, as part of Treasury.

Ms. WARREN. That is right. We are part of Treasury. And in fact, I think the first request was specifically from Secretary Geithner.

Chairman BACHUS. Okay. And Secretary Geithner asked you for advice on what to do or how to structure this settlement?

Ms. WARREN. As I said, he asked for advice about the ongoing problem we have with the mortgage servicers who, the OCC said, have violated both State and Federal law.

Chairman BACHUS. Okay. And these are criminal and not civil enforcement procedures?

Ms. WARREN. It is my understanding that is what the Department of Justice is dealing with. I don't know whether there are criminal proceedings involved or not.

Chairman BACHUS. Have you sat down and talked to the Justice Department about these enforcement actions?

Ms. WARREN. The Justice Department asked for our advice. And—

Chairman BACHUS. Yes. And again, "our" being the CFPB?

Ms. WARREN. Our being a section of Treasury.

Chairman BACHUS. A section of Treasury, okay.

Ms. WARREN. That is right.

Chairman BACHUS. Do you envision yourself as the acting director of this to-be-agency?

Ms. WARREN. No, Congressman. There is no acting director.

Chairman BACHUS. Okay. That is right. So, you envision yourself as just a political advisor to the President?

Ms. WARREN. I actually have two jobs.

Chairman BACHUS. Okay.

Ms. WARREN. One is that I have a job as an assistant to the President. And then the job that is the 14-hour-a-day job and that is the special advisor to the—special assistant I believe it is—to the Secretary of the Treasury for the purpose of starting the Consumer Financial Protection Bureau.

Chairman BACHUS. Okay. Have you discussed with Secretary Geithner or with the President who should be nominated to head this agency?

Ms. WARREN. In the course of my work in trying to get this agency going, I have had many conversations with the Secretary, with the White House, and with others about those—the qualities of what might be needed, the qualities of the person who would run the consumer agency. And—

Chairman BACHUS. Have they told you when they will make a nomination? Have you urged them to make a nomination?

Ms. WARREN. Congressman, I tried to make it clear that it is important that we have a nomination.

Chairman BACHUS. And will they do that almost immediately, would you say?

Ms. WARREN. I would not want to describe any conversation in detail. But I am aware of the need for—

Chairman BACHUS. Urgency?

Ms. WARREN. Urgency.

Chairman BACHUS. All right. Have they given you any indication? What if they made a recess appointment, and then that recess appointment was you? Would you accept that or would you say, "I would rather not have a recess appointment," knowing the type of blowback from that.

Ms. WARREN. Congressman, there is a process in place. That much I can say for certain. I have tried to contribute what I can. And I understand that there will be a nomination soon.

Chairman BACHUS. Okay.

Ms. WARREN. But that is all I know, sir.

Chairman BACHUS. Let me ask you this—the setting of mortgage servicing standards.

Ms. WARREN. Yes, sir.

Chairman BACHUS. You have given input and advice into those. Is that correct?

Ms. WARREN. When we have been asked by the Secretary, by the Department of Justice and others, we have given advice about mortgage servicing. Yes, sir.

Chairman BACHUS. Okay.

Thank you very much.

Ms. WARREN. Thank you.

Mr. ROYCE. [presiding] We will go now to Mr. Gutierrez, of Illinois.

Mr. GUTIERREZ. Thank you so much, professor for coming before the committee this morning. And I wish you Godspeed in your endeavors.

I find it interesting that we are worried about how it is that it is going to become a permanent nomination to head the agency and what is going on within the servicers and the different departments.

And I think we are going to find that is the theme that would probably be carried out most of the morning and continued out during the next couple of years.

I am really concerned about consumers and not the financial institutions because I have a funny feeling that if we—not that I would do this—if we kind of carded everybody that is sitting behind you, the banks, and the investment bankers, and the payday lenders, and the rent-to-own.

They are out there. And they are very well-represented. I don't know how many budget makers are very well-represented out there. So, I am not to worry because as a Member of Congress, I can assure everybody here that those from financial institutions are ready, willing, and able, and have had a strong voice here, sometimes an overwhelming voice. And how it is the legislative process works.

So, I would like to ask you, when we did Dodd-Frank—and I just want to make this clear—are you able to supervise, regulate car dealerships?

Ms. WARREN. Congressman, no. We are not. We will not be able to do that.

Mr. GUTIERREZ. That is expressly prohibited in Dodd-Frank?.

Ms. WARREN. Yes, sir. It is.

Mr. GUTIERREZ. Okay. I just wanted to make that clear for those of us who were here while we created your agency, the financial institutions including the car dealers got their take. And they got to be taken out.

Now, I just want to say that as I sit around my family table, I assure you they were here. The banks were here. Goldman Sachs was here. The car dealers were here. The payday lenders were here. The rent-to-own were here. They were all here.

And let me tell you, they were extremely, to my chagrin, too successful in terms of crafting. So, let's not all be kind of crying and feeling all sorry and sympathetic about the poor corporations out there.

I am concerned about that man and woman at the dining room table. And it does seems incredible to me that—let me see, before I bought my house, the greatest financial investment or decision I have to make was buying a car. And I think for a large portion of the American public, it will be the one instance.

And I think for all of us unless there is something different about you all who sit in this committee, it is a scary proposition buying that car. And it is rife with lots of danger, especially financial exposure if not done correctly.

So, I am sorry that I don't—I am not too worried about them being here.

We created the Consumer Financial Protection agency last year to protect consumers from unfair, deceptive, and abusive practices and also to improve transparency, effectiveness, and fairness for consumer financial products and services.

Some people would argue that we already have Federal agencies that serve as regulating bodies. Can you, Professor Elizabeth Warren, describe how is it that the Consumer Financial Protection Bureau is different from regulators like the Federal Reserve and the Office of the Comptroller of the Currency?

Ms. WARREN. Thank you, Congressman.

I think the big difference is about what people want to do. The Fed is a terrific agency. It does a lot of things. But the people who go to the Fed go to the Fed because they want to do monetary policy. And that is how they are evaluated by Congress. They come back. They make regular reports.

I think that it was Chairman Frank, 2 years ago, who made the point that in 20 years of reports from the Fed back to Congress, the question of consumer protection never came up.

And so, what this is really about is saying those powers that had been with the Fed will now move to a new consumer agency. And there will be someone who will act as a cop on the beat. Who will be out there to look at how mortgage servicers—just to pick an example out of the headlines—are executing on their obligations, whether or not they are following the law.

Someone there to watch and someone to make sure and be able to say to the American people that no matter how big you are, you

have to follow the rules. The laws are the laws and you have to follow them.

The Office of the Comptroller of the Currency has done a lot of different kind of work. But principally, they are in the work of prudential regulation. They have watched out for how they can protect the financial institutions.

The difficulty has been that in attention to consumer issues, to consumer products like the kinds of mortgages that made it into the system over the last 10 years, turned out now only to be ruinous for American families, but also ruinous for American banks.

So, again, the idea the Congress had was to say, "Let's take those functions and move them to the new Consumer Financial Protection Bureau where we have to have a cop on the beat to make sure that there is someone who is going to enforce the law."

If we had had this agency, 6 years ago, 8 years ago, we would not be in the mess we are in today.

Mr. ROYCE. If I could interject here, it is also government intervention. If perhaps, if we restructure things with the agency, but if we also did not have the temerity to believe that Congress should go in and muscle the market and get downpayments down to zero, if we hadn't had the temerity to pass the GSE Act and allow a Government-Sponsored Enterprise to go into the business of arbitrage and overleverage, what I am sharing with you is that there are a number of factors.

Ms. WARREN. Sure.

Mr. ROYCE. A number of factors. And some of it is because of congressional intervention in the market. And also because Congress tied the hands of the regulators, and I am talking now about the prudential regulators, the safety and soundness regulators to actually go in and deleverage the portfolios, for example, for systemic risk with Fannie Mae and Freddie Mac.

I witnessed all of that.

I think that there is an additional consideration here. Part of it—and we have talked about this—is the idea that Washington can better understand what the consumer demands of the consumer.

And I will just give you one example. It was with overdraft protection. The presumption here is Americans don't want overdraft protection. They don't want to be paying for that. We are going to have—they are all going to have to opt in to get that.

And what did we find when the government did that? They all opted in. Overwhelmingly, yes. People wanted that service. But the presumption here was that was a waste of time.

So I just think those—the idea that those in government will dictate what products are allowed in the market and which are not regardless of the willing buyer and seller, it is a consideration in all of these as is the consideration of the fact that your agency is going to be able to act outside of the normal appropriations process. That is unique. That is new, the idea that it won't be held accountable for the actions it takes in terms of the budget.

But my main concern is an additional concern and this I have shared with you. It comes from putting safety and soundness protection behind consumer protection in our regulatory structure.

And as I have said, we have tried that with the GSEs. We have tried that where we have this goal—everybody has the right to own

a home, right? And Congress interprets that right—to me, if you don't have any downpayment, you should have a right to own a home, right at the downpayment zero.

If nobody will buy the subprime loan because you don't any credit and you don't have a downpayment and nobody will buy this junk called Countrywide, why not mandate with the goals, through HUD, that this has to happen?

So, we do that and we set up bifurcated regulation where HUD is on your side of the equation here, the consumer protection, HUD is driving the goals. And on the other side, you had OFHEO, a weak regulator—the prudential regulator that was supposed to be regulating for safety and soundness. But guess what? They couldn't step in and deleverage the portfolios, because the first consideration was not safety and soundness.

We have set this up so that the first consideration is not safety and soundness. And having gone through this and watched this—this is my issue—we have tried bifurcated regulation, OFHEO—we have had the regulators, current and past, who had this particular responsibility both tell us, this helped to create the collapse in the housing market and the wider systemic risk. Yes, it did. And had we had a single regulator, it would have been better, okay?

So, all of us have heard this debate and I just wanted your take on that—

Ms. WARREN. Thank you, Congressman. I think this is a really important issue that you have raised. The point about safety and soundness I think also goes to the point about dictating products. I want to be really clear about the vision of this agency.

What we are about is making the price clear to consumers, making the risks clear to consumers, making it so that the family really has a chance to compare two or three credit cards or a couple mortgages, to figure out two things: first, can I really afford this thing; and second, have I gotten the one that is best? Have I gotten the cheapest one or the best service or the one with the new cool iPhone app?

I think Congress was very cautious on your point when it set up the new consumer agency.

Mr. ROYCE. If I could interrupt you for just a second—

Ms. WARREN. Of course.

Mr. ROYCE. I had an amendment that would make safety and soundness the first priority. It would have the prudential regulators sign off on that and the Majority opposed that amendment. So, we weren't that cautious because the amendment wasn't accepted. So—

Ms. WARREN. Although, you do remember, Congressman, that the way it was ultimately set up is that the other banking regulators, the safety and soundness banking regulators can overrule when they—

Mr. ROYCE. With a high, very high threshold as opposed to—

Ms. WARREN. No.

Mr. ROYCE. I have given you the example of what really happened in the world. It happened once. It could happen again and it is likely to, I think.

Ms. WARREN. And I think this is why the consumer agency was set up, so that its rule—whatever it promulgates can be overruled

by a combination of the safety and soundness regulators, something that exists literally nowhere in government.

You know I should say because I think this is important, for families to know the price—for families to know the—

Mr. ROYCE. We have no disagreement on that.

Ms. WARREN. And that is what—

Mr. ROYCE. The other implications of it.

Ms. WARREN. —the safety and soundness and I appreciate that, Congressman.

Mr. ROYCE. Right.

Ms. WARREN. I know we have had good conversations on that. I appreciate it.

Mr. ROYCE. Thank you, Professor Warren. We are going to go Mr. Watt of North Carolina. Thank you.

Ms. WARREN. Thank you.

Mr. WATT. Thank you, Mr. Chairman, and I yield 30 seconds to the ranking member to clarify a point, and I will clarify it myself.

Mrs. MALONEY. I think we should all continue to clarify that any action that the CFPB has written into statute can be overruled on safety and soundness by the Financial Stability Oversight Council—which includes the OCC, the FDIC, and the Federal Reserve—and safety and soundness is their top priority. So, I wanted to clarify that, and I yield back to the gentleman.

Mr. WATT. I thank the—

Mr. ROYCE. Will the gentleman yield?

Mr. WATT. Yes. For a second. If you are going to yield me some more time now.

Mr. ROYCE. I will yield you more time. If I could—I just want to continue the—

Mr. WATT. I am happy to yield to the gentleman if he—

Mr. LYNCH. Point of order.

Mr. ROYCE. I appreciate that.

Mr. LYNCH. Point of order, Mr. Chairman.

Mr. ROYCE. Yes.

Mr. LYNCH. As one of the junior members here, I am just concerned about the allocation of time. You just made a 5-minute interjection.

Mr. ROYCE. You are making a good point. I go to Mr. Watt.

Mr. WATT. I think he identified himself on his own time for that 5-minute interjection. I don't think he was out of order. He never identified—he never yielded himself time. But I assume that you—

Mr. MCHENRY. —consent that the gentleman may have 30 additional seconds.

Mr. ROYCE. We are going to go to Mr. Watt. Go ahead with your—

Mr. WATT. That doesn't compensate me for the time that is already running.

Mr. ROYCE. You have the 30 seconds, Mr. Watt.

Mr. WATT. That doesn't compensate me 30 seconds—

Mr. ROYCE. Mr. Watt, go ahead. I am going to give you your time—

Mr. WATT. I appreciate that. Let me welcome Ms. Warren here and thank you for being here. I once thought—and I am getting a

copy of the speech that you delivered to the Financial Services Roundtable. I am going to put it in the record.

I was there. I thought it was one of the most thoughtful speeches I have ever heard given to a group who came into the room with, as I will describe it, an adversarial nature, and walked out of the room I think feeling a lot more confident that none of the horror stories or horror possibilities that have been postulated and tossed around rhetorically in the political context were about to happen as a result of the passage of Dodd-Frank and the creation and expanding of the Consumer Financial Protection Bureau.

I want to compliment you—I came to you that very night and complimented you on the speech and asked you to send me a copy of it and I have circulated it to a number of the financial services people in my congressional district when they have raised concerns, many of the same rhetorical concerns that have been raised.

I wanted to compliment you again today on your presentation, the 30-some pages that you have given to us that outlines how this agency is being stood up, and I want to recommend it to my colleagues, particularly in light of the debate that we had yesterday and the day before about how the Consumer Financial Protection Bureau has no oversight.

I want to particularly recommend to them pages 18, 19, and 20 of Ms. Warren's testimony, that outlines in detail the amount of oversight that this agency has been given that far, far, far exceeds any oversight that any other financial regulator has, including the point that the ranking member just made that any rule that this agency promulgates can first of all like any other rule be reversed by Congress. And second of all—or maybe I should put it in the reverse—or the first of all, it can be reversed by this oversight board. And then, second of all, if we are not happy with them, we can reverse them ourselves as we can do with any other financial services or any other regulation that is promulgated by a Federal Government agency.

And with that, my time is waning. I don't know how much time I have left.

Mr. ROYCE. No. You have more time.

Mr. WATT. I do want to ask unanimous consent to put into the record the speech that was delivered to the Financial Services Roundtable leadership dinner by Elizabeth Warren on Wednesday, September 29, 2010, with her personal note to me saying, "With thanks, Ms. Warren."

Mr. ROYCE. Without objection, it is included, including the personal note.

Mr. WATT. And I want to recommend that to my colleagues, if that does not set them at ease—I am probably undermining your credibility with the consumer groups out there—but I am speculating that at the end of this stand-up period, it may be the financial services industry that is the biggest advocate for Ms. Warren to be the head of the Consumer Financial Protection Bureau, because of her approach to these very tough issues, streamlining regulation, getting down to simple forms, the kinds of things that both sides of this committee have advocated and certainly have been the primary focus of the advocacy of my Republican colleagues on this committee.

This is not an ogre stand-up person, Ms. Warren, nor is it an ogre Consumer Financial Protection Bureau. This is an important ingredient for consumers in this country and I regret I didn't have a chance to ask to ask you any questions. I am just advocating for it.

Mr. ROYCE. It wasn't for a lack of time. We go now to Mr. McHenry for his questions.

Mr. MCHENRY. Thank you, Ms. Warren, for being here. Now, I understand your protocol point you—

Mr. WATT. Will the gentleman yield for just a second? Just so I can be clear that this is on the record. Did I get the unanimous—

Mr. ROYCE. You got the unanimous—

Mr. WATT. Okay. I am sorry. I ask unanimous consent for the gentleman to have 30 additional seconds.

Mr. MCHENRY. Are you going to yield me 30 seconds? Thanks. So, you are a political appointee of the White House and a political appointee in Treasury.

Now, I want to go through a scenario with you just to get context for folks on your position. So, walk with me here. This is more of a mind exercise. I want your judgment on the merits of this.

It is shortly after the Enron scandal. Okay? So, let's rewind. And the Justice Department has a special task force to go after Ken Lay and Enron. In your opinion, would it be an appropriate thing for the White House Assistant to the President for Energy Policy, who is rumored to be a potential nominee to head up (FERC) to call up the Attorney General and give advice on how to deal with the Enron matter on what terms to potentially settle?

Ms. WARREN. Congressman, as best I remember, following the Enron scandal, the Justice Department asked for advice from a number of specialists—

Mr. MCHENRY. Right. Did they ask Karl Rove?

Ms. WARREN. —outside the government. I am not sure if they asked for his advice.

Mr. MCHENRY. Okay, but I am—

Ms. WARREN. But I do know they called my teaching institution and—

Mr. MCHENRY. Right, but that is different. Look, we are talking about a political appointee in the White House. So I am just trying to see if you understand why the position you are currently in is controversial. Do you have an understanding that you are in a unique position? The fact that you are a political appointee, you have not have been confirmed by the Senate to head this institution that you are in all terms directing, you have no statutory authority to engage in these matters that you are engaging in.

Do you understand why it is controversial? It is similar to—Karl Rove had a similar position in the White House of the last President and if he injected himself on settlement matters like this, there would be a hue and cry. Do you understand that this is a bit controversial for folks?

Ms. WARREN. Congressman—

Mr. MCHENRY. "Yes" would be a good answer.

Ms. WARREN. I work for the Secretary of the Treasury. And in my work for the Secretary of the Treasury, I have begun to help put this new consumer agency together. And we have tried to build

already a lot of expertise on a lot of different market facing issues, on credit cards, on mortgages, on installment loans, on payment systems, and on credit reporting.

When the Secretary of the Treasury came to me and said, we would like your advice, I was glad to—

Mr. MCHENRY. Don't you answer directly to the President as well?

Ms. WARREN. When the President asks for my advice, I—

Mr. MCHENRY. Yes or no, do you answer directly to the President, Ms. Warren?

Ms. WARREN. I answer when the President asks for my advice.

Mr. MCHENRY. Okay. So you—it is in your title—I am just trying to make sure you have an understanding of the magnitude of the challenge faced in your unique position here. And under what statutory authority are you currently acting?

Ms. WARREN. I am an employee of the Treasury of the United States.

Mr. MCHENRY. Okay, that sounds eminently reasonable.

Ms. WARREN. And the Secretary—

Mr. MCHENRY. I want to get to the settlement question because media reports are saying that there is a $20 billion—some are saying $30 billion—settlement. It is my understanding that if the U.S. Government reaches monetary settlements with banks, the funds would go to the U.S. Treasury. That is how—a very standard process over the course of our Nation's history.

Therefore, it wouldn't be legally permissible for HUD or even CFPB or any other regulator to resolve these matters by having these funds directed to any other place than back to the taxpayers, back to the Treasury. To allocate these settlement funds, would you need to come back to Congress for authorization to spend them?

Ms. WARREN. Congressman, we are not involved, we are not negotiating with anyone at the consumer agency. This is a law enforcement matter that is headed by the Department of Justice—

Mr. MCHENRY. So you are not engaged in these discussions?

Ms. WARREN. —in their financial fraud enforcement task force. And so the negotiations—

Mr. MCHENRY. So you are not engaged in these discussions?

Ms. WARREN. The negotiations—

Mr. MCHENRY. I am reclaiming my time. Are you engaged in these discussions on the settlement?

Ms. WARREN. The negotiations with private parties are entirely directed by the Department of Justice, by the State attorneys general, and by other Federal agencies.

Mr. MCHENRY. So you are not engaged in these discussions?

Ms. WARREN. We do not negotiate with private parties. We have been asked for advice, Congressman. And wherever we can be helpful, we are not only glad to be helpful, we are proud to be helpful.

Chairwoman CAPITO. Thank you.

Mr. Hinojosa, for 5 minutes.

Mr. HINOJOSA. Thank you, Madam Chairwoman.

Professor Elizabeth Warren, thank you for your valuable advice to the U.S. Treasury and to our President. I have had lots of meetings with representatives of the financial services industry: community banks; regional banks; and others. And I want to say that

Texas bankers argue that the Consumers Financial Protection Bureau will put many of them out of business.

Bankers argue that the bureau will force banks to comply with consumer laws and regulations that could eliminate one key source of bank revenue—the overdraft fees. Banks also, both small and medium- sized regional banks are concerned that they might lose another key source of revenue—interchange fees.

Having seen how consumers are struggling with the increase in cost of groceries, the increase in the cost of gasoline, many having lost their jobs, many having lost their homes, I can't help but want to root for your work and say that consumers need some protection. They don't have the lobbyists that we have seen here in Congress working to protect the representatives of all the financial services.

Tell us, what we can do in Congress to ensure that this law is implemented and that it will help our consumers get jobs and, hopefully, put our country back into the prosperity that we experienced during the 1990s?

Ms. WARREN. Thank you, Congressman. That is an enormously thoughtful and heartfelt question. And I wrestle with the issues you describe every single day. America's working families have really been on the ropes for a long time. Flat wages and rising core expenses have caused many families to turn to debt only to find that what they thought would be a temporary help was far more dangerous and far more costly than they had anticipated. This consumer agency is here for American families. And I want to say it is also here for America's banks.

I met with community bankers. I was down in San Antonio, Texas, when Holly Petraeus, who heads up our Office of Service Member Affairs and I went down to Lackland Air Force Base where my brothers had taken basic training. And when we had the chance to meet with community bankers to listen to their concerns, it really has become clear to me that what we can do as a consumer agency to cut regulatory burdens, to try to make prices clear and risks clear so that competition is straight upfront in the marketplace.

That will be good for families. It will also be good for community banks. It will be good for credit unions. It will be good for the financial institutions which really want to serve American families.

Right now, we have a world in which financial institutions are willing to engage in pretty slick practices; are willing to put out a product pretending that it is at one price, knowing they are going to make their money back on the backend with fees and revenues and re-pricing. Those competitors take families away from a safer, sounder banking system.

So, what I see this consumer agency as doing is speaking up for stronger families. And stronger families mean stronger banks. Stronger families and stronger banks mean a stronger economy. That is what we are here to do. Thank you.

Mr. HINOJOSA. Thank you for that response. I heard my friend, Congressman Gutierrez, talk about all that was exempted in the final bill. And yet, it seems like they are the voice for medium-sized banks and the large banks even though they are exempted. Explain to why they are so concerned.

Ms. WARREN. Congressman, there are a lot of people who built business models around the way that the world is who have figured out how to return incredible profits and revenue.

Literally, in the tens of billions into the hundreds of billions of dollars, selling products, mortgages, credit cards, payday loans, car title loans, we could go on and on, remittances, to consumers without making the prices clear up front, without making the risks clear up front, making it impossible through the fine print ever to compare one product to two or three others.

And they are very—some of them very concerned.

Mr. HINOJOSA. We needed to hear that answer. Thank you very much, Professor.

Ms. WARREN. Thank you.

Chairwoman CAPITO. Thank you.

Mr. Huizenga, from Michigan, for 5 minutes.

Mr. HUIZENGA. Thank you, Madam Chairwoman. I appreciate the opportunity.

And, Professor Warren, I appreciate your time coming here. I want to actually—along that vein—explore that a little bit and find out, probe your views on some of these organizations and where they fit, and where you believe that they should fit.

I have a background in real estate and developing. The first home I ever listed was a two-family home on 17th Street in Holland, Michigan, which is a very rough neighborhood, and it listed for $49,000.

The families who were living there and the families who were looking at trying to make an opportunity for themselves really, in many ways, weren't going to be able to fit into those conventional boxes.

We were talking about big banks and medium-sized banks. But I think a number of people acknowledge that maybe somewhere those problems were in some of these more offline, smaller, non-FDIC type of entities that have been able to service people.

And whether it is people holding land contracts—I know many people who have been involved in real estate, they will literally hold millions of dollars in personal funds in land contracts, for example, and some of these other non-conforming loans.

And you hit on a phrase just in this last answer of serving America's families. I think there are a number of people who are willing to do that, but they are quite afraid of some of the regulations and the discussions and the direction that this appears to be going that they may not be able to function.

I am hoping to hear from you exactly what are some of your views of those less than conventional institutions and organizations that serve those families because whether they are vets, or whether they may be disabled, or whether they may be low- and moderate-income, there is a marketplace that needs to be served. How do you envision that being served?

Ms. WARREN. Thank you, Congressman. I think that is a very important question, a very, very thoughtful question, and I will say along the same line, the first house I ever bought was for $23,300 and we were not conventional buyers, the first time out.

I understand the importance of being able to serve American families across a wide variety of circumstances. In fact, I should

say I think it has been one of the important themes that community banks and credit unions in particular were also non-bank lenders when they have come to visit have talked about with me how it is that they build a business model around adjusting to the different needs of different customers, that they acknowledge the importance of what they call relationship banking, that they know their customers and they know how to customize products.

And I think the best way I can say this is that we are working with those in the industry who serve families. We are committed that prices should always be clear. There should never be a family ready to take out a mortgage who isn't clear what the price is on that mortgage. There should never be a family considering taking out a mortgage who doesn't get what the basic risk is, whether, for example, this is a fixed-rate mortgage or a mortgage that could adjust.

There should never be the case that a family gets information in a way that they can't make some kind of straightforward comparison of one mortgage to two or three others.

That is the direction we are driving this agency. That is the direction we have been driving it since the first day I have been there. And I have really tried to build those structurally into the agency and into its entire attitude because, ultimately, that is what we want to be able to do. We want to make sure that there is a robust and diversified financial services industry there to serve the American people. That is our job.

Mr. HUIZENGA. My concern is that—I appreciate that. I believe that people, I have sat through countless closings myself and there is—trust me, if anybody has either refinanced their home lately or if they have ever been buying anything—I see a few people, heads nodding in the background—there is plenty of paperwork that you are signing to the point of writer's cramp.

One, I am concerned a little bit about the redundancy and whether some of these things are necessary. But, two, and more importantly, not just the notice to the consumer, how will this work for the lenders, conventional or non-conventional? How will this work for the broker? Oftentimes, there are mortgage brokers who may be in there or even individuals and let's call them an implementer of that particular deal.

Because I will tell you that there is a number, and I have this man, and I will call him Mike, who takes his family's money, has about $1.25 million in land contracts. He looks at this and says, "I am not going to be able to function. I am not going to be able to serve those people who couldn't go get a conventional loan because of potentially the paperwork and the layering of that." Now, I would like to hear how that would be taken care of?

Thank you, Madam Chairwoman.

Chairwoman CAPITO. Thank you.

Mr. Miller, for 5 minutes.

Mr. MILLER OF NORTH CAROLINA. Thank you.

Professor Warren, first I want to commend you for your work to merge the TILA and RESPA forms and do it in plain English, something that can actually be understood. I have heard from consumers that they are very frustrated. They are given a big sack of stuff that is useless to them because it is written in unreadable

legalese. But I have also heard from credit unions and community banks.

And it is easy to forget with all the cheating that went on in the last decade, most people really, in the financial sector really were trying to make an honest living and provide a needed service and do right by people. They felt like they had to simply regurgitate the language of a regulation or a statute which is legalese and set it out in full. And they knew that nobody could read it.

But that is all—they felt that was the safest thing, so if you were developing the forms that they feel safe to use, that people can understand is they servers to consumers and it is a service to those industries who are trying to make an honest living, so do that and do more of it.

Second, I do remember with respect to CFPB and the first proposal, there was a requirement that financial institutions all have a "plain vanilla" product, and that got dropped fairly quickly. In fact, to make the point very clear, Republicans offered in the amendment that said that CFPB cannot require any financial institution to offer any product.

So, when there are complaints that their solvency—their safety and soundness may be threatened by a consumer protection, it will not be that they are required to do something that would be unprofitable for them. It is that they have to do things that CFPB determines are abusive to consumers to stay in business. Is that correct?

Ms. WARREN. That is correct, Congressman. Yes, sir.

Mr. MILLER OF NORTH CAROLINA. Okay. The argument about safety and about, excuse me, about consumer choice reminds me of the argument a century ago with respect to that, that meat packers made about proposed food drug laws, pure food laws that it would impinge upon consumers' God-given right to buy spoiled beef.

And it turned out that consumers did not really want to buy spoiled beef. They did not want that right. They wanted the assurance that they were buying pure beef. If they really wanted rotten beef, they could buy it pure and let it rot. But they did not particularly value the right to buy spoiled beef.

I have yet to talk to anybody who wanted—who actually chose some of the products made and offered in the last decade, that suppose at one-size-fits-all, I can't think of any size if some of those products fit. And I have asked before, I asked the president of the American Bankers Association if he could identify for me someone who qualified for a prime loan, but instead wanted a 2/28 with an increase in the monthly payment of 30 percent to 50 percent and then a 3 percent prepayment penalty and all the rest. And I have asked if he could identify for me someone who actually chose that knowingly.

Or someone mentioned overdraft fees. I want an overdraft protection. I want that, but I do not want the bank to be able to process overdrafts not in the order in which they come in, but in the order that would maximize overdraft fees, or that the ATM machine, when I ask my balance, tells me funds available, which means how much could I take out in addition even though every transaction would have an overdraft fee.

Do you know people who wanted that?

Ms. WARREN. No, Congressman, I do not.

Mr. MILLER OF NORTH CAROLINA. Okay. Finally, with respect, and I made that offer on the House Floor, that request on the House Floor and this committee that please if anyone knows of someone who really wanted those products, who got a subprime loan and qualified for a prime loan, let me talk to the—give me their names and contact information so I can talk to them and understand why they would have chosen that. And I still have not had any name provided to me.

With respect, and I know that you are not playing the lead or you are only being consulted in the reported settlement talks that one of the criticisms of it is it doesn't say what is it that the banks supposedly did, the servicer supposedly did. Usually, when there is a settlement of an enforcement action, the party being subject to the action does not want that in the settlement because it is bad press, and particularly when there are pending private claims that can be used against them, particularly if it is couched as a finding and they don't want that, that is part of the negotiation is that there is no specificity, there is no detail about what the supposed violations are.

Do you know if the banks or the servicers have asked that there be some detail of what they have done or supposedly done as part of any settlement agreement?

Ms. WARREN. Congressman, I have no knowledge one way or the other about that.

Mr. MILLER OF NORTH CAROLINA. Okay, what I said about how settlement actions usually work, that settlement agreements usually work, is that consistent with your own experience and knowledge?

Ms. WARREN. That is what I understand from those who do settlement negotiations.

Mr. MILLER OF NORTH CAROLINA. Okay, thank you.

Chairwoman CAPITO. Thank you, Mr. Miller.

Now, Mr. Duffy, for 5 minutes

Mr. DUFFY. Thank you, Madam Chairwoman.

Good morning, Ms. Warren.

Ms. WARREN. Good morning.

Mr. DUFFY. I would echo your point that I think all of us here want to see clear prices in regard to lending and want to make sure that borrowers know the risk of the loan they are taking. I think we would all agree with you on that point. I think there are other issues that are flaring up here. And I don't want to beat a dead horse, but I want to go back over, again, what your role is here with the CFPB. Would you—you said you are a political appointee but would you also agree that you are kind of the acting director of this organization?

Ms. WARREN. There are truly two jobs contemplated by the Dodd-Frank Act. One is that there will be a director and that process is the President will nominate someone, and the Senate will confirm. The other is that it is perfectly clear in the Dodd-Frank Act that someone has to get this agency up and running, that is charged by the Secretary of the Treasury and—

Mr. DUFFY. And that is why I am asking the question because as the acting director—because it is one of these situations where

if it walks like a duck and it quacks like a duck and it looks like a duck, it is a duck. And you are hiring the staff, you have a welcome video on the Web site, your schedule is on the Web site. I know you might say that you work for the Treasury Secretary, but I think anyone who looks at what is happening here they ought to agree that you are behaving as if you are the acting director and I think that is a concern here.

And I think that we come back to this point of we want to see confirmation from the Senate of an acting director and back to one of the original points you said you know what, this agency provides the voice for the American people. I look at this Congress, we are the voice of the American people, and when we don't have any oversight of what you are doing, I see that as incredibly problematic.

I guess I would ask for your comments on that.

Ms. WARREN. Thank you.

I appreciate your interest in what is happening during this period between the time that the President signed the bill into law and the time that this agency receives its transferred authority under the statute. And it says, "The Secretary of the Treasury shall set the agency up." And that is hiring and signing contracts and building the mechanism—

Mr. DUFFY. But the Treasury Secretary is not on the Web site. His schedule is not on the Web site; it is you.

Ms. WARREN. And the Secretary of the Treasury who is responsible for many things delegates to other people. And he has delegated to me, he has asked me to come in and spend my time doing this and I will say, Congressman, it has been a 14-hours-a-day, 7-days-a-week job.

Mr. DUFFY. I agree about the 14-hour days, I know exactly what you are talking about, but I was asking, are you acting as the director?

Ms. WARREN. I am acting as the delegate of the Secretary of the Treasury as the statute contemplates.

Mr. DUFFY. Let me move on because I just—my concern is my duck analogy. It appears that you are the acting director by everything that we are reviewing, and you are aware that the FTC, the SEC, and the FDIC all have five-member boards but the CFPB, we are going to have one director, possibly you, possibly someone else. I guess that gives me some concern that we are consolidating power in one person instead of a board.

Does that give you any pause or concern?

Ms. WARREN. There are two models in government, the Office of the Comptroller of the Currency and the Office of Thrift Supervision, the primary prudential regulators, the safety and soundness regulators that we were talking about earlier have a single director. And I think the reason for that is the belief that, Congressman, having the single director when you have someone who is doing banking regulation makes for a more efficient operation.

Mr. DUFFY. The FDIC, the SEC, and the FTC are involved in some very important areas and they are five-member boards and they work well, right?

Ms. WARREN. They certainly are involved in many things, they are not banking examiners—

Mr. DUFFY. Would you be opposed to a five-member board?

Ms. WARREN. And they do not run a banking staff, all I can say—

Mr. DUFFY. Would you be opposed to a five-member board?

Ms. WARREN. What I will say is that this was fully deliberated.

Mr. DUFFY. Let me ask you this, are you opposed to a five-member board?

Ms. WARREN. Congress made the decision to—

Mr. DUFFY. Are you—I am not asking about Congress, I am asking if you are opposed to a five-member board?

Ms. WARREN. I think when Congress made that decision, it was the right decision.

Mr. DUFFY. So you would say yes, you are opposed to a five-member board, you think a one person director—

Ms. WARREN. When Congress made the decision to have one regulator, they got the point.

Mr. DUFFY. That leads me to my next point. I think you have seen a concern here with my colleagues that what you are doing in regard to consumer protection could trump safety and soundness. And we look at FSOC and it is a 10-member board where we need a supermajority of two-thirds to overrule your decisions. And you have a seat and the President has a seat, all you need is one more and we can't overrule the decisions that you—I yield back, I apologize, my time is up.

Mr. DOLD. [presiding] Thank you. Next, we are going to have Mr. Lynch, for 5 minutes.

Mr. LYNCH. Thank you, Mr. Chairman.

First of all, I want to start off by saying thank you Professor Warren for your great work. I, for one, being on the Oversight Committee, have followed your work very, very closely. I have seen you in action and I think you do a wonderful job and I just want to—in spite of all the criticism we see here I hope you understand that for those of us whose primary concern is for the consumer and those of use who really understand what happened in this financial crisis, you are the champion for working people and for consumers.

I, for one, hope that you are nominated and I pray that you are confirmed because I think you would be perfect for this job. I think you have shown a lot of courage to stand up against the folks that you stand up against. There are a lot of people who stand up and fight for the big banks. There are a lot of folks who stand up and fight for financial institutions and there are a lot of constituencies in the financial sector, obviously very heavily financed and a lot of lobbyists and you are right into the teeth of that. And I just, on a personal level, I ask you to keep at it.

I think you are fighting the good fight. You are on the side of the angels and I think that you know, hopefully you will be nominated and you will be confirmed, I honestly hope for that.

I understand this is change, and sometimes there is great investment in the status quo and we certainly see that in the financial services industry and people are nervous, but I do think that Dodd-Frank, in allowing the CFPB to be overruled by the safety and soundness regulators, does put a short circuit in place where if there was something that was unwise, not that you would do anything that is unwise but in the event that that might happen there

is a fail safe and I that review is certainly warranted and I think it is already included in the bill so I am encouraged by that.

Look, the damage done to American families and the American taxpayers by this recent financial crisis cannot be overstated, but one of the things that I worry about greatly is the integrity of our financial markets. There has been such damage to the integrity of the U.S. financial markets and reputational damage done to our markets that investors, consumers I think feel that the current arrangement is rigged. That the banks run the show and with insider trading and these super fast computers that really they don't believe that the system is honest, they think it has been compromised greatly.

And they are hoping that you might be part of that solution in rebalancing of the scales. I certainly hope that. The complexity of the markets is just growing exponentially with derivatives and structured products and it is beyond the basic understanding of the average investor or the average consumer.

And what I am asking is for you to try to explain to consumers who are out there about your role as someone who, if confirmed, might help rebalance the power there between consumers and financial institutions.

Ms. WARREN. I appreciate that, Congressman. I think you have put it exactly the right way when you talk about balance, that the banks will be heard from in Washington and the political process. The question is whether ordinary families will be heard from and quite honestly whether or not those who actually want to serve those families will be heard from, community banks, credit unions, servicers who want to provide good products.

What I see this about is that this is about this agency, it is about a real belief in markets so long as they are honest. So long as you have a cop on the beat who says, there is that law down here, everybody, I don't care how big you are, I don't care how powerful you are, I don't care who your friends, everybody follows the law. That is just the deal.

And the laws are directed toward you folks so you can actually have a real chance in this financial marketplace, at least in the personal part of this, the borrowing and your own personal financial management because the costs ought to be clear, the risks ought to be clear. It ought to be that you can compare one product to two or three others. That is really all this agency is about.

Mr. LYNCH. Thank you very much. Mr. Chairman, my time has expired. I yield back.

Ms. WARREN. Thank you.

Mr. DOLD. Thank you.

Next, we will hear from the gentleman from Texas, Mr. Canseco, for 5 minutes.

Mr. CANSECO. Thank you, Mr. Chairman. And I am going to yield some of my time to the gentleman from Georgia, Mr. Westmoreland.

Mr. WESTMORELAND. I will only take 30 seconds. And I want to tell the gentleman from North Carolina, today is your lucky day. I would like to present this evidence to Ms. Warren and ask her if it would prevent this from happening. I sought out a loan, a second mortgage to go into business. It was a 5-year prepayment pen-

alty, I paid 6 points up front. I probably paid 4 percent or 5 percent more than the going rate to be able to get a second mortgage on my home to go into business. And I am proud to tell you that I was able to repay that. I was able to fulfill my dream of being in business for myself and I have been in business for myself for 30 years.

And what you are talking about today and what Mr. Miller is talking about today is preventing people from being able to fulfill the American dream when they know themselves that they can do it. They can meet the challenge but yet the government is going to tell them it is a bad deal, they can't do it, and not allow businesses to make those kind of loans. That is wrong.

Thank you. And I will yield back.

Mr. CANSECO. Thank you, sir.

Professor, I appreciate your being here today and I also appreciated your visit in my office some time ago when we had a very nice friendly discussion about San Antonio and our home. And I thank you for being here today.

But in regards to San Antonio, I spoke with a group from San Antonio that represents a lot of entrepreneurs, a lot of young businesses that are just getting started. And one of the things about it is that they used a lot of their own personal credit in order to finance these things. The U.S. Chamber of Commerce estimates that more than 47 percent of small business owners use personal credit cards as opposed to business credit cards. That is just the nature of start-up companies and the beauty of the American dream.

How will the CFPD distinguish between an individual using credit cards to buy fancy clothing and a small business owner obtaining credit to expand his business?

Ms. WARREN. So, Congressman, again, thank you for your hospitality. It was good to be able to visit with you and to be able to visit about San Antonio.

I want to be clear about what we are trying to do with the consumer agency. We are trying to make the cost clear up front. We are trying to make the risk clear. We are trying to make it easy for anyone to be able to compare one product to another. I believe in small businesses. I have not only studied small businesses for a long time, one of my three brothers has been a small business owner all his life and supported his family from his efforts. And I know how small businesses struggle.

Mr. CANSECO. Pardon me for interrupting your answer but how are you going to distinguish that individual who is using his personal credit for business from someone who is using it for personal use?

Ms. WARREN. Congressman, perhaps the distinction you want to make and quite rightly is that business loans are excluded from any oversight by the Consumer Agency. But let me make the point that we are here to make credit clear in terms of its price, not to ask what you bought with it. It is not our question about whether you bought good-looking clothes or ugly clothes. That is just not—

Mr. CANSECO. But what is it going to mean to the more than 47 percent, almost 50 percent of business startups and business people who use that personal credit for their business that they are putting skin in the game? If your agency comes in there and regulates

their activities, what does it mean to that private sector that is growing and it is going to be contributing so much to job creation, innovation and growth and opportunity in our community?

Ms. WARREN. Congressman, I heard—I think it was 2 weeks ago—from a group representing small businesses, and small businesses are very concerned because when they finance their business activities, as you rightly point out with credit, wherever they can get it, the prices are not made clear, the risks are not made clear.

What this agency is about is about making those prices and risks clear. That is good for American families, but believe me, it is even better for small businesses. They need to know how much money they are spending.

Now, business loans will be segregated, Congress made that choice. But in personal credit, it is about costs and risks and making them clear.

Mr. CANSECO. Let me ask you another question because I am running out of time here. If I run a bank that has over $10 billion in assets or we originate mortgages, exactly what part of my business practices would your agency not regulate?

Ms. WARREN. We are not the safety and soundness regulators, the consumer agency does not regulate the ordinary banking activities. Those are regulated by the Office of the Comptroller of the Currency. What we do is we do what was clearly sorely missing over the past few years. That is, for example, in an area like servicing home mortgages, we make sure that the servicers are following the law.

We make sure that when someone is putting out a new mortgage, originating a new mortgage, what are the obligations to comply with—and RESPA. That is why we talked about how, with the help of the banks—sorry—we are figuring out how to combine those two forms, make those forms smaller and come earlier in the process when they will be helpful to consumers. So we are focused on the consumer credit product and whether or not those who are using them to lend money are actually following the law.

Mr. CANSECO. Thank you very much.

Ms. WARREN. Thank you.

Chairwoman CAPITO. Thank you.

Before I recognize Mr. Green, I would like to ask unanimous consent to insert the comments letter on the CFPB from the National Association of Federal Credit Unions.

And I now recognize Mr. Green for 5 minutes.

Mr. GREEN. Thank you, Madam Chairwoman. And I thank you and the ranking member for allowing me to have the unanimous consent to be a part of this most important hearing.

I would also like to thank Ms. Warren for her service to her country.

Ms. Warren, I believe that you are doing a very difficult job and I trust that you will continue to serve your country as well as you have.

I would like to, if I may, Madam Chairwoman, with unanimous consent, place in the record a report from Americans for Financial Reform. It is a progress report, dated January 21, 2011. And I would note that on page four of the report, make that page five of

the report, there is an indication that there is a need for a permanent director. I mentioned this only because it is apparent that these 250 organizations and individuals do not see Ms. Warren as a permanent director, they see her as a transitional person helping us to establish an organization.

So if there are no objections, may it be submitted for the record, Madam Chairwoman?

Chairwoman CAPITO. Without objection, it is so ordered.

Mr. GREEN. Thank you.

I would like to now move to Ms. Warren's report, page 30 of her report that she has submitted to us, reads, and I will not read it in its entirety, but it reads, "Community bankers and credit unions have also made it clear that they face a regulatory crisis." And you go on to indicate that this is because they can't afford to hire an army of lawyers to investigate the complex rules and navigate them.

You indicate that the importance of small banks and credit unions cannot be overstated, they are disproportionately the providers of credit to small business. And they are therefore part of the chain toward higher employment and economic recovery.

I concur with your comments. I think the community bankers are exceedingly important because of the relationships that they have to small businesses and the credit unions as well.

I had a good many of them visit with me and they have made it very clear to me that there is a crisis that they perceive. There are many who fear that they may be regulated out of business. I see this as something that impacts both consumers as well as small banks because without the small banks, the consumers don't benefit from what the small banks can provide.

My question is, first, is it possible within the bounds of ethics for us to work together to help these small banks continue to provide a good service for consumers within the bounds of ethics? And I don't want to do anything that is unethical.

And also, how are you immediately embracing this crisis that they perceive as one that may cause them to cease to be able to function as they function currently because of the additional cost?

Ms. WARREN. Yes. Congressman Green, thank you. Thank you for the thoughtful comments and the thoughtful question.

I see this very much the same way. I worry about our community banks. I worry about our credit unions. I worry about our smallest financial services providers because many of them are good partners to their customers. And they want good long-term relationships. They are clear about their product. They are willing to make prices clear up front, to make risks clear up front. They can't thrive by pretending to sell at one price and then mugging people after they get them in the door.

But they are worried about a challenging regulatory environment. We are doing what we can on the consumer side, in the consumer agency, on the consumer product.

Mr. GREEN. Let me suggest this because I have one additional thing that I must do. Would you agree that within the constraints of ethics, we will work to try to make sure that the consumers and the banks or credit unions are protected?

Ms. WARREN. Absolutely, Congressman, I should have given a shorter answer.

Mr. GREEN. Okay. Let me quickly state this. In your report, on page 18, you indicate in addition to the fundamental constraints that Congress has imposed and you have talked about Dodd-Frank, you indicate that specifically you are required to submit—the agency is required to submit annual financial reports to Congress. You have to report to Congress twice a year to justify your budget. The director, whomever that happens to be, has to testify before and reports twice each year regarding the activities of the agency, you indicate that the GAO has to conduct an audit each year of the agency. You indicate that you have to submit financial operating plans and forecasts and quarterly financial reports to the Office of Budget and Management. And you indicate that oversight is also available through the Financial Stability Oversight Council.

Madam Chairwoman, I just mentioned these things because I want to allay some of the concerns with reference to the oversight of the organization, clearly you have more oversight than most Federal agencies.

And I thank you for the time.

Chairwoman CAPITO. Thank you, Mr. Green.

I would like to recognize Mr. Pearce, from New Mexico, for 5 minutes for questions.

Mr. PEARCE. Thank you, Madam Chairwoman.

I have a lot of questions, so I recommend a second round if we get the opportunity. A couple of observations in that—I read the report here and I see the word straight up, too complicated, clear, concise. And two, I don't have much interest in what our colleagues up behind me were asking about the confirmation process, but you are demanding something from the people you enforce things over that you are not willing to give yourself and that is straightforward, clear, concise answers. And that has created lot of the repetitive questions. That is just an observation.

The second thing is that I hear you testify, I know you are talking about the protection of consumers and you build this process in, as if the government agency is going to solve the problem. And I would like to believe in it but frankly I am going to think about the SEC and Mr. Madoff and I am going to believe that in 2 years, your agency is going to be operating exactly the same. That is simply out there grinding wheels away and that it might also itself fall short of being this angel. I have heard a lot, it was really champion and these words that we have heard.

So with—maybe you are going to be the government agency that actually does this work. The idea that you propose on page four that few of us seriously believe that we have the marketplace that American families deserve.

Now, when I go to the bank and ask for a loan, the first thing I go to actually has fairly clear APRs and everything. It is clear, it is concise. And so what you are trying to enforce is to an extent consumers who don't like the answer they get from institutions that have paperwork that is clear and concise.

And so you are going to enforce the standard on the lending institutions and those institutions which are only answering the demands of people to come and get products, that is because they

can't get the products somewhere else and they are demanding these and you are going to stop those.

I remember a day when I was in the State legislature where we wanted to regulate payday lenders, those people who charge $20 for loaning you $100 for a month. And I too felt like that was too exorbitant, it was thousands of percent. I got back to my hometown and one of the guys who worked in the oil field came up to me and asked, "What damn business is it of yours, if I borrow $100 today, and I want to pay back $120?"

That still rings clear and I think maybe at some point you should ask that to your agency. So the question that I have, it is my understanding from what you are saying that we would not be here payday, we would not be here, we would—if the rules, the basic rules of the road in place for mortgages were consistently enforced, protecting consumers, we would not be here.

So I get from that you believe that there was no enforcement in the—that there were no rules for mortgages. Is that right?

Ms. WARREN. Congressman, I think it is fair to say that this economic crisis started—

Mr. PEARCE. No, that I am asking—you say that if rules had been enforced, that we would not be here. So you are saying the FDIC and the OCC didn't do their jobs? That the Real Estate Settlement Protection Act did not do its job? You are telling me that nobody in the enforcement of mortgages did their jobs?

Ms. WARREN. I think the evidence is fairly clear that they did not do their jobs. Yes, sir.

Mr. PEARCE. Is that in regard to the superficial instruments, the bonds?

Ms. WARREN. No.

Mr. PEARCE. Or was it maybe that the government asked banks to give loans to people who could not afford it, which they did, the government insisted that banks give loans to people who could not afford it. No loan, no payments were ever made on those. Those loans without the ability to ever be repaid, without one payment ever being made were then lumped into bond and then the exotic instruments, the CDOs and the MBSs were created out of that, that is what was not regulated.

But the banker down in Main Street of Hobbs, New Mexico, I will guarantee you still risks losing its bank today if he gives a product that is not in compliance.

Ms. WARREN. Congressman, I think we can agree that the crisis in home mortgages and the rest of this economy was not caused by community bankers, it was not caused by credit unions; it was caused one mortgage at a time with mortgage brokers and who put out products that were extraordinarily dangerous and often deceptive to those who took them.

I think there is ample evidence of what went wrong on the front end of this crisis.

Mr. PEARCE. And there is ample evidence that the rating agencies rated those as triple AAA and I don't see that anywhere in your scope of work. And I do have a second round, if we get there, Madam Chairwoman.

Chairwoman CAPITO. Thank you.

I would like to recognize Mr. Luetkemeyer for 5 minutes for questioning.

Mr. LUETKEMEYER. Thank you, Madam Chairwoman.

Ms. Warren, in your testimony, in your written testimony, you indicate that many of the rules make it very non-competitive for community banks, credit unions and others to compete, and your words are, "put them at a competitive disadvantage."

If we can choose a better way, can you tell me what that better way is?

Ms. WARREN. I think that the example of the first priority of the new Consumer Financial Protection Bureau is an example of the better way. We are going to take two fairly long, fairly complicated forms that have substantial overlap that two government agencies have negotiated or been at war, depending on your metaphor here, for more than 15 years about combining those forms. And because it comes to one agency, we are going to combine the forms. And we are using the help of the community banks and the credit unions and the mortgage brokers, the people on the frontline who originate these mortgages to find the most effective, the most efficient way to do that and give us a smaller one-page mortgage shopping sheet that might actually produce some value for the family.

Mr. LUETKEMEYER. Okay. Whenever you do this, are you going to look at the cost-benefit of that rule, that new form that you are going to put out, of what it is going to cost the institution to comply with?

Ms. WARREN. Congressman, we will certainly look at the cost-benefit.

Mr. LUETKEMEYER. Okay. If you are going to look at it, can you explain to me on what basis you would throw a rule out or not make a rule? Can you give me the numbers? Is it—because I can give you numbers all day long. I had a community banker drop in front of me about 2 weeks a sheet of paper, as he said, "Blaine, this is what it costs me to comply with one rule—$16,500 per year." And it is a small institution. Another one told me it cost over $100,000 a year to comply on one rule.

Ms. WARREN. Yes.

Mr. LUETKEMEYER. Now, you multiply that by all the banks in the country. At one point are you going to say this rule, the cost-benefit of it is not worth implementing?

Ms. WARREN. Congressman, I am glad you raised the problem of regulatory burdens for our community banks. And I remind you of course that the community banks are struggling because of the regulations they face elsewhere in the system, not because of regulations from the Consumer Financial Protection Bureau.

Indeed, we have worked with the community banks, we have worked with—

Mr. LUETKEMEYER. Ma'am, you have spent 30 seconds of my time not answering my question. I am sorry to interrupt here, but I want a specific answer to a specific questions. At what point are you going to say this rule is too costly to implement, it doesn't yield any benefits, it costs too much to implement?

Ms. WARREN. Congressman, we are required by law to do a cost-benefit analysis.

Mr. LUETKEMEYER. I know you are. I read it in the testimony. I understand it.

Ms. WARREN. I am sorry.

Mr. LUETKEMEYER. At what point are you going to say, no, this rule is going to be thrown out?

Ms. WARREN. When the costs outweigh the benefits, Congressman.

Mr. LUETKEMEYER. Okay. When it costs $100,000, when it costs $1 million, when it costs $1 billion for the industry, at what point are you going to say no, we can't do this?

Ms. WARREN. Congressman, that is what a cost-benefit analysis is. When the cost outweighs the benefits—

Mr. LUETKEMEYER. Okay.

Ms. WARREN. —then we will not engage.

Mr. LUETKEMEYER. But you don't know at what point that is yet?

Ms. WARREN. Congressman, I think your question about the point is an important one. We are communicating right now with the community banks, with the credit unions about the changes they want to see because they think there are cost savings for them that also benefit consumers by starting earlier on the problem, not when we have a—

Mr. LUETKEMEYER. Absolutely. I agree with you 100 percent. And my concern is that we are going to say, we are going to put a new form in place here but instead of combining two forms, now you have the front and the back that you have to work on. And we haven't done a thing to improve our situation, it still remains more costly.

Let me move on to another question before my time expires on me here.

You are going to be the new examiners on the block. Are you taking over all of the Consumer Financial Protection examinations, from all other agencies across-the-board? Are you going to be just another form that the institutions are going to have to deal with?

Ms. WARREN. For all—

Mr. LUETKEMEYER. Okay, in other words, for FDIC, are you taking away all their consumer complaint stuff?

Ms. WARREN. No. For the—

Mr. LUETKEMEYER. So this is going to be a second exam that is coming forth?

Ms. WARREN. For all financial institutions with more than $10 billion in assets, the new consumer agency will be the primary regulator and supervisor.

Mr. LUETKEMEYER. Okay. But the other ones are still going to be in place and they are still going to come in with the compliance exams as well?

Ms. WARREN. No. There will be something called the transfer date. And the transfer date is July 21st of this year, and that is when the other seven 7 stand down in terms of their responsibilities for enforcement and rule-writing—

Mr. LUETKEMEYER. Okay. In terms of—

Ms. WARREN. —on the 18 existing Federal statutes and the new consumer agency stands up. This is like a relay race.

Mr. LUETKEMEYER. But in terms of enforcement, are you going to be doing the same thing that the other agencies are doing or are you going to be doing something different?

Ms. WARREN. No, we will be doing something different. We will be enforcing. They will no longer be enforcing the laws that we will be enforcing.

Mr. LUETKEMEYER. So you are going to come in and enforce them? Are you going to be coming in to help the institutions understand them or are you going to be slapping more fines?

Chairwoman CAPITO. Your time has expired. Thank you, Congressman.

Mr. Dold, for 5 minutes of questioning.

Mr. DOLD. Thank you, Madam Chairwoman.

And I want to thank you, Professor Warren, for taking the time to be with us today.

I would like to just continue down the vein and in terms of how you think this is going to impact small businesses. And so if I can, for consumers who are out there, if a consumer voluntarily enters into a consumer transaction with full disclosures and full information, are there any reasons on which you or the agency could possibly prohibit, penalize, or invalidate the transaction, and if so, what are those possible reasons?

Ms. WARREN. Congressman, I have tried to make it clear. What this agency is about is about making the prices clear, the risks clear, making it easy to compare one product to another. We would have to go through all 18 statutes to see if there are already certain prohibitions.

But the point is to get an informed consumer because I believe that American families are good at making decisions when they have information up front.

Mr. DOLD. I couldn't agree with you more. And this is about protecting consumers. But I guess my question is, is that the way the statute is written and the law, that there is going to be one person in charge? And that person, according to the way it is written, anything that is risky or potentially uncertain isn't going to necessarily be—or could be subject to be invalidated? And so I am trying to get a better handle on what will you determine is going to be a risky proposition.

Again, for someone who is informed, an informed consumer who may choose to enter into a financial transaction or a purchase of a financial product, that for some reason the Consumer Protection Bureau determines is risky, is that going to be invalidated?

Ms. WARREN. I think perhaps it might be that you are referring to the authority that is currently with the Federal Reserve, often referred to as UDAP, unfair and deceptive practices. So the authority is currently there in the statute, it is there. In fact—I don't know if it is in all 50 States, but in most State laws the capacity to say certain practices are deemed unfair and deceptive, there is a long case law on this and a long history on it. That will come to the CFPB, it will be part of our responsibility to enforce those laws, Congressman.

Mr. DOLD. Can you give me any sort of an idea in terms of how do you plan to reduce the regulatory burden on small institutions by adding yet another regulator into the mix? Right now, when I

talk to people back in my district all the time, it is the uncertainty that is out there. Uncertainty is preventing people from investing; they are unsure about what tomorrow will bring and so therefore they don't.

And what I see this doing is, again, creating another level of uncertainty. And especially with the amount of power that is being put into the bureau, they are just going to—my take is that they are going to wait and we are not going to have investment. And this could be potentially problematic. So I would just be interested in your take on that.

Ms. WARREN. No, I appreciate it. And I appreciate the concern that this question expresses. We will take transfer of the authorities that are currently there in seven other agencies. We will put them in one agency and we will hold that agency accountable, accountable ultimately to the American people.

And what we will do in this process and what we are trying to do in this process is reach out to all potential stakeholders. We have talked with community banks. We have talked with credit unions. We have talked with very large financial institutions. We have talked with some non-bank lenders.

In fact, Congressman, we have even gone out and had extensive conversations with the investment community, those who invest in financial institutions because they have had questions about how this new agency would be setup. And it has been very interesting to find where there are a lot of allies for this agency, the investors for example who have said, "If you are going to make these consumer products a little more obvious for consumers to understand, that dialed risks out of the system overall. And we think long-term good for banks and long-term good for our investors."

Mr. DOLD. I appreciate that. And certainly, we want more transparency. But I want to get to accountability if I can.

Ms. WARREN. Sure.

Mr. DOLD. I anticipate that people make mistakes. And certainly with one individual, the chances of making mistakes are probably greater than several people making mistakes.

In terms of oversight, can you tell me, right now my understanding is that FSOC has a 10-person board, has the ability to basically overrule decisions done by the bureau. Is that correct?

Ms. WARREN. Madam Chairwoman, may I answer?

Chairwoman CAPITO. Yes.

Ms. WARREN. The answer is, yes, the FSOC can overrule this agency and no other.

Chairwoman CAPITO. But that would be with a two-thirds majority, correct?

Ms. WARREN. I believe it is with the two-thirds majority. Of course that consumer agency doesn't vote.

Chairwoman CAPITO. Right. We have Mr. McCotter, from Michigan.

Mr. MCCOTTER. Thank you, Madam Chairwoman. I would like to yield 2 minutes to my colleague from New Mexico, Mr. Pearce.

Mr. PEARCE. Thank you.

I thank the gentleman for yielding. My only question really deals with the idea that we are protecting consumers and that we are doing a thing that either way ups their ability to pay their mort-

gages. And the more else, is that here, that we are here to protect the consumer from fraudulent practices.

Ms. WARREN. Yes, we are here to make the prices clear, risks clear, make it easy for consumers to compare one product with another.

Mr. PEARCE. Okay. So again, going back to your statement on page eight, the thing that have caused the situation to get imminently worse, it is up in the middle, there have been basic rules of the road and blah-blah-blah, that statement.

I wonder if you are going to be the angel, be the champion of the consumer as it comes to inflation. As I look at the Federal Reserve printing $2.6 trillion, as I look at the price of vegetables going up, as I look at the price of gasoline going up, I realize one of the most fraudulent practices right now that is defrauding the consumers, that is taking trillions away from their bank accounts is the fact that they are printing money.

So is your consumer protection going to log into the heavy duty fight or you are going to fight—are you going to take on the Fed for printing money or is that something that you don't see your role in?

Ms. WARREN. I am sorry, Congressman, but our job is not in monetary policy.

Mr. PEARCE. It is to protect the consumer. And anyone who defrauds the consumer, I thought we are going to protect. I was just wondering.

Thank you very much. I appreciate it. I yield back to the gentleman.

Mr. MCCOTTER. And I thank the gentleman.

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

Just a couple of quick notes. We have earlier heard about how anyone who loaned money that was considered morally reprehensible in many ways have been carved out of the Dodd-Frank Bill. And in the spirit of St. Patrick's Day, I would like to think that if that was the case, there were no nefarious motives on the part of the Democratic Majority and the Democratic President who allowed it to happen.

Secondly, we had heard from another one of our colleagues about how spoiled beef was once opposed by people who wanted to eat it. And as a fair point, no one wanted to eat it. But what happened so often is that where there is legitimate concern for governmental action to prevent this social harm, we wind up going from the inspection to prevent spoiled beef at the Federal level to the elimination of happy meals at municipal levels decades later.

In your eyes, with the fact that we as Congressman, that the statute does not annually appropriate to your entity, what do you believe is our—it is a two-point question—what are the appropriate limits in your mind or the agency that it will never do and what is the appropriate role of congressional oversight and how would we make our voices heard, absent the Comptroller of the—

Ms. WARREN. Thank you, Congressman. I appreciate your concern about oversight and appropriations. As you know, none of the banking regulators are part of the appropriations process and they never have been as a matter of history. Congress has repeatedly made a very wise decision that pulling a banking regulator, some-

body who is going to have to stand up to the richest and most powerful and say sometimes no is not a good idea. And Congress has never done that.

As it stands right now, the other banking regulators stay outside the process, the CFPB is the only one of the banking regulators who actually does not have full control over its own budget. Its budget is effectively set by the Fed unlike the Federal Reserve's ability to set its own budget, the FDIC's ability to set its own budget, the OCC's ability to set its own budget and the OTS's ability to set its own budget.

So the consumer agency is more constrained on the financial side and it is subject to being overruled by FSOC unlike any agency anywhere else in government. I am convinced that this consumer agency will be a voice on behalf of American consumers. But Congress quite reasonably, in setting this agency up, made it the most constrained of the Federal agencies.

Mr. MCCOTTER. I appreciate that but not necessarily by us.

Ms. WARREN. Well—

Mr. MCCOTTER. You happen to be, and to the Constitution, that entity within the Federal Government that is most directly accountable to the people, the House of Representatives and in conjunction with the United States Senate. So I would think maybe the richest and most powerful people, but we can differ on that.

Thank you.

Chairwoman CAPITO. Mr. Manzullo, for 5 minutes.

Mr. MANZULLO. Thank you, Madam Chairwoman.

If someone calls the CFPB with a complaint about a mutual fund, will that person be directed to the SEC or would the CFPB investigate this complaint instead?

Ms. WARREN. Congressman, I believe that the boundaries on our jurisdiction are pretty clear. And that the Consumer Agency does not do—

Mr. MANZULLO. You don't get involved in it?

Ms. WARREN. —investment funds or other similar—

Mr. MANZULLO. They don't get involved with investors?

Ms. WARREN. I think that investment issues are left to the SEC?

Mr. MANZULLO. Okay. In your letter to Congressman Randy Neugebauer dated January 31st of this year, your concluding paragraph says, "I sincerely appreciate your thoughts and good counsel regarding the task ahead of us. Building this new bureau is exciting and challenging. I hope we could work together on behalf of the millions of Americans, large banks, community banks, credit unions, and investors who are counting on us to build a strong, independent, effective and fair bureau that makes the consumer credit markets work for everyone."

You used the word "investors."

Ms. WARREN. I did, Congressman. And I have been reaching out to investors since the first—

Mr. MANZULLO. But you just said that investment would be left to the SEC.

Ms. WARREN. No. You asked me if there were consumer complaints about an investment—

Mr. MANZULLO. Right.

Ms. WARREN. —would it be part of the Consumer Financial Protection Bureau?

Mr. MANZULLO. Right. And you said no.

Ms. WARREN. And the answer is no. The investors I have been speaking with are those who invest in financial stocks. I have been meeting with them because I actually believe they are stakeholders.

Mr. MANZULLO. Invest in financial stocks where they would also be covered by the SEC. Isn't that correct?

Ms. WARREN. If you will permit me to explain, investors in financial stocks want to understand about what space—

Mr. MANZULLO. I understand that, but the issue is the jurisdiction of the CFPB and the SEC. Now, who has jurisdiction over this, you or the SEC?

Ms. WARREN. Congressman, it is clear that the SEC has jurisdiction if the consumer has a complaint about an investment—

Mr. MANZULLO. So then you will stay—you will completely stay out of that whole area? Would you—

Ms. WARREN. Of course, Congressman, because Congress has made it clear what that boundary is. Those who are investing in bank stocks, the same way that they are to invest in airplane stocks.

Mr. MANZULLO. But that is not your jurisdiction. Isn't that correct?

Ms. WARREN. My jurisdiction is consumer financial products and among the people who are interested in—products.

Mr. MANZULLO. I understand that. I thought you answered the question clearly, and, now, you are backtracking on it.

Ms. WARREN. No, Congressman. I am not backtracking at all. I—

Mr. MANZULLO. Does the SEC have jurisdiction and the ability to protect people who buy stocks?

Ms. WARREN. It is the jurisdiction of the SEC to deal with consumer complaints about investments, absolutely, sir.

Mr. MANZULLO. Okay. So then, therefore, there would be no room for the CFPB to be involved in that issue. Isn't that correct?

Ms. WARREN. In the issue of consumer complaints about stocks, there is no reason for the consumer agency to be involved, yes, sir.

Mr. MANZULLO. Alright, so you are going to stay away from that area?

Ms. WARREN. We will not go beyond our jurisdiction.

Mr. MANZULLO. Okay. The other question I have is, in going through your testimony, I just—it is this, on page six, at the bottom, pages of fine printed long passages of legalese, and they serve some lender, but they can make it impossible for the customer to know what is really going on. This is wrong. The average consumer who takes out credit should not have to struggle to understand the basic agreement.

Wouldn't you agree that the legalese that the banks and credit unions are using is there because of legal requirements or regulations?

Ms. WARREN. Sometimes, Congressman, the fine print is there because of regulations and that is—

Mr. MANZULLO. —when I practiced law, I closed a thousand real estate transactions or more, we had one page. I could close it in 20

minutes. Now, Regulation Z in HUD–1, multiple pages, it takes 2 hours or more. So the consumer knows less because he can't read through all this stuff. But how are—they are going to go up against all these other agencies that are in each of these rules and regulations and just say this is unreasonable, let's go back to one page.

Ms. WARREN. Congressman, when the transfer date comes and we pick up from the other seven Federal agencies—

Chairwoman CAPITO. The gentleman's time has expired.

Ms. WARREN. Sorry—

Chairwoman CAPITO. Thank you to everybody.

Mr. Ackerman, for 5 minutes?

Mr. ACKERMAN. Thank you very much.

I am buoyed by the notion that anybody who could withstand the kind of badgering in defending yourself and the position and the agency it is going to be doing a very, very incredible job in defending the consumers of this country against those who would exercise the amount of greed that we have seen exhibited.

Let me yield a moment or two to my friend, Mr. Miller from North Carolina, who has some answers and an explanation that he would like to—

Mr. MILLER OF NORTH CAROLINA. Thank you.

Just a quick question, at the beginning of the last decade or early in the last decade, I was careful to distinguish subprime lending and predatory lending, and not all subprime was predatory; and then predatory took over and—out all the others, all the wholesome, legitimate subprime.

I earlier asked you if you knew of anyone who qualified for a prime mortgage and got a subprime mortgage, and I outlined some of the predatory terms, and you said you did not. The gentleman from Georgia, I think in the spirit of helpfulness, offered himself as an example. He then outlined the terms of the mortgage that he had once gotten. It was hard to tell what his circumstances were at that time what term made me think it probably was predatory and that would have a 5-year prepayment penalty.

So I am sure he thinks he is a smart businessman, but they probably snickered and gave themselves high-fives when he walked out of the room having signed that mortgage. But he also said that he could not otherwise get a loan.

So even after you have now heard the example of the gentleman from Georgia, do you know someone who qualified for a prime loan, but consciously picked a subprime loan with the kind of terms that became prevalent in the middle of the last decade?

Ms. WARREN. No, Congressman, I do not.

Mr. MILLER OF NORTH CAROLINA. Thank you.

Mr. ACKERMAN. You are one of the few witnesses I have seen in my many years here who begins an answer with yes or no. So I don't think there is a lot of beating around the bush in listening to your explanations.

One of the things that troubles me—and I don't know how I wound up on everybody's sucker list, but I get an awful lot of mail, a lot of it junk mail and a lot of it I don't open and—as a lot of consumers do. But there is a whole group of financial institutions in various sectors that send you mail which is solicitations for programs and offers and they don't identify themselves on the enve-

lope. There is no return address; and sometimes, the return address, that is a post office box somewhere.

What you can see through the usual window that they have in these types of promotions besides your name and address that it concerned your account at blank financial institution which you have an account at. And you are anxious to open it up because this is coming from my bank or my credit union or what have you. And you open it up and it talks all about selling you an insurance product or life insurance because you just refinanced your mortgage or opened a mortgage or an account which becomes a matter of public record.

You think because of the presentation on the envelope that this is from your financial institution. And you can read three pages worth of information and sales pitch before you realize it is from somebody you do not know or have a relationship with.

I don't want to interfere with anybody's right to free speech or advertiser or a promoter to inhibit their business in any way, but it is meant to be deliberately deceptive to the potential consumer—or the consumer in making them think that this is from their bank.

Would you be amenable to exploring a method of requiring some form of identification? And could I have somebody on your staff meet with me and my staff so that at least you know on the envelope who this is from rather than being deceived into thinking it is from a legitimate, established institution with which you have a relationship?

Ms. WARREN. Congressman, we would be very pleased to send someone over from the Consumer Financial Protection Agency to work with you and see how we can do this.

Mr. ACKERMAN. But it should be somebody who has an understanding of people's rights under our Constitution from the promoter side and the business side also to be able to do that while still protecting the interests of the consumer.

Ms. WARREN. Congressman, we want to be as helpful as we can. I only offer one small caveat—we are just getting started and we are still small and trying to build out. So you may have to be a little tolerant with us on timing, but we really want—

Mr. ACKERMAN. I am just getting started myself, so we will work together.

Ms. WARREN. Alright. Thank you.

Mr. ACKERMAN. Thank you.

Chairwoman CAPITO. Thank you.

Mr. Garrett, from New Jersey, for 5 minutes.

Mr. GARRETT. And I thank the Chair.

I just want to start my statement or my questions—my statement first. In your statement, you constantly—and I have probably heard you say this before—compare the CFPB to other banking regulators. But, as you said today, I believe that is an inappropriate comparison.

You stated specifically that Congress has consistently provided for independent funding for bank supervisors to ensure that banks are examined regularly and thoroughly for both safety and soundness in compliance with the law. But your agency doesn't have a safety and soundness aspect or mission to it, does it? Yours is a consumer protection.

So the reason why other—that banking regulators have independent funding is because of the safety and soundness function. And that is authority. And you don't want the Members of Congress or the political aspect to get involved affecting anything dealing with safety and soundness of financial institutions as opposed to what you are involved with what you just told us, which is consumer protection.

You have a consumer protection function. Now, the other consumer protection agencies on the Federal level, what do they have? They have a funding mechanism that goes through the appropriation process, unlike yours. Yours is a consumer protection agency. Just like the other ones, you should go through the appropriations process.

What also do they have? What is the other difference? If you were like the other banking regulators that you suggest that you are, then wouldn't you have a board as a sort of check and balance as opposed to just one lead authority, which is where you are? All the other ones have boards in their framework. Yours does not.

So I don't think your comparison to bank regulators or—is the appropriate one and, therefore, the appropriation process should be, as we said before, that we have a check and balance on what comes out of the agency that you may be involved with.

Let me go to the question. And I appreciate the fact that you are commended on giving yes or no answers. And so I have some easy questions for yes and no answers. Talking about the legal settlement and servicing issue that is out there right now in the news, let me ask you this: Is there a difference, do you believe first of all there is a fundamental issue between penalties for criminal wrongdoings in a wrongly foreclosed on homeowners versus your paperwork violations?

Is there a difference in how those should be treated?

Ms. WARREN. Congressman, there is an ongoing legal enforcement action.

Mr. GARRETT. Right. And that is why I am asking.

Ms. WARREN. And it would not be appropriate for any member of the government, me or anyone else, to comment on what is involved in those negotiations. That would not be right.

Mr. GARRETT. Let me ask you this: Have you pushed for or advocated a recommended dollar amount with regard to the other regulators involved in this situation?

Ms. WARREN. Congressman, I know that given the level of problems that have been uncovered with mortgage servicing that the acting Director of the Comptroller of the Currency has been here in Congress to talk about—

Mr. GARRETT. Right. But what about—

Ms. WARREN. —violations of State laws and local laws that as—

Mr. GARRETT. But what about you? You are here today, so just tell us what you are doing. Are you making recommendations to the other regulators as far as the dollar amount of the penalties involved in this case?

Ms. WARREN. As the government is trying to negotiate with those servicers that the OCC found have violated the law—

Mr. GARRETT. Right. Okay.

Ms. WARREN. —they have asked that no one speaks about the content of those negotiations.

Mr. GARRETT. So you cannot tell what your—can you tell us what your role is in this?

Ms. WARREN. I can certainly tell you what our role is.

Mr. GARRETT. Okay, good. Have you made recommendations to them with regard to what the penalties should be? That would be part of your role.

Ms. WARREN. What I can tell you about—

Mr. GARRETT. Is part of your role to make recommendations to them with regard to penalties and the dollar amounts in these cases?

Ms. WARREN. The Secretary of the Treasury has asked for the consumer agencies to give advice. The Department of Justice has asked us.

Mr. GARRETT. So the answer is—the answer is yes?

Ms. WARREN. Congressman, it is the case that the government is trying to negotiate on behalf—

Mr. GARRETT. I understand that, but I am just trying to find out what you are doing.

Ms. WARREN. —on behalf of the American people.

Mr. GARRETT. I understand that. What are you doing?

Ms. WARREN. And they have asked—

Chairwoman CAPITO. Will the gentleman yield?

Mr. GARRETT. I only have 30 seconds left.

Ms. WARREN. The Department of Justice has made it clear that they don't want people who are part of the government—

Mr. GARRETT. I understand that. Can you tell us, because they have asked you to be involved in this—your answer to that—what legal authority does a political appointee have in a situation like this making recommendations with regard to either civil or criminal actions?

Ms. WARREN. Congressman, I think we need cops on the beat to enforce the law.

Mr. GARRETT. Right, but we need to know what the law is. Can you cite—

Ms. WARREN. We need—

Mr. GARRETT. Can you cite what the authority is to enforce that law that you have?

Ms. WARREN. We need to enforce the law.

Mr. GARRETT. Can you tell me what that law is please?

Ms. WARREN. The Office of the Comptroller of the Currency has been here to make it clear that the mortgage servicers—

Mr. GARRETT. I am not talking about the OCC. I am talking about you, not the OCC. Can you cite what—

Ms. WARREN. —have violated the law.

Mr. GARRETT. Can you cite what the legal authority is for you to do these actions?

Chairwoman CAPITO. The gentleman's time has expired.

I want to, first of all, turn to Ranking Member Maloney for a short statement.

Mrs. MALONEY. I just want to thank you for your remarkable public service and for serving so well in two jobs now as a Special Assistant to the President of the United States and as a Special

Assistant to the Secretary of the Treasury. I truly do hope that he appoints you to be the first permanent director of this body.

You have worked extremely hard, you are a champion really for consumers, and you have been balanced and fair. I compliment you on your work and on your testimony today and on the fine job that you are doing. Thank you.

Chairwoman CAPITO. Thank you.

And I would like to thank you also, Professor Warren. I have another—I was hoping we could get in the time allotted to another question. But I would say the duplication and the financial education across-the-board, the GAO study, there was a great concern over the gap that is going to occur if this agency doesn't have a leader in July and regulations that are moving forward and what is going to happen there. And there are a lot of players at the table that are very concerned about that. So I appreciate your coming in and testifying.

The Chair notes that some members may have additional questions for this witness which they may wish to submit in writing. Without objection, the hearing record will remain open for 30 days for members to submit written questions to this witness and to place her responses in the record.

This hearing is adjourned.

[Whereupon, at 12:32 p.m., the hearing was adjourned.]

A P P E N D I X

March 16, 2011

Testimony of Elizabeth Warren
Special Advisor to the Secretary of the Treasury for the Consumer Financial Protection Bureau
Before the Subcommittee on Financial Institutions and Consumer Credit
Committee on Financial Services
United States House of Representatives
Wednesday, March 16, 2011

I. Introduction

Thank you Chairman Capito, Ranking Member Maloney, and members of the Subcommittee for inviting me to testify about the work of the Consumer Financial Protection Bureau (CFPB). This is my first opportunity to report to Congress formally about the significant progress we have made in bringing to life the CFPB. While we have miles to go, the path ahead is straight and clear.

Let me begin with a personal note. Were it not for the importance of oversight, I would not be here today for more than one reason. Not only do those of us who are working to stand up the CFPB believe in oversight – by the public as well as Congress – but my own public service began almost two and a half years ago when Congress asked me to engage in direct oversight as Chair of the Congressional Oversight Panel (COP). At the COP, we worked to produce detailed monthly reports for you about the activities and policy choices made by the Department of the Treasury as it administered the Troubled Asset Relief Program. I also came to Capitol Hill on many occasions to testify on behalf of the COP and to answer your questions and discuss other lines of research to pursue on your behalf. From these experiences, I understand – and greatly appreciate – the important role of oversight.

Since taking over the job of putting together the new bureau, I have had more than sixty one-on-one conversations with Members of Congress, exploring a number of different questions and suggestions in detail. I am pleased to have this chance to appear before you today to update

you on our progress and to talk with you more in this forum. I also look forward to continuing this conversation with you and your colleagues in Congress in the weeks and months ahead.

In June 2009, the House Financial Services Committee invited me to testify about the CFPB for the first time. My testimony described in great detail the advantages of bringing greater transparency and streamlined disclosure to the consumer financial markets. During the question-and-answer segment of the hearing, members of the committee – many of you here today, from both parties – praised transparency as a valuable goal and asked how a consumer bureau could focus on that objective. Today, we are pleased to report that we firmly believe in the importance of making prices clearer, making risks more obvious, and cutting back on the fine print and legalese that can make it impossible for families to compare a mortgage or credit card with two or three others. We are here to serve the American people by making sure the consumer financial markets work for them.

II. The CFPB's Mission

A. Background

The Dodd-Frank Wall Street Reform and Consumer Protection Act, which established the CFPB, defined the scope of the consumer bureau's authority with respect to consumer financial products and services. By law, the CFPB is obligated: 1) to ensure that consumers have timely and understandable information to make responsible decisions about financial transactions; 2) to protect consumers from unfair, deceptive, and abusive acts or practices, and from discrimination; 3) to reduce outdated, unnecessary, or overly burdensome regulations; 4) to promote fair competition by enforcing the federal consumer financial laws consistently; and 5) to advance markets for consumer financial products and services that operate transparently and efficiently to

facilitate access and innovation. Building an agency that can accomplish all of these goals is a substantial undertaking.

Many people – both opponents and supporters of the agency – assumed that the CFPB would seek to accomplish these goals primarily by issuing waves of new regulations. While there certainly is a place for rules aimed at specific abuses, we do not envision new rules as the main focus of how the CFPB can best protect consumers. Indeed, the ideas put forth by the Administration and the legislation adopted by Congress provided several different tools for protecting consumers precisely so that the CFPB could use the best one for the job and not be forced to rely solely on its authority to write new regulations.

My concern about a rule-based approach is straightforward. Putting down rules here and there can be like putting down fence posts on the prairie: They can be too easy to run around. And when the lawyers show everyone how to jog around the fence posts, the regulator responds with more rules. Pretty soon, there are so many rules that it is hard to move. Newcomers are scared off before they start. Small competitors – particularly, in this context, community banks and credit unions – can't afford to hire an army of lawyers, which puts them at a competitive disadvantage. We can choose a better way.

B. Goals for the Bureau

The consumer bureau's statutory obligations are grounded in the goal of making markets for consumer financial products and services work in a fair, transparent, and competitive manner. I am a genuine believer in markets and a genuine believer that the purpose of the CFPB's work should be to make markets work for buyers and sellers alike. That means creating a level playing field where both parties to the transaction understand the terms of the deal, where the

price and the risk of products are clear, and where direct comparisons can be made from one product to another.

A level playing field encourages personal responsibility and smart decision-making. When consumers are presented with a choice between two financial products, and they know the true costs, the actual benefits, and the real risks of those products, they will be better able to make decisions for themselves and their families. Americans aren't looking for a free ride. They expect to be held responsible for the purchases and other decisions they make. If they don't keep up with payments on their credit cards, car loans, and mortgages, they expect to face the consequences.

But Americans are looking for an honest marketplace. They want to know the costs up-front, so that they're not blindsided by expensive hidden fees, interest rate changes, or payment shocks. A properly functioning market relies on consumers getting the information necessary to make the best decision for their families. Informed decision-making allows American consumers to drive the market to advance products that meet genuine consumer preferences and to reject products that do not.

Today, few of us seriously believe that we have the marketplace that American families deserve – or one that always works effectively and efficiently for financial institutions large and small. That does not mean there are not responsible financial institutions offering products and services that provide real value to their customers. There most certainly are. But fine print can obscure important information, and complex terms can confuse even the most diligent consumers. The lender that wins a customer's business in this market isn't always the one that offers the product that best matches the consumer's needs and preferences.

There was a time when lenders competed straight up by offering products and services consumers could more easily understand and compare to one another. But in the years preceding the financial crisis, competition among lenders took a turn for the worse. Instead of looking to build financial products that are better and cheaper than competitors' offerings, a number of lenders sought to bury risks and to move the true costs to the back end of the transaction with ballooning interest rates or payment obligations, unexpected fees, or hard-to-avoid penalties. Some of these practices still exist in the markets today. In this marketplace, American families can feel like they are rolling the dice every time they use credit, and they are left to hope that their credit product won't put their economic security at risk. Unfortunately, millions of families have now seen first-hand how a credit product can explode, taking their life savings, their cars, or their homes, and leaving them in financial ruin.

If there is a lesson from the past five years, it's this: We all lose when consumers cannot readily determine whether they can afford to pay back their loans, and when lenders sell credit in ways that make it hard to see the risks and costs—in other words, when the system is in some ways fundamentally broken. Personal responsibility is critical, and we all know that plenty of consumers have made purchases or taken on loans and risks that they knew they could not afford. But the CFPB can have a critical role in advancing the interests of borrowers and lenders who want to play by the rules by promoting transparency and stronger competition.

For too long, regulation has been described as undermining the free market. This is wrong. The choice isn't between regulation and the market or between consumers and lenders. The choice is between a market in which costs are impossible for the average consumer to calculate in advance and nasty surprises are hidden in the fine print, and a market in which prices and risks are clear up front so that products are transparent and apples-to-apples comparisons are

possible. Good regulation is not about impeding market forces; it is about channeling those forces to make the market work better. Good regulation is not about retribution designed to make an industry suffer; it is about rooting out deception and promoting transparency so that honest competition actually works. Good regulation supports strong markets and makes strong markets more likely to persist over time. This approach is based on faith in the good sense of American consumers to make the decisions that are best for them—once they have the basic information they need.

C. Implementing the CFPB's Goals

A simple, straightforward, and consistent presentation of a credit agreement is the best way to level the playing field between consumers and lenders – and among different types of lenders – and foster honest competition. At the consumer bureau, we believe we must empower consumers to make the choices that are best for themselves and their families while easing unnecessary regulatory burdens for their lenders.

Consumers must be armed with the information they need to be able to assess the costs and risks and compare products. Our goal is shorter, clearer disclosures and agreements for the most common credit products that can be read in a few minutes by consumers, with high levels of understanding. Each lender would set the terms of its deal, but certain basic information – including the interest rate, the penalty terms, and whether and how the rate or other terms might change – would have to be presented in a plain and open manner so that consumers can figure out the best overall terms for them. Pages of fine print and long passages of legalese may serve some lenders, but they can make it impossible for the customer to know what's really going on.

This is wrong. Average consumers who take out credit should not have to struggle to understand the basic agreement.

Clear and simple presentations of terms benefit not only customers, but also lenders who want to compete fairly. In my meetings with bankers and other market participants over the past six months, it has become clear that many in the industry are eager for transparency. Community bankers have told me that they want potential customers to know how their prices stack up against big banks and against lenders outside the banking system, such as payday lenders and check cashers. CEOs of huge banks have told me they believe they can offer better service at competitive prices – but they need for everyone in the market to make their prices clear so that competition is straight up. It is also worth noting that investors have told me they want to be assured that industry profits never again are based on crazy products that nobody can understand, creating an asset bubble and contributing to the ensuing crash that wiped out trillions of dollars in asset values.

We recognize that government regulation also has played a part in making credit products more opaque. Mandated federal disclosures, sometimes written in obscure language, covering all manner of subject matter, and reproduced in small type, too often have imposed significant burdens on lenders while providing little benefit to consumers. It should be the job of the consumer bureau to revise and update outdated regulations and useless disclosures as aggressively as it monitors the fine print layered on by lenders. If everything is on the table, including existing government regulations, the goals of transparency and consumer understanding can become a reality.

III. The CFPB's Priorities

A. Mortgages

For many Americans, a mortgage is the biggest financial commitment they will make in their lives. This means the stakes are especially high when consumers cannot understand the basic terms of their mortgages or comparison shop before they settle on a particular product. Getting stuck with the wrong mortgage can cost a family tens of thousands of dollars over the life of the loan. It can even cost them their home.

The past few years have demonstrated how problems in the mortgage market can pose a systemic threat to our overall economy. If there had been basic rules of the road in place for mortgages, consistently enforced at the federal level by an agency fully accountable for protecting consumers, the current economic crisis would not have developed in the way it did. The current economic crisis began one bad mortgage at a time. Mortgages that promised investors huge profits for low risks were the raw material of the securities that contributed to the near collapse of the worldwide economy. Irresponsible lending that encouraged people to buy homes with no realistic hope of ever paying off their loans has now led millions of families into foreclosure and bankruptcy. If there had been just a few basic rules and a cop on the beat to enforce them, we could have avoided or minimized the greatest economic catastrophe since the Great Depression. In the future, the new consumer bureau will be that cop.

Transparency in the mortgage market is critical. If a family can see the costs and risks up front, that family is safer – and we're all safer. Right now, much of the paperwork associated with a mortgage is far too confusing and comes too late. It is the worst of all possible worlds: The paperwork required by law is complicated and expensive for the lender to fill out, and there are real regulatory compliance costs associated with every loan. But the papers come too late

and are too complicated to be helpful to consumers. By the time they see most of the papers, they are at the closing table being told "sign here, sign here, sign here." In other words, the current regulations provide low value for the borrowers and high cost for the lenders.

We think we can do better. The consumer bureau is working to eliminate some of the confusing and duplicative paperwork that consumers receive during the home loan process, moving toward a much simpler, shorter document that clearly spells out the information that consumers need when making the important decision to take out a mortgage. We want to hit a regulatory sweet spot – more value for the borrower and lower costs for the lender.

Of course, the CFPB's job cannot end with mandating simpler disclosure. As in any market, there are some "bad apples" that must be dealt with. Congress has given the consumer bureau the tools – and the mandate – to do so. A family needs someone on their side if, for example, a mortgage company tries to change terms at the closing. Karen from Pennsylvania shared her story with us. When Karen refinanced her mortgage, the broker promised her a low fixed rate loan but instead gave her two more expensive loans – a large adjustable-rate first-lien loan and a second smaller loan – that increased the broker's fees. Karen's broker also altered her asset and income information to make her eligible for a larger loan than she would have otherwise qualified for. The broker scheduled a late-night closing, insisting that she sign a ream of paper quickly, and Karen was not aware of these changes. The broker also withheld copies of the appropriate documents at the time of closing, making it even harder for her to figure out what had happened.

At the time of Karen's closing, many of these practices were already illegal. But the rules have not been adequately enforced. Recent revelations of mortgage servicers' haphazard and questionable practices have further demonstrated the need for a new cop on the beat.

Currently, our team is working with federal and state regulators to lay the groundwork for coordination in the regular examination of mortgage servicers. Notably, Congress authorized the CFPB to be the first federal agency with the authority to monitor and regulate all major mortgage servicers, including both bank and non-bank companies.

B. Credit Cards

Credit cards are the most commonly used form of consumer credit. Almost two out of three families now have at least one credit card, and almost half of all families carry a balance. Millions of borrowers use credit cards to pay for medical expenses, to cover educational costs, to tide them over during a period of unemployment, to cover emergency expenses, or simply to make it to the end of the month. No lending product is more deeply woven into the everyday life of middle class America.

Changes that make the credit card market more transparent can echo throughout our economy. If the costs and risks of credit card products are clearer, consumers will be able to make straight-up comparisons among cards – and to make the best decisions for themselves and their families. Some consumers may respond by deciding to purchase less, to use a different card, or to pay with cash or another financial instrument. Others may pay down more of their credit card debt. Of course, some may go the other way: With confidence that they can assess the real cost of their credit cards going forward, some consumers may choose to borrow on their card more frequently. In any case, clear information about prices and risks would make it easier for consumers to sort through their options.

Making credit cards easier to understand and compare can also spur innovation. Instead of producing ever-more-complicated cards with more hidden fees and surprises, card issuers would have additional incentives to produce innovations that are attractive to customers.

Competition would flourish, but in ways that consumers can see – better customer service or lower or more predictable prices.

Last month, the consumer bureau held a conference on the first anniversary of when many provisions of the Credit Card Accountability Responsibility and Disclosure Act – the CARD Act – took effect. When the Act was signed into law in May 2009, it was clear that the credit card market was in need of serious reform. Congress concluded that certain practices in the credit card industry were neither fair nor transparent to consumers, and the CARD Act passed with very strong bipartisan support in both the House and the Senate. The CFPB's conference brought together industry representatives, consumer groups, academics, government experts, and others for a review of data on how the CARD Act, coupled with the recession and its aftermath, have affected supply, demand, and pricing within the credit card marketplace. The CFPB undertook a voluntary survey of the nine largest card issuers (representing 90 percent of the market), and other studies also were conducted in connection with the conference. These studies revealed that late fees, interest rate hikes, and over-limit fees had been significantly curtailed since the CARD Act took effect. Significantly, the total amount consumers are paying for their credit cards is no higher, on average, than it was one, two, or three years ago, but the pricing is clearer and more up-front.

We believe the CARD Act has pushed in the right direction. It has brought about significant reforms in both the pricing practices of card issuers and the information provided to consumers. Even so, there are a lot of moving parts in a credit card price, and there is still room for improvement in the transparency of this market. Despite the important progress made in improving the Schumer box disclosure and monthly statement, it is still too difficult to pin down the costs and risks of each individual credit card and to make direct apples-to-apples

comparisons. Our next challenge will be to further clarify price and risk and make it easier for consumers to make direct product comparisons. The CFPB is working hard on ideas about how to improve this market without an overreliance on rules.

Addressing the mortgage and credit card markets is a good start for the new consumer bureau, but the CFPB will also study other markets. It is important that the costs and risks associated with other products – such as prepaid cards, payday loans, remittances, overdrafts, and title loans – also be clear and up-front. Ultimately, the CFPB must be responsive to the needs of American families, tracking market trends and identifying new credit products and unexpected practices. Recent experience has taught us that American families need an agency that is actively monitoring consumer financial markets to ensure that they are fair, transparent, and competitive.

C. Financial Education

A well-functioning market depends on informed customers. We are confident in the ability of Americans to select the products that are best for themselves and their families when they have the right information, but we also know that they can benefit from resources that provide the tools and know-how to look for the right terms and ask the right questions. The consumer bureau can contribute to providing those resources.

The Dodd-Frank Act required the CFPB to establish an Office of Financial Education. This office will be a 21st-century resource for consumers who are looking to better understand how different products and services work, and we will provide access to tools and information that can help consumers select the products that are best for them. Building an office that has a real impact requires improving upon educational materials already available, developing new

materials that are short, simple, and effective, and coordinating our efforts with others. It means creating tools that are easy to use and that enable consumers to understand and assess the total costs and potential risks of different products to make comparison shopping easy.

We are in ongoing discussions with the Financial Literacy and Education Commission, which is chaired by the Secretary of Treasury and includes the heads of 20 other federal agencies. We are also reaching out to state and local financial education officials to learn about what is already being done in this area and how the CFPB can add value for consumers while avoiding overlapping or redundant government efforts. Earlier this month, I spoke with Gene Dodaro, the Comptroller General of the United States, about a Government Accountability Office report that surveyed the financial education landscape in government and emphasized the need for further interagency coordination. We are also meeting with leaders in the field of financial education to talk about what works and to understand what gaps and duplicative efforts exist and how the consumer bureau can fill those gaps and help coordinate those efforts.

The Office of Financial Education will also work to unleash the creativity of others who can develop products and approaches to help Americans improve their financial decision-making. We recognize that help for consumers may come from many different sources, and the consumer bureau will work to provide resources that can assist innovators in developing and disseminating effective new programs and strategies for things like planning and tracking spending and evaluating financial products. We are in the early stages of developing these efforts, but we recognized from the start that the consumer bureau does not have a monopoly on good ideas for providing effective financial education.

D. Consumer Complaints

Later this year, the consumer bureau will also launch a consumer response center to receive complaints and to help consumers find answers for questions about consumer financial products and services. In the meantime, we have provided links to resources relating to mortgages, credit cards, credit reports, bank accounts, and other financial products and services on our website. We have also created a consumer question and complaint assistant on our website to help consumers identify which agency is currently responsible for dealing with problems they are concerned about.

Almost as soon as the CFPB began its implementation process, it began receiving consumer complaints. While we are still developing the capacity to address complaints during this stand up, we respond to complaints with the contact information for government agencies that currently can help and have the infrastructure to address those complaints. Although we are working off early and limited data, we have done some analysis of the complaints we've received regarding consumer financial products and services. As of March 1, 2011, the CFPB had received approximately 300 complaints. Most of the complaints we have received fall into four categories. Mortgages and home loan complaints account for about one-half of the total. Credit cards are the subject of about 20 percent of the total complaints. The other two large sources of complaints are deposit products and other consumer loan products, which each account for about five percent of the total. Together, these four categories comprise approximately 80 percent of the complaints received. In addition, we have received a handful of complaints pertaining to consumer credit reporting, debt collection, and other financial products and services, including insurance and investment products that would likely fall outside our jurisdiction. The Dodd-Frank Act requires the CFPB to coordinate with federal agencies on the routing of complaints and on procedures for responding to consumer complaints. In time,

complaint data will also be used to inform other functions of the CFPB, such as supervision and enforcement.

E. Supervision, Enforcement, and Fair Lending

One of the consumer bureau's chief responsibilities will be to supervise certain non-bank financial companies that provide consumer financial products and services. These include mortgage brokers, mortgage lenders, mortgage servicers, payday lenders, and private student loan providers. This will be the first time that many of these non-bank financial services companies will be subject to federal compliance examinations. We intend our examinations to be conducted efficiently and in a fair and transparent manner. We will strive to enforce the federal consumer financial laws appropriately while remaining cognizant of increasing compliance costs and burdens for regulated entities. The CFPB also has been charged with responsibility for examining depository institutions and credit unions with more than $10 billion in total assets, and their affiliates, for compliance with the federal consumer financial laws. In addition, the consumer bureau is responsible for assuring compliance with fair lending laws to make certain that credit decisions are based on legitimate underwriting criteria and not based on race or any other prohibited factor. Fair access to credit for all Americans is one of the key goals of the CFPB.

The CFPB's Large Bank and Non-Bank Supervision teams and our Office of Fair Lending will work closely with our Enforcement division. To the extent practicable, the CFPB will seek to resolve issues short of litigation, promoting compliance through open discussion, clear regulation, consumer response follow-up, form simplification, and constructive supervision. While enforcement is generally a last resort, it is an essential tool to make certain

that there is a credible cop on the beat. The consumer bureau will work to set clear priorities and processes for its enforcement efforts and coordinate closely with the Department of Justice, other federal agencies, and state partners to achieve a balance of "cooperative federalism" that maximizes joint effectiveness, increases efficiency, and reduces burdens on industry. This effort is critical because consistent enforcement of clear rules benefits the entire economy. Enforcement protects law-abiding businesses that play by the rules against unfair competition from companies that seek advantage by breaking the law.

F. Information Technology

Building a government agency from scratch has given us the opportunity to re-think the role that technology and data can play in a world where information travels in the blink of an eye. We have the opportunity to build a consumer bureau that is responsive to the dynamics of our time, using changes in technology to propel us. For example, technology can be used to solicit information from the American people far more efficiently than ever before, giving them not one, but thousands of seats at the table as we set priorities or determine policies. The consumer bureau can empower a well-informed population to help expose, early on, consumer financial tricks. If rules are being broken, we don't need to wait for an expert in Washington or the next scheduled examination to recognize the problem. If we set it up right from the beginning, the CFPB can collect and analyze data faster and get on top of problems almost as they occur, not years later – long after the damage has spread and many more families have been hurt.

Using state-of-the-art technology, the consumer bureau can solicit information from the American people about the benefits and frustrations that they face with consumer financial

products – and it can organize that information and put it to good use. Data from the public has the potential to inform priorities and signal problems. As we investigate anecdotal evidence, we can learn about good practices, bad practices, and downright unlawful practices. Then we can report on the good, the bad, and the ugly – subject, of course, to confidentiality and privacy concerns – to increase transparency and to push markets in the right direction. By remaining current in the advances of technology, data analysis, and research, the consumer bureau will have the capabilities needed to serve American families.

Just as important, in my opinion, is the need for data and data analytics to be a defining focus of the agency. In my years teaching, writing, and researching, economic data and statistical analysis were indispensible tools. The consumer bureau should not blindly follow the conventional wisdom of the time, but must be a thinking, investigating, questioning agency – and it's my hope that if the agency is truly committed to examining data and making its decisions based on data, it can avoid capture by ideology or intellectual fashion.

IV. Accountability and Transparency

The CFPB was designed to increase accountability by consolidating into a single agency the core consumer financial protection functions that had existed across the federal government. Under the old system, seven different federal agencies were responsible for consumer financial protection. Those agencies had other responsibilities as well and consumer financial protection was not anyone's top priority. The tangle of seven agencies failed to create effective rules and left gaping holes in oversight. There were also basic problems of accountability. Because it was no one's primary responsibility, it was more difficult to hold any single agency accountable. The CFPB will be directly responsible to the public for performing those core functions.

Accountability was a central policy rationale for the establishment of the CFPB, and it is essential that the CFPB be accountable for its efforts moving forward.

A. Oversight of the CFPB

Oversight is a deeply important feature of our democracy that provides for checks and balances and helps prevent overreach, violations of law, and misguided expenditure of public funds. Oversight of the CFPB – during its stand-up and beyond – will build greater confidence in the consumer bureau by both other governmental entities and the public. The CFPB has an interest in participating meaningfully in the oversight process, and we intend to continue to be an active partner in the important work of oversight.

As is true with respect to all other federal agencies, Congress has the last word on CFPB rule-making. If Congress is unhappy with a rule, it can overturn that rule. In addition, the CFPB is subject to judicial review to be certain that it operates only within the authority granted by Congress and otherwise acts in accordance with law. If it fails to do so, the courts can overturn its actions. In addition to these fundamental constraints, Congress took important further steps in the Dodd-Frank Act to ensure meaningful oversight and accountability of the CFPB. In particular, the Dodd-Frank Act specifically requires that:

- The CFPB submits annual financial reports to Congress;
- The CFPB reports to Congress twice each year to justify its budget from the previous year;
- The Director of the CFPB testifies before and reports to Congress twice each year regarding the CFPB's activities;

- The GAO conducts an audit each year of the consumer bureau's expenditures and submits a report to Congress; and
- The CFPB submits its financial operating plans and forecasts and quarterly financial reports to the Office of Management and Budget.

Congress also took special steps to require the CFPB to carefully assess the impact of its actions by way of various internal process requirements. For example, in prescribing a rule under the federal consumer financial laws, the consumer bureau is specifically charged with:

- Considering the potential costs and benefits both to consumers and to providers of consumer financial products and services;
- Considering the impact of proposed rules on community banks and smaller credit unions and on consumers in rural areas; and
- Consulting with other federal banking regulators and considering any written objections raised during the consultation process.

In addition to the various process requirements that the CFPB must meet, which are far more extensive than those that govern other banking regulators, the CFPB also faces several additional forms of oversight:

- The agencies sitting on the Financial Stability Oversight Council (FSOC) can review regulations issued by the CFPB and, in some cases, even reject the consumer bureau's regulations – which the FSOC lacks the authority to do over any other banking regulator; and
- The Inspectors General of the Treasury Department and the Federal Reserve Board have been reviewing the CFPB's activities and inform Congress and the public about the consumer bureau's programs and activities.

In brief, there will be more oversight and accountability of the CFPB than of any other federal banking regulator. Over time, I believe these limits will succeed in ensuring both sunlight and accountability in the consumer bureau's operations.

B. Budget

Under the Dodd-Frank Act, the CFPB is funded principally by transfers from the Board of Governors of the Federal Reserve System up to a limit set forth in the statute. The CFPB can request funds from the Federal Reserve that are reasonably necessary to carry out its consumer financial protection functions, but the CFPB's funding from the Federal Reserve is capped at a pre-set percentage of the total 2009 operating expenses of the Federal Reserve, subject to an annual adjustment. Specifically, the Dodd-Frank Act places a cap on this primary source of funding for the CFPB by limiting transfers in FY2011 to 10 percent of these Federal Reserve System expenses (or approximately $404 million), in FY2012 to 11 percent of these expenses (or approximately $445 million), and in FY2013 to 12 percent of these expenses (or approximately $485 million). The cap remains at 12 percent in FY 2014 and beyond but will be adjusted for inflation.

The Dodd-Frank Act followed more than a century of precedent in providing the CFPB with funding outside of the congressional appropriations process. Congress has consistently provided for independent funding for bank supervisors to allow for long-term planning and the execution of complex initiatives and to ensure that banks are examined regularly and thoroughly for both safety and soundness and compliance with the law.

The CFPB has been tasked with supervising more than twice the number of entities as all other federal bank supervisors combined, including supervising the largest, most complex banks.

Effective supervision that levels the playing field between bank and non-bank institutions will require dedicated and predictable resources, and independent examiners. Moreover, consumer compliance examinations for depository institutions with less than $10 billion in assets will continue to be conducted by prudential regulators and thus funded independently. There is no rationale for having the consumer compliance examinations of community banks funded independently while subjecting the same examinations of their large bank and non-bank competitors to the appropriations process. Such an approach is plainly inconsistent with the level playing field promised by the Dodd-Frank Act.

Although Congress provided the CFPB with a source of funding outside the appropriations process, the consumer bureau is nonetheless the only bank supervisor with a statutory cap on its primary source of funding. If the statutory cap is too low, the CFPB is required to seek an additional appropriation from Congress – unlike other banking regulators.

If the CFPB fully used the amount authorized for transfers from the Federal Reserve System in FY2011, FY2012, or FY2013, this funding level would remain substantially below that of the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Securities and Exchange Commission, and the Federal Reserve System. Moreover, if the CFPB fully used the amount authorized for transfers from the Federal Reserve System in those years, it would take nearly 20 years of operation for it to spend as much money as it cost the government to resolve IndyMac – a single institution that failed in the financial crisis of 2008. To put it another way, if the CFPB fully used the amount authorized for transfers from the Federal Reserve System, its expenses in FY2011 would be the equivalent of $1 for every open mortgage in the country plus $.32 for every open credit card account. Wall Street bonuses in 2010 alone totaled $20.8 billion – more than 51 times the size of the CFPB's budget cap.

Through the first eight months of Dodd-Frank implementation, the CFPB requested three funding transfers from the Federal Reserve for a total of approximately $60 million. Of that total amount, approximately $13.1 million is allocated to personnel costs, approximately $15.4 million is allocated to technology and IT costs, approximately $10.1 million is allocated to mission-specific support, and approximately $14.9 million is allocated to human capital support. The remaining $7.0 million is allocated to general start-up costs, including organizational design and planning.[1] Because these expenses capture the CFPB's initial expenditure of funds, much of this budget – approximately 32 percent – is devoted to one-time start-up expenses.

While it is challenging to estimate resource requirements in the first months of standing up an agency, the Administration has worked hard to develop budgets necessary for the consumer bureau to fulfill the responsibilities vested in it by Congress. The President's Budget for Fiscal Year 2012 includes budget and personnel estimates for the CFPB for FY2011 and FY2012. Specifically, the budget estimates a $142.8 million operating budget for FY2011 and a $329 million operating budget for FY2012 as the CFPB works to phase in functions and infrastructure. These amounts are based on the approximate resources that will be necessary to stand up and begin executing the consumer bureau's key functions: consumer financial education; consumer complaint intake; registration of non-banks; supervision, examination, and enforcement efforts; analytical support, monitoring, and research; and industry guidance and rule-making.

C. Organizational Chart and Hiring

[1] The figures above represent the CFPB's notional allocation of available funds. The actual amount spent by CFPB as of January 31 was approximately $24 million (including outstanding or open funding obligations and funds that have already been spent).

In December, the CFPB released a draft of its organizational chart to Members of Congress and the media. In early February, the draft organizational chart became a feature on the consumer bureau's new website. The organizational chart is a work in progress, and the CFPB implementation team will continue to refine it in the coming months. In designing the consumer bureau's structure, we have solicited input from a variety of people in the private sector, government, and academia. We have also spoken about the organizational structure with Members of Congress and a number of community groups.

The CFPB organizational chart is designed: 1) to engage the American public in everything we do; 2) to enforce the federal consumer financial laws efficiently and effectively; 3) to help create a level playing field for large banks, community banks and credit unions, and non-depository financial companies; 4) to make the CFPB a data-driven agency by making research and market analysis core to all of its work; 5) to advance financial education opportunities for all Americans; 6) to continue an open and candid dialogue with Members of Congress; and 7) to create accountability within the CFPB. A strong organization cannot be built on a weak foundation, and we recognize how important it will be to get this right.

The CFPB implementation team consists of approximately 175 members. The CFPB's first senior leadership announcements highlighted a commitment to create clear, consistent rules across the marketplace:

- Steve Antonakes, the former Commissioner of Banks in Massachusetts, serves as Assistant Director for Large Bank Supervision for institutions such as banks and thrifts; and

- Peggy Twohig, a former financial services lawyer and a 17-year veteran of the Federal Trade Commission, serves as Assistant Director for Non-Bank Supervision for other financial services providers.

Top regulators from other state and federal government offices are joining the team as well.

- Leonard Chanin, currently Deputy Director of the Federal Reserve Board's Division of Consumer and Community Affairs, will head the rule-writing team; and
- Richard Cordray, the former attorney general of Ohio, serves as Assistant Director for Enforcement.

The CFPB is also hiring leaders with deep experience in the private sector.

- Raj Date, who worked in and around consumer finance and banking for 15 years, will serve as Associate Director of Research, Markets, and Regulations;
- Len Kennedy, former General Counsel of Sprint Nextel, has assumed that role at the CFPB;
- David Silberman, Assistant Director for Card Markets, comes to us after having built a credit card for the AFL-CIO and then becoming a well-respected banking consultant;
- Corey Stone left his position as Chairman of the Board of a community bank and as CEO of an alternative credit reporting business to serve as Assistant Director for Credit Information Markets; and
- Elizabeth Vale, who started her professional career with a community bank and eventually served as a managing director at Morgan Stanley, will serve as Assistant Director for Community Banks and Credit Unions.

The CFPB has also brought on:

- David Forrest, who spent the last 16 years working at the Motley Fool – a multimedia financial-services company that promotes investor education – as Assistant Director of Consumer Engagement;
- Zixta Martinez, an expert on housing policy, as Assistant Director of Community Affairs to work with consumer, civil rights, and other organizations;
- Patricia McCoy, a well-recognized scholar on the housing market, as Assistant Director for Mortgage and Home Equity Markets;
- Holly Petraeus, a top financial educator for military families, to lead the consumer bureau's Office of Servicemember Affairs; and
- Dennis Slagter, formerly Director of Human Resources at the Millennium Challenge Corporation, as Assistant Director for Human Capital.

Other members of the team include people with a wide variety of backgrounds and experiences. We are very pleased by the strength of the people who want to join the new consumer bureau and the energy and enthusiasm they bring to the job every day.

D. The CFPB Headquarters

In the three months that followed the passage of the Dodd-Frank Act, the CFPB implementation team was scattered across three locations: the Main Treasury Building, the Treasury Annex, and Metropolitan Square office building. In mid-October of last year, the team of about 40 moved to its current home at 1801 L Street, N.W. This move provided more room to grow and gave us the opportunity for greater collaboration.

Sometime next year, the CFPB team will move across the street from the White House complex to 1700 G Street, N.W. Our plan is to make that building the clearly identifiable home

of the consumer bureau. We want the CFPB to have a very tangible presence for anyone who visits Washington, and we want the building to have as much public space as possible. In particular, we are working on plans to open up parts of the lobby and the adjacent patio for displays, perhaps featuring consumer information and financial education materials and tools to help consumers choose the mortgages, credit cards, and other financial products and services that are right for them.

E. Public Disclosure of My Schedule

My schedule was first posted to the Department of the Treasury's website on November 24, 2010, approximately two months after my appointment to my current role. Since then, we have released my schedule every month, and we will continue to do so moving forward, including on the new CFPB website. Openness builds trust, and we want to build a relationship of trust between the American public and the consumer bureau. The schedule gives everyone an opportunity to see who is meeting with me and to have a sense of what perspectives I am hearing. My hope is that by releasing my schedule, the public will see that the agency is listening to many different points of view on how the consumer bureau should be shaped and where its efforts should be focused.

F. Availability to Members of Congress

Since my appointment to my current role six months ago, I have made clear that I am available and willing to testify before Congress. My presence here today – and my eager acceptance of your invitation – reflects my commitment to working closely with this Committee and Congress in the weeks and months ahead. In standing up the consumer bureau, I also have

been and remain available to Members of Congress in less formal settings. As of today, I have had more than 60 one-on-one conversations with Members of Congress and have made nine separate trips to Capitol Hill since September. I have met with Democrats, Republicans, and Independents – including many who supported the creation of the CFPB and many who opposed it. Each visit has taught me something valuable.

Making myself readily available to Members of Congress serves several goals. First, I want to listen. It is important that we learn from the elected representatives of the American people, and particularly important that we understand their hopes and concerns about this new consumer bureau. My hope is that, with your guidance, the consumer bureau can accomplish the goals you have set for it. A second goal is to ensure that the Members of Congress are up to date on the progress made in implementation. Briefing members on the direction in which we are headed and the milestones along the way will, hopefully, make it easier for Congress to follow the development of the agency. A third goal is to build a continuing and lasting relationship between Congress and the CFPB. For the consumer bureau to succeed, it must engage in an open and ongoing dialogue with Members of Congress, regardless of party affiliation. My availability is an attempt to help lay the foundation for a relationship that will grow stronger over time.

V. Public Engagement

We recognize the importance of communicating substantively and frequently with all quarters that will be affected by the agency – from American families struggling to understand a credit card charge to investors in banking stocks trying to evaluate whether industry profits are built on sustainable models. My first role in public engagement is to listen. In order to

appreciate the full implications of this new agency and how to build it to best serve our nation, we are working to understand the hopes, fears, and concerns of individuals with many different perspectives. We are also using what we learn to help build the most effective consumer bureau. Stories from our travels to California, Illinois, New York, Ohio, Texas, and elsewhere have helped us think about how to track consumer abuses more effectively, and suggestions from a variety of different business leaders discussing organizational design have helped us shape our internal structure.

A. Industry

We have met early and often with representatives of the financial industry. A regulator can learn from open lines of communication with the industry it is regulating. It is important that the consumer bureau not become an uninformed or ossified bureaucracy that suffocates the industry it regulates. It is also important to identify and minimize unintended consequences of regulatory and other initiatives. To support a transparent market operating under effective rules, the CFPB must be driven by the facts. That means getting good data and learning from many parties, including learning from lenders about their experiences.

Reflecting this commitment to industry engagement, we have been doing a lot of listening. To date, I have met with dozens of CEOs and other executives of large financial institutions, including multiple meetings in many cases. I have also met with a large number of trade associations that represent the interests of the industry. The new consumer bureau has hosted a number of multi-party meetings. In my first week on the job, the Treasury Department

sponsored a symposium that brought together lenders and consumer advocates to discuss how to simplify federal mortgage disclosures.[2]

Over the past few months, a great deal of my time has been spent with representatives of small financial institutions. Community bankers from my home state of Oklahoma had a long meeting with me my first day on the job. We talked about towns where they are from where family of mine still lives, how three of us had gone to the same high school, and how much the financial world had changed since we were kids. Listening to their stories and their concerns, and discussing how these concerns hurt not only community banks but also American families, we recognized the potential for community banks to be close partners with the consumer bureau.

Since then, we have continued to meet with groups of community bankers and credit unions from all across the country – beyond Oklahoma, to Ohio, Texas, Illinois, New York, California, Florida, and Maine. To date, I have spoken directly with the CEOs of community banking organizations from more than 40 states. During all these meetings, I've listened more than I've talked. I have learned that across the nation, small financial institutions are feeling squeezed, caught between larger banks and non-bank lenders, both of whom have aggressively pulled customers away from hometown banking. My trip in January to Maine, to participate in a series of meetings with Senator Snowe, was particularly beneficial. Senator Snowe authored an amendment in the Dodd-Frank Act that requires the CFPB to conduct small business impact panels. She has been a key source of advice around this issue.

---

[2] In a joint letter in November, the Mortgage Bankers Association, American Bankers Association, American Financial Services Association, Community Mortgage Banking Project, Consumer Bankers Association, Consumer Mortgage Coalition, Housing Policy Council, and Independent Community Bankers of America wrote to Secretary Geithner, Secretary Donovan, and Chairman Bernanke urging them to work with the consumer bureau to develop a comprehensive plan for mortgage disclosure reform. We share that desire for coordination, and we have worked hard to collaborate with other regulators in pursuing streamlined disclosures.

Community banks and credit unions have worked for decades to build a reputation for honesty, transparency, and trust. As they have told me many times, a small-town banker can't afford to surprise a customer with a fee hidden in the fine print or trap a customer in a deceptive mortgage. Many community bankers see their customers every day at the grocery store, at Little League practice, and at school plays. They depend on long-term partnerships, and they build their business models around clarity and fair pricing. But they face competition from lenders who are willing to make quick profits by hiding the real costs and risks of what they sell. The community banks lose customers who learn only months or years later that the alternative products that seemed so enticing were in fact far more expensive. Practices that hurt our nation's families also hurt our community banks.

Community bankers and credit unions have also made it clear that they face a regulatory crisis. When regulators issue new rules that are expensive to understand and costly to comply with, small institutions are doubly disadvantaged. Unlike larger firms, they cannot afford to hire an army of lawyers to navigate the complex rules. Nor can they add more lawyers to their own staffs to assure technical compliance with the new rules – or to exploit slight ambiguities that might be turned into loopholes in the regulatory structure. In making the terms of credit products clearer and easier to understand, the new consumer bureau will also simplify compliance, easing the regulatory burdens for these banks. If we can lower regulatory compliance costs and reduce the competitive advantage of lenders with an army of lawyers over those with only part-time legal help, then we can help community banks and credit unions stay in the business of consumer lending. Over time, that creates more competition and lowers the costs of financial products for consumers.

The importance of small banks and credit unions cannot be overstated. They are disproportionately the providers of credit to small businesses, and they are therefore part of the chain toward higher employment and economic recovery. Community banks know their customers and can offer the kind of custom-tailored products that meet those customers' needs. Some community banks make vital banking services available to underserved communities. The consumer bureau is committed to a strong and diversified financial services community – one that includes community banks and credit unions, along with other, larger institutions – because that is the best way to serve the American consumer.

B. Consumer Advocates and Faith Leaders

It is critical for the consumer bureau to have open lines of communication with consumer groups, civil rights groups, labor unions, faith leaders and other non-profit organizations and community leaders. That is why we have met many times with Americans for Financial Reform in Washington and have visited with other groups during my travels. In Columbus, Ohio, we met with consumer advocacy groups and housing and credit counselors to solicit boots-on-the-ground feedback from organizations that work daily with middle-class consumers and low-income Americans. We have also met with community leaders in San Antonio, Chicago, and San Francisco. In addition, we have met both in person and by phone with religious leaders from across the country. Families in distress often turn to their pastors, priests, and rabbis both for solace and for counseling. People of faith are trying hard to offer guidance, and congregations everywhere are trying to support their members.

Learning from community leaders is not new to me. For years, I have met frequently with such groups, learning about the problems that consumers face in the marketplace and

policies that can make a meaningful difference. They have been on the front lines, and the stories they have told often have been harbingers of more system-wide problems to come. In standing up the consumer bureau, we have continued to learn from those who work every day with families in economic distress.

C. Military Families

Our military families deserve a consumer bureau that will fight for them. Servicemembers and their families are too often targeted by unscrupulous lenders. The reasons are not hard to see. The military teaches its members to honor commitments, even those that are one-sided or unfair. Newly enlisted servicemembers often have their first steady paycheck and their first chance to be lured into easy credit offers. Frequent moves mean that families can be hit with unexpected expenses at the same time that a non-military spouse is forced to give up a job to keep the family together. Dual military families sometimes face deployments to different posts, putting substantial strain on a family's budget. Incomes can fluctuate substantially when families face an overseas deployment and then a redeployment back to the states. Many experienced military families, struggling with daily expenses and one-time costs, find themselves entangled with high-cost lenders.

In a letter dated last February, Undersecretary of Defense for Personnel and Readiness Clifford L. Stanley wrote that finances are the second largest cause of increasing stress to servicemembers and their families, ahead of deployments, health, life events, and war. Undersecretary Stanley stressed the importance of this finding, writing that the "personal financial readiness of our troops and families equates to mission readiness."

Earlier this year, Holly Petraeus, a veteran financial educator for military families and a military daughter, wife, and mother herself, joined our team. She is hard at work leading the CFPB's Office of Servicemember Affairs. This office is establishing a partnership with the Department of Defense and the Department of Justice and will focus on three key areas: Military family financial readiness education, complaint and response monitoring, and coordination among federal and state agencies of consumer protection measures for military families. In January, Holly and I visited Joint Base San Antonio – where two of my brothers took basic training – to speak with servicemembers and financial providers about the unique lending circumstances and challenges that exist in military communities. In future trips, we will continue to ask many questions, listen to our troops, and apply what we learn directly to our efforts. It is an honor to have the opportunity to build a consumer bureau that will serve the families of those who serve our country.

D. Attorneys General

State attorneys general work hard to enforce consumer protection laws, and they provide a valuable perspective about what is happening on the ground and how enforcement can be strengthened. The attorneys general serve as an early warning system, acting as first responders to activities that harm American families. They are committed to protecting their citizens, and that commitment directly engages them in consumer protection issues. As a result, they are also natural partners for the consumer bureau.

Recently I visited a state attorneys general conference in Fort Lauderdale, Florida. I regularly speak with both Democratic and Republican attorneys general by telephone. With a former Attorney General, Richard Cordray, leading our coordination effort as the head of our

enforcement division, we will continue to work together with the attorneys general in enforcing consumer protection laws.

VI. Conclusion

Chairman Capito, Ranking Member Maloney, and members of the Subcommittee on Financial Institutions and Consumer Credit, thank you again for inviting me to testify today about the CFPB. The CFPB implementation team has been hard at work putting in place the infrastructure necessary to make certain that the consumer bureau can meet the responsibilities vested in it by Congress. We appreciate the opportunity to discuss our efforts and to update you on our progress.

National Association of Federal Credit Unions
3138 10th Street North • Arlington, Virginia • 22201-2149
703-522-4770 • 800-336-4644 • Fax 703-522-2734

Fred R. Becker, Jr.
President and CEO

March 15, 2011

The Honorable Shelley Moore Capito
Chairman
House Financial Services Subcommittee on
Financial Institutions
and Consumer Credit
United States House of Representatives
Washington, D.C. 20515

The Honorable Carolyn Maloney
Ranking Member
House Financial Services Subcommittee on
Financial Institutions
and Consumer Credit
United States House of Representatives
Washington, D.C. 20515

Dear Chairman Capito and Ranking Member Maloney: Chairman Capito

On behalf of the National Association of Federal Credit Unions (NAFCU), the only trade association exclusively representing the interests of our nation's federal credit unions, I write today to commend the subcommittee for holding an oversight hearing on the new Consumer Financial Protection Bureau (CFPB).

As you know, the creation of the CFPB is potentially problematic for credit unions as it will have rule-writing authority over credit unions of all size, and examination and enforcement authority over credit unions exceeding $10 billion in assets. You may recall that during consideration of the *Dodd–Frank Wall Street Reform and Consumer Protection Act* (PL 111-203), NAFCU consistently opposed efforts to include credit unions, regardless of size, under this new regulatory framework due to the costly new compliance burdens it could mean for them.

NAFCU has long recognized the need for additional consumer protection in the financial services arena and understands the importance of regulating bad actors on Wall Street. We also supported NCUA's establishment of an office dedicated to consumer protection. Given that credit unions were not the bad actors that helped lead to the financial crisis, it is very difficult to understand why they were ultimately placed under the jurisdiction of the CFPB.

With new information about the focus of the CFPB surfacing, it appears that credit unions will likely face a new set of regulatory hurdles regarding credit card portfolios, mortgage disclosure procedures and many other areas. While the details remain to be seen, NAFCU cannot overstate how costly new compliance burdens can be to credit unions and their members.

NAFCU was pleased to see that the Financial Stability Oversight Council (FSOC) was granted some "veto" ability over some proposed CFPB rules if they are deemed to create safety and

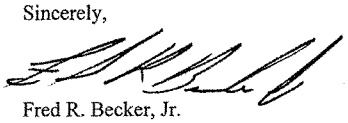
soundness concerns. We would encourage members of Congress to enhance the role of this important council by lowering the threshold of votes needed to "veto" rules that go too far.

NAFCU would also like to draw the subcommittee's attention to section 1100G of the Dodd-Frank Act that says that the CFPB must evaluate, as part of its regulatory flexibility analysis, the impact actions have on "small entities." We believe credit unions meet the definition of a "small organization" as defined in Title 5, Section 601 of the U.S. Code as "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field..." We urge Congress to make sure that the CFPB abides by this Congressionally-mandated standard, and does not try to narrow the definition of "small entity" in order to strengthen its authority over credit unions.

Clearly Congressional oversight will be a key aspect of ensuring that the new CFPB is operating within the letter of the law. NAFCU believes that one important step would be for the Bureau to have a Senate confirmed director in place before taking any significant actions. As you know, last week many questioned the merit of the proposed State Attorneys General draft settlement with certain mortgage servicers, and the role of the CFPB played in these discussions. We are concerned that this type of broad CFPB action could create new rules that would lead to regulatory creep in which community based financial institutions could once again pay the price for poor decisions made by others and Wall Street.

Again, NAFCU commends the committee for holding this important hearing and looks forward to working with both Congress and the Consumer Financial Protection Bureau on regulatory issues that will impact credit unions and their 92 million members. Should you or your staff have any questions or require any additional information please do not hesitate to contact Brad Thaler, NAFCU's Vice President of Legislative Affairs, at 703-842-2204 or me.

Sincerely,



Fred R. Becker, Jr.
President/CEO

cc: Members of the Subcommittee on Financial Institutions and Consumer Credit

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

NOV 10 2000

Congressman —

Thank you for your generous note. I'm glad you found the speech interesting. A copy is enclosed.

I'm looking forward to working with you over the next several months. I hope you will give me your good counsel.

Elizabeth

For Mel
With thanks from
Elizabeth

A New Approach to the Regulation of Consumer Credit
Elizabeth Warren
Financial Services Roundtable Leadership Dinner
Remarks as Prepared for Delivery
Wednesday, Sept. 29, 2010

Thank you, Richard, for that kind introduction, and thank you, Steve and the members of the Financial Services Roundtable, for inviting me to join you this evening.

When Steve generously invited me to speak, it didn't take me long to accept. But both of us, I think, knew we were taking a gamble--Steve, because he didn't know what I would say and me, because I didn't know what hat I'd be wearing when I gave this address. There were possibilities: I could have given a technical analysis of the TARP program as the Chair of the Congressional Oversight Panel or a dusty lecture on the concept of anticipatory repudiation as a contract law professor.

The gamble I took in accepting this invitation turned out all right. I'm no longer the Chair of the Congressional Oversight Panel nor am I teaching at Harvard Law School.

But Steve--he's still not so sure about the gamble he took. He still doesn't know what I'm going to say. So here goes.

The past two years have been a time of rapid change. The financial crisis that nearly brought our economy to its knees has been averted. TARP and other government support played a significant role in ending the panic and helping stabilize the markets. But there was little time to pause and absorb the impact of this country's close encounter with economic collapse. The economy took new turns, rescue efforts quickly evolved, and new regulatory responses emerged.

Over the past year, the President fought for a reform bill that, among other things, created a new agency to provide a voice in Washington for middle class families. In July, he signed that bill into law. Less than two weeks ago, the President asked me to serve as his assistant and Secretary Geithner asked me to serve as his Special Advisor for standing up the new agency.

My first public meeting after that appointment was with bankers—bankers from Oklahoma, where I grew up, where my grandmother drove a wagon in the land rush, and where I learned to sing Boomer Sooner before I learned Old MacDonald. In the few days since the President's announcement, I've spoken with dozens of CEOs of financial institutions, trade associations, members of Congress, and consumer groups.

I've heard a great deal in these meetings about the significant time and resources that financial services providers have spent implementing regulatory changes already, including substantial changes to credit card practices, implementation of the new Good Faith Estimate forms, and upcoming changes on mortgage broker compensation. I want to acknowledge your hard work in making these changes and note that they are already making meaningful differences in the credit experiences of your customers.

With only ten days on the job, it's too soon to make many promises. But, if only to set Steve's mind at ease, I'm going to start with two. When you hear them, I hope you'll understand why I didn't hesitate to be here tonight.

First, in the weeks and months ahead, I'm going to listen more than I'm going to talk, and I'm going to keep my door open.

And, second, I am committed to helping build a consumer credit structure that works—works for families, works for the financial services industry, and works for the American economy.

For 30 years, my research has focused on the difficulties facing the middle class—some of which are related to consumer credit. For the last two years, my work has shifted to TARP, where I tried to help provide strong, independent oversight on behalf of those same families. I'm not going to change. I will be a strong and independent advocate for hard-working, play-by-the-rules, middle class families. But the best way, in my view, to strengthen those middle class families is to find solutions that are deep and lasting, that strengthen the markets, and that will create a robust, competitive consumer credit industry that works **for** families, not against them.

As we enter this new world, it's critically important to start by having a conversation – together – about the principle of free and reliable markets and about the best approach to regulation.

I'd like to start that conversation by looking back 76 years to the launch of a new agency in another time of economic turmoil. When President Roosevelt appointed Joseph P. Kennedy to the brand new Securities and Exchange Commission, his selection of a businessman was seen as an outrage to reformers. One New Deal liberal said the appointment was like "setting a wolf to guard a flock of sheep."

I don't need to tell you that my appointment didn't cause outrage to reformers. But I want to share with you a few words from Joe Kennedy's speech just after his appointment. He said:

> Everybody says that what business needs is confidence. I agree. Confidence that if business does the right thing it will be protected and given a chance to live, make profits and grow, helping itself and helping the country...
>
> We of the S.E.C. do not regard ourselves as coroners sitting on the corpse of financial enterprise... We are not working on the theory that all the men and all the women connected with finance, either as workers or investors, are to be regarded as guilty of some undefined crime. On the contrary, we hold that business based on good will should be encouraged.

Joe Kennedy had it right. Good regulations can create an opportunity for good businesses to thrive.

Thanks to the new law, for the first time ever, we will have a single federal agency charged with writing the rules for all mortgages and all credit cards, regardless of whether they are issued by a federally chartered bank, a state chartered credit union, or a group of unlicensed investors. Thanks to this new law, for the first time ever, both banks AND non-bank lenders will be subject to federal examination to ensure that they are all playing by the same rules. Thanks to this new law, for the first time ever, critical consumer financial protection activities performed by seven different agencies will be consolidated into

one agency, closing gaps in oversight. Thanks to this new law, for the first time ever, a new agency will be born not simply to create new regulations but also to get rid of old regulations that are dated, expensive or just plain don't work.

Those innovations would be a headline in themselves—and they alone would provide significant opportunities for you and significant relief for American families. But we can do more. Before this agency decides to cut regulations in some areas and add in others, we have a chance to take a step back to ask: What vision should drive this agency? What test should be used to determine when the agency should act, when it should not, and which tools it should use when it does take action? What is the central aim of financial services regulation?

Some of you may have noticed that I have not kept my opinions to myself about where I think the financial industry has gone wrong. And I notice that some of you have not kept your opinions to yourself about me. But there is something you may want to know: I come to Washington as a genuine believer in markets and a genuine believer that the purpose of regulating the consumer credit market is to make that market work for buyers and sellers alike: a level playing field where the best products at the best prices win. When it works, the market is an ally to consumers. And, when it works, the market rewards those lenders who offer the best value to their customers.

Good regulation is not about impeding market forces; it is about unleashing those forces to work better. Good regulation is not about retribution designed to make an industry suffer; it is about rooting out deception so that straight up competition actually works. Good regulation is about applying a range of tools in order to help markets do what they do best. Good regulation supports strong markets, and, because it supports strong markets, it is more likely to persist over time, more likely to avoid capture or the conceit that the regulator has become omniscient.

Let me be clear. When I talk about functioning markets, I'm not using the word "market" as coded language for a return to the Wild West where companies use deception to pick off every consumer they can get in their sites. A free market is one where consumers have the ability to make well-informed choices, where the choices are visible and the terms are clear, and where there are cops on the beat to make sure that everyone plays by the same rules.

American families aren't looking for a free ride. They expect to be held responsible for the purchases they make. If they don't keep up with payments on their credit cards, car loans and mortgages, they expect to face the consequences. They also expect to pay for the services they receive. They know that businesses need to make a profit, and "free" usually means that the real costs will eventually show up somewhere.

They aren't look for a free ride, but they are looking for an honest marketplace. They want to know the costs up front, before something gets added that they never knew was coming. They want a level playing field, one where they can get the deal in full and up front.

But credit agreements have gotten long and complicated. In fact, there's a new epithet: fine print. I understand that some of you call it "mice type." Where I come from, nobody calls fine print, hidden fees and surprise penalties "negotiated contract terms" or "innovations." On a polite day, my brothers in Oklahoma call that kind of stuff "garbage." They don't care if it is there because regulators required it,

because the companies' lawyers were trying to ward off lawsuits, or because it was a good place to hide another new fee.

They simply see a world in which the financial institutions they do business with are not on their side. Every surprise hidden in the fine print is a bad surprise. Instead of seeing banks as their friends—as I did when I put my babysitting money in a savings account at Penn Square National Bank so my brothers didn't *borrow* it out of my sock drawer—too many Americans see dealing with banks like handling snakes—do it long enough and you'll get bit.

You can argue with my brothers—Lord knows I argue with my brothers—but, on the question of fine print, they have it right. An AARP poll earlier this year showed that 96 percent of Americans over 50 surveyed want to put an end to the fine print in their credit agreements. Just in case you missed the point, 91 percent felt strongly about that. 96 percent? These are your customers.

So how does a regulatory approach fit into this? Regulation can take two obvious forms: Regulators can make more pronouncements from on high, identifying suspicious practices in the various markets and banning them. Or regulators can layer on more disclosure requirements. But neither restores customer trust. In one case, it becomes the job of the agency to highlight industry shortcomings and pile on more and more "thou shalt not" rules, and, in the other case, consumers are hit with even more paperwork—and a growing suspicion that the game is rigged against them.

Now look, sometimes it is necessary to prohibit unfair practices that have become so pervasive that there is no meaningful choice in the market. And sometimes disclosures can help ensure that families have the information they need to choose financial products that best meet their needs. This is something that I, and many people in this room, have acknowledged in lots of places, including in testimony before Congress.

But I'm here tonight to talk about an alternative recommended by the Financial Services Roundtable three and a half years ago: a principles-based approach.

Instead of creating a regulatory thicket of "thou shalt nots," and instead of using ever more complex disclosures that drive up costs for lenders and provide little help for consumers, let's measure our success with simple questions. Your first principle is "Fair treatment for consumers." I'll paraphrase your explanation of how to tell if that principle has been met: Can customers understand the product, figure out the costs and risks, and compare products in the marketplace? Regulators should be aiming toward the goals you laid out.

Instead of layering on regulations that don't fully protect consumers, a better approach would focus on how to give consumers the power to make the right choices for their families—and, at the same time, to ease the regulatory burden for the lenders. Best of all, if we do this right, perhaps together we can reassure families that the people in this room have met their own goal of fair treatment and that they should be treated as trusted friends.

So let's start with an example that hits home for the vast majority of Americans: a credit card.

The principle is easy: Just as you said, customers should be able to understand the deal, assess the costs and risks, and compare one card to another.

What should we drive toward? Short agreements that can be read in very little time with very high levels of understanding. Certain basic information would have to be made available and each lender would set the terms of its deal: the interest rate, the penalty terms, the free gifts or rewards that come with the card, and any other terms.

For consumers, this would mean products that are easy to understand and easy to compare. For lenders, this means regulatory compliance costs could be reduced. Competition would flourish, but in ways that consumers can see—better customer service, lower prices or cool new iPhone apps.

Of course, lenders could continue to develop their credit agreements and work up new features, but the concept would remain the same: a credit card agreement that can be read and understood in a short time.

The early feedback I've received from credit card issuers suggests that industry is eager for simplification too. Some bankers have told me that a simple contract is exactly what they want too. I believe there are people in this room who are ready to run with this idea.

At its core, this is a pretty simple idea that builds on the basic principles your industry laid down through this group. So I'm here with all of you tonight because I want to be part of a discussion about how we can make the idea of a short, easy-to-read agreement a reality.

It has been a long time since Congress established an agency from scratch. To build the consumer agency, we will be drawing on the proven experience and competence of the staff at many federal agencies. But if all we do is bring together those staffs to continue writing "thou shalt not" regulations and layering on more disclosures, then we will have missed a real opportunity. And if all those resources are used just to force an entire industry, begrudgingly or worse, to accept marginal changes in a few forms, we will have missed a real opportunity. On the other hand, if we use this moment to rethink our approach to regulating financial services, then we can seize the opportunity to do something unexpected—and exceptional.

It is now, right here at the beginning, that we have a remarkable chance to put aside misconceptions and preconceptions—whether they are yours or mine. We have a chance to build something better, to pour over the research and data together, and to identify problems and solutions, with or without regulation.

The new agency's voice will be independent and strong. I hope its goal will be to advance a robust market for consumer credit, one that produces real competition that benefits millions of American families by making it easy for them to know the terms of the deal with their lenders and to shop around for the best products. In the long run, this will be good for families. And, like Joe Kennedy said, it will be good for the lenders who want to build thriving businesses serving their customers. And it will be good for America, for my children and grandchildren and yours, creating more economic stability throughout the system, from families to Wall Street—and back again.

That's what I want to see. I'm here tonight to ask if we can work together, and I'm here to ask you to work with me.

Thank you.

Question Submitted by Rep. Capito

Elizabeth Warren
Special Advisor to the Secretary of the Treasury for the Consumer Financial Protection Bureau
Hearing by House Financial Services Subcommittee on Financial Institutions and Consumer Credit
March 16, 2011

Ms. Warren, section 1071 of the Dodd-Frank Act imposes new data collection, reporting, and retention requirements on financial institutions that receive credit applications from small businesses and from women-owned and minority-owned businesses. Section 1071 authorizes the Bureau to issues rules and guidance to carry out these new requirements, which is critically important since a number of practical implementation issues must be addressed before financial institutions can be expected to comply with this comprehensive mandate. However, section 1071 takes effect on the Designated Transfer Date, which will almost certainly arrive before the Bureau will have had an opportunity to issue the necessary compliance guidance to financial institutions. I am sure you share my concern that the imposition of new duties on businesses should not occur before they possess the information necessary to comply with them, particularly when failing to comply subjects them to private rights of action. To avoid this harsh and unintended result, will you commit to exercising on the Designated Transfer Date the authority that section 1071 provides to the Bureau to exempt financial institutions from the 1071 requirements until the Bureau issues final regulations to carry out this mandate?

Chairwoman Capito, yes, I share your concern on this matter. With my approval, the Bureau's General Counsel, Leonard J. Kennedy, released a letter on April 11, 2011, providing guidance on section 1071. The letter explains our interpretation that financial institutions' obligations under section 1071 do not go into effect until the Bureau has issued necessary implementing regulations. These regulations will address the practical implementation issues you reference in your question and will provide the necessary guidance to ensure that data is collected in a reliable, standardized fashion to accomplish Congress's objectives. Our General Counsel's letter is available on the Bureau's website at www.consumerfinance.gov.

Question Submitted by Rep. McHenry

Elizabeth Warren
Special Advisor to the Secretary of the Treasury for the Consumer Financial Protection Bureau
Hearing by House Financial Services Subcommittee on Financial Institutions and Consumer Credit
March 16, 2011

As you may know, the FTC promulgated a debt relief rule which bans all upfront fees from being paid by a consumer until the debt relief service is fully performed, prohibits misrepresentations and requires consumer disclosures. Due to the FTC Act's limited jurisdiction, the rule only applies to for-profit debt relief companies and not to nonprofits providing the same service. Nonprofit providers make up approximately 85% of the debt relief industry. The CFPB now has the authority to address this gap in the Rule's application since it has jurisdiction over all debt relief services rulemaking. As such, does the CFPB have any plans in the near future to extend the debt relief rule to all consumers regardless of whether they use a nonprofit or for-profit to obtain their debt relief service?

The CFPB team's primary focus has been building the agency's infrastructure, hiring personnel, and preparing to receive authorities transferred from other agencies on July 21, 2011. However, the Bureau is aware of a number of policy issues raised in connection with debt settlement industry practices and has begun initial fact-gathering. CFPB staff members have held informal discussions with existing federal regulators and other stakeholders, including staff of the Federal Trade Commission, regarding industry response to implementation of the FTC's recent rules under the Telemarketing and Consumer Fraud and Abuse Prevention Act.

Once it assumes its full authorities, the Bureau will have a number of tools with which to address debt settlement industry practices. We are still in the process of determining whether regulatory, supervisory, enforcement, or other initiatives may be most effective in addressing continuing concerns. We welcome input on debt settlement issues as we move forward.

Questions for the Record

Elizabeth Warren
Special Advisor to the Secretary of the Treasury for the Consumer Financial Protection Bureau
Hearing by House Financial Services Subcommittee on Financial Institutions and Consumer Credit
March 16, 2011

Questions by Rep. Meeks

1) **How will the Bureau undertake the analyses required under the Dodd-Frank Act, such as the impact that the rule or regulation will have on consumers and what legal protections may already be in place for consumers, before the Bureau can promulgate a rule or regulation and how much weight will be given to the fact that many products and services that the Bureau could potentially regulate are already well-regulated by the states?**

Because the statute specifically requires that the Bureau consider costs and benefits to consumers and financial services providers, the Bureau is building a strong capacity to undertake such analysis. To ensure that all major Bureau decisions are informed by the best available evidence, the Bureau is hiring highly qualified economists and financial analysts who are deeply familiar with financial markets and identifying many sources of possible data. As part of our rulemaking, the Bureau will engage in extensive consultations and analyses to better understand the potential costs as well as benefits of a proposed course of action.

When the Bureau identifies a problem and evaluates the potential need for regulation, it will consider available evidence regarding the extent to which existing federal and state law or regulations are adequate to address the problem.

2) **The Dodd-Frank act specifically directs the Bureau to promulgate rules for such products as private student loans and payday loans. Have you or the Bureau staff begun looking at what other financial products or services you may seek to regulate? If so, what criteria have you used in making these determinations? If not, when do you expect to begin making these determinations?**

Under the Dodd-Frank Act, the CFPB is required to coordinate with the Department of Education (DOE) and others in assembling a study on private student lending activity, and the ombudsman at each agency is to coordinate complaints regarding student loans within their respective jurisdictions. In addition, the Act vests the CFPB with supervisory authority over certain providers of private student loans and payday loans. However, the Act does not mandate that the Bureau promulgate specific rules regarding private student loans and payday loans.

The most time-sensitive rulemaking projects facing the consumer bureau are organizational and procedural regulations needed by every federal agency, regulations mandated by the Dodd-Frank Act, and rulemakings that transfer from other banking or regulatory agencies. These include, for

example, mortgage-related rules concerning consolidation of Truth in Lending Act and Real Estate Settlement Procedures Act disclosures and implementation of Title XIV of the Dodd-Frank Act.

Completing these rulemakings is a significant task. We are simultaneously building expertise and resources to ensure we have a deep understanding of all of the relevant products and markets, including markets for consumer credit such as private student loans and payday loans.

3) **In response to a question regarding the single director versus a commission structure of the Bureau, you stated that you believe that Congress "got it right the first time." Please explain why this structure is preferable to a commission or board**?

In considering the Dodd-Frank legislation, Congress deliberated on this issue and ultimately chose to give CFPB a single agency head. This structure is modeled on the OCC, which has a single agency head -- the Comptroller. A single agency head is better able to react quickly to new threats to consumers that develop in the marketplace. Compared to a multi-member body, a single agency head is also more accountable for an agency's regulatory actions.

Congress considered the option of a five-person commission structure but rejected it in favor of a single Director. We believe the CFPB will function effectively under the structure established by the Dodd-Frank Act.

4) **The Financial Stability Oversight Council has the authority to review and overturn a Bureau rule or regulation if it finds that the rule or regulation poses a systemic risk to the economy. Is there any procedural or legal check on the Bureau director's authority related to rules and regulations that do [not] meet the systemic risk threshold?**

No banking regulator other than the Bureau can have its rules or regulations overturned by any other group of regulators, regardless of their impact on American families or the American economy. The fact that all the members of the Financial Stability Oversight Council (FSOC) can be called on to review any regulations issued by the CFPB itself serves as an important check. The FSOC can veto CFPB rules, or even any portion of a CFPB rule, on the grounds that they or it would jeopardize the safety and soundness of the U.S. banking system or the stability of the U.S. financial system. In addition, the Bureau is required to consult with the appropriate prudential regulators and other Federal agencies both before proposing a rule and during the comment process.

The Bureau's rulemaking authority is subject to several additional constraints. Like other federal agencies, the Bureau's rulemaking is subject to the notice-and-comment procedures of the Administrative Procedure Act and also subject to judicial review to ensure that the Bureau operates within the authority granted to it by Congress. In addition, the Bureau's regulations can be overturned by Congress.

The Bureau's rulemaking authority is also subject to other constraints that do not apply to other independent banking agencies. In addition to required consultations with other regulators and facing the possibility of veto by the Financial Stability Oversight Council, the Bureau is required to consider the costs and benefits of its proposed rules for financial services providers and to consider the impact on smaller depository institutions and consumers in rural areas. Before proposing certain rules, the Bureau must also convene special panels ("SBREFA" panels) to obtain feedback and expertise from representatives of small business that may be affected by the proposal.

5) **As I understand it, the Treasury Secretary is authorized to act on behalf of the Bureau during this start-up period until a Director is confirmed or until we hit the designated transfer date on July 21, 2011. What is your understanding of the Treasury Secretary's authority to promulgate or adopt rules after July 21st of this year in the absence of a Senate-confirmed Director?**

Under section 1066 of the Dodd-Frank Act, the Treasury Secretary is authorized to perform certain functions of the Bureau until a Director is in place. After the designated transfer date, the Secretary's authority is expanded to encompass the authority to prescribe rules pursuant to the consumer financial protection functions transferred from other agencies.

6) **I know that you have entered into at least one memorandum of understanding with state banking regulators. Please detail how this MOU will operate in practical terms and whether you are pursuing similar agreements with other state regulators.**

The Bureau has entered into a memorandum of understanding (MOU) for information sharing with the Conference of State Bank Supervisors and, as of this date, 26 state banking or nondepository financial services regulators in 21 states and Puerto Rico. Four other associations of state financial regulators have also signed on to the MOU: the National Association of Consumer Credit Administrators, American Association of Residential Mortgage Regulators, Money Transmitter Regulators Association, and North American Collection Agency Regulatory Association. The Bureau is encouraging additional states to sign this MOU.

The MOU establishes a legal framework to permit the states that have signed and the Bureau to share confidential supervisory information, which may include nonpublic and personal information. Such information must be treated in a confidential manner. The MOU also establishes a framework for cooperation between the Bureau and the states relating to supervision and enforcement. Although the MOU imposes no specific obligations on the parties to share information or otherwise cooperate, they agree to work together to:

- Promote consistent standards for compliance examinations;
- Efficiently use resources of the Bureau and state regulators, including through the development of a framework for coordinating supervisory activities;
- Promote efficient information sharing between the Bureau and state regulators;
- Effectively enforce federal consumer financial laws and state consumer protection laws; and

- Minimize the regulatory burden on providers of consumer financial products and services operating in multiple states.

In practical terms, the MOU will set the ground rules if the Bureau and a state in fact agree to share information. The Bureau anticipates working with states on an individual basis to meet the requirements in Title X of the Dodd-Frank Act to minimize regulatory burden by utilizing, where possible, state information and reports. For example, Section 1024(b)(3) of Title X provides that, to minimize regulatory burden, the Bureau shall coordinate its supervisory activities regarding non-depository institutions with the states and the prudential regulators. Section 1024(b)(4) similarly provides that the Bureau shall, to the fullest extent possible, use reports pertaining to applicable persons that have been provided or required to have been provided to a federal or state agency.

7) **The Bureau's website encourages consumers to share their complaints. You have stated publicly that the Bureau intends to maintain a database of all these complaints and use them to, among other things, compile statistical analyses. Please provide the committee with the number and nature of complaints that have been filed thus far by category, such as mortgages, credit cards, consumer loans, etc.**

Later this year, the Bureau will launch its consumer response function. Consumer response will intake, handle, and respond to consumer complaints and help consumers find answers to inquiries about consumer financial products and services. In the meantime, we provide links to online resources relating to mortgages, credit cards, credit reports, bank accounts, and other financial products and services on our website. We also feature a consumer question and complaint assistant on our website to help consumers identify which agency is currently responsible for dealing with their problems.

CFPB began receiving consumer complaints from the onset of the implementation process. When individual complaints are received, we respond to consumers with contact information for the appropriate government agencies that have the capacity and infrastructure to address the complaints.

As of April 1, 2011, the CFPB had received 412 written consumer complaints. The top five categories of complaints -- mortgage/home loan (204), consumer credit (98), other product or issue (36), deposit (24), and debt collection (15) -- represent 92% of total complaints received. The following table details the number and nature of complaints the Bureau has received thus far, by category.

Product Categories	**No.**
Mortgage/Home Loan	204
Consumer Credit (includes credit cards)	98
Other Product or Issue	36
Deposit	24
Debt Collection	15
Consumer Credit Reporting	12
Insurance	9
Investment Product	6

Financial Advisory Service	4
Payment Instrument or Service	3
Leasing	1

Please note that the statistics provided from the CFPB Consumer Response database is not statistically representative of the experience of all consumers of financial products and services. This table only represents the views of the individuals who choose to visit our website or send correspondence through the mail.

8) Have you or Bureau staff drawn any conclusions, preliminary or otherwise, regarding the nature of complaints filed to date?

The Bureau has not yet launched its consumer response function. Consequently, the Bureau is deferring any substantive analysis and conclusions for the time being.

Questions Submitted by Rep. Westmoreland

Elizabeth Warren
Special Advisor to the Secretary of the Treasury for the Consumer Financial Protection Bureau
Hearing by House Financial Services Subcommittee on Financial Institutions and Consumer Credit
March 16, 2011

1) **Ms. Warren, the President has made a point about getting rid of regulations that are "not worth the cost" or are "just plain dumb." Many of us share his view that getting rid of these kinds of regulations can help create jobs. I am particularly concerned that an interpretive rule issued by the Department of Housing and Urban Development in June 2010 is already adding to the devastating impact being felt by small businesses that provide support for home warranty companies across the country.**
   - **Does CFPB support this HUD interpretation?**
   - **Once the RESPA statute is formally transferred to CFPB from HUD, will CFPB keep these regulations, including regarding home warranties? Or will they be redone?**
   - **Will you please submit for the record a list of rules, regulations and interpretive guidance issued in the last year that the CFPB will not keep once statutes are transferred under Dodd-Frank?**
   - **If there is no confirmed director, will CFPB be able to take over these statutes, including RESPA and issue rules and regulations? If there is no confirmed director, will CFPB enforce rules and regulations?**
   - **Will you commit to working with the home warranty industry to find a solution to the HUD guidance?**

The CFPB team has not yet had an opportunity to perform a detailed analysis of the home warranty interpretation. We would be happy at the appropriate time to work with your staff, the home warranty industry, and other interested persons to educate ourselves about this interpretive guidance and any issues it may present. The CFPB team is focused primarily on building its infrastructure, hiring personnel, and otherwise preparing to take on the responsibilities it will assume later this year, and it has not determined what transferred rules it will seek to revise or remove. As a general matter, rules issued by other agencies under the enumerated consumer laws will remain in place after the transfer date.

Under section 1066 of the Dodd-Frank Act, the Treasury Secretary is authorized to perform certain functions of the Bureau until a Director is in place. After the designated transfer date, the Secretary's authority would encompass the authority to prescribe rules pursuant to the consumer financial protection functions transferred from other agencies. These transferred authorities include HUD's rulemaking powers under RESPA. Any CFPB rulemaking in this area would of course have to conform to applicable requirements in the Administrative Procedure Act and the Dodd-Frank Act.

2) **In July the CFPB will be assuming HUD's responsibilities under the S.A.F.E. Mortgage Licensing Act, which requires licensing for loan originators. I understand that the all-in cost of licensing in some states, including testing and fees, can be quite expensive, ranging up to $1,500 to $3,500 per originator. States have amended their laws to require loan originator licensing in compliance with S.A.F.E. and some are now considering a de minimis exception for individuals who originate 5 or fewer closed mortgage loans for a single federally chartered depository institution in a calendar year.**

   In a letter to HUD dated July 22, 2010, Chairman Bachus and Ranking Member Frank, the authors of the S.A.F.E. Act, have indicated their view that a de minimis standard adopted by a state would be consistent with the S.A.F.E. Act.

   - **Will CFPB adopt this intent of Congress and allow states to issue such a de minimis exemption for originators of 5 or fewer mortgages?**

The CFPB team has not conducted a full legal and policy analysis of this issue but will do so at the appropriate time pending conclusion of HUD's rulemaking process.

3.) **In your testimony you state, "The lender that wins a customer's business in this market isn't always the one that offers the product that best matches the consumer's needs and preferences."**
   - **Who determines the consumer's needs and preferences? The consumer? The lender? Or is it the government?**
   - **Does the relationship between customer and business matter in your calculation of a consumer's "needs and preferences"?**

Consumers determine their own needs and preferences. In order to fulfill their preferences and needs, however, consumers need accurate and usable information on the benefits, costs, and risks of different types of loans. A customer needs to know the full price of a particular loan, to assess the risks of such a product, and to make comparisons among products. The CFPB's primary mission is to ensure consumers have this basic information. During the housing bubble, we saw rapid growth in nontraditional home mortgage products with complex terms and hidden risks that many borrowers did not understand. Federal mortgage disclosures may have made that problem worse by providing people needless detail while obscuring major risks, lengthening contracts and making them even more complex. Right now, the Bureau is working to address that problem by consolidating and simplifying two different federal mortgage disclosure forms – one under the Truth in Lending Act and the other under the Real Estate Settlement Procedures Act – so that consumers can see a loan's key terms, price, and risks on one short, easy-to-read disclosure. The consolidation of these forms will also reduce unwarranted regulatory burdens for lenders.

4) **In response to Mr. Miller (NC) during the hearing you stated that you had never heard of a consumer pick[ing] a subprime loan over a prime loan. But, do you concede that there are some situations where a consumer might pick a higher priced product or service because they believe it fits their need the best? Please provide an example of**

when you believe a person might choose a product or service that could cost them more now, but save them time and money later.

- **Do you consider interest only and adjustable rate mortgages to be subprime? Do you believe a consumer could choose an adjustable rate mortgage or interest only mortgage over a fixed rate mortgage because the consumer determines it is best for them?**
- **Do you believe if a consumer chooses an adjustable rate mortgage or interest only mortgage over a fixed rate mortgage they are not acting in their best interest?**
- **Should the government be second guessing these decisions by a consumer?**
- **Do you believe a consumer should have to justify their mortgage choice to the government?**

A consumer who wants level monthly payments over the life of the loan might pick a fixed-rate mortgage that was more expensive over an adjustable-rate loan with a lower initial interest rate. Conversely, sometimes an adjustable-rate mortgage may fit a borrower's situation better than a fixed-rate loan. One example is where the borrower is planning to move in two or three years. The primary mission of the CFPB is to ensure that consumers have the information they need to evaluate different loans and other consumer financial products and services.

5) **Earlier this year, President Obama directed all agencies to look into the regulatory structure and identify areas to reduce regulatory burdens. What regulations has the CFPB identified as duplicative? Please provide a list for the record? How rules and regulations are a direct result of the Dodd-Frank Act?**

President Obama's Executive Order 13563 does not apply to independent agencies, but the Dodd-Frank Act specifically authorizes the Bureau to exercise its powers on an ongoing basis for the purpose of "ensuring that … outdated, unnecessary, or unduly burdensome regulations are regularly identified and addressed in order to reduce unwarranted regulatory burdens." The statute further requires the Bureau to evaluate the benefits and costs of its rulemaking proposals and to conduct special outreach concerning certain rules to evaluate potential impacts on small businesses.

We are focusing our initial efforts on merging disclosures concerning mortgage loans that are required under the Truth in Lending Act and Real Estate Settlement Procedures Act. As Congress recognized in directing the Bureau to propose consolidated forms by July 21, 2012, the current forms overlap significantly, creating potential confusion for consumers and additional implementation burden for lenders.

As we move forward, we will be sensitive to the need to harmonize and streamline regulations that the Bureau will inherit from existing federal regulators to reduce unwarranted regulatory burdens.

6) **Does the CFPB support the Treasury's white paper on GSE reform? Which option does CFPB endorse?**

Section 1074 of the Dodd-Frank Act did not assign the CFPB a role with respect to Treasury's study. While GSE reform is an important issue, the CFPB team has been focused on building the agency and on preparing to receive authorities transferred from other agencies on July 21, 2011.

○