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EXAMINING HOW THE CONSUMER FINANCIAL PROTECTION BUREAU COLLECTS AND USES CONSUMER DATA

HEARING

BEFORE THE

SUBCOMMITTEE ON FINANCIAL INSTITUTIONS AND CONSUMER CREDIT

OF THE

COMMITTEE ON FINANCIAL SERVICES

U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRTEENTH CONGRESS

FIRST SESSION

JULY 9, 2013

Printed for the use of the Committee on Financial Services

Serial No. 113–36

U.S. GOVERNMENT PRINTING OFFICE

82–858 PDF WASHINGTON : 2014

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

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EXAMINING HOW THE CONSUMER FINANCIAL PROTECTION BUREAU COLLECTS AND USES CONSUMER DATA

Tuesday, July 9, 2013

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 10:04 a.m., in room 2128, Rayburn House Office Building, Hon. Shelley Moore Capito [chairwoman of the subcommittee] presiding.

Members present: Representatives Capito, Duffy, McHenry, Pearce, Posey, Fitzpatrick, Westmoreland, Luetkemeyer, Stutzman, Pittenger, Barr, Cotton, Rothfus; Maloney, Scott, Velazquez, Lynch, and Heck.

Ex officio present: Representatives Hensarling and Waters.

Chairwoman CAPITO. The subcommittee will come to order. Without objection, the Chair is authorized to declare a recess of the subcommittee at any time. I don't think that is going to be necessary.

We are here this morning to learn about the Consumer Financial Protection Bureau's (CFPB's) collection and use of consumers' personal financial data. Unfortunately, the fact that we need today's hearing is an important indication of how little meaningful information the CFPB has been providing to us and to the public.

The American people have a right to know how a government agency is collecting and using their personal financial data. So far, the CFPB has declined to provide, I believe, concrete answers to these questions, and I hope we get some of those answers on record today.

This past April, Senator Crapo, the ranking member of the Senate Banking Committee, highlighted the CFPB's decision to not provide him with the specific number of consumer accounts the agency is monitoring. Instead, we were forced to rely on accounts from news media outlets which indicate that the number of accounts may be as high as 10 million.

For an agency whose initial leader once touted that, "This consumer bureau belongs to the public, and we are building it right out in the open there for anyone to see," the refusal to answer this simple question is troubling. Without definitive answers to this and other basic questions, it is difficult for consumers to determine how much of their financial data is being aggregated by the CFPB.

It is critical, I believe, for American consumers to know why a Federal agency is collecting their financial data and how the CFPB is ensuring that data has the proper safeguards. Last year, the GAO and the Federal Reserve's Inspector General found serious deficiencies with the CFPB's systems and controls for the data they and the outside entities they are contracting with are collecting.

More recently, in March of this year, the Federal Reserve IG issued a report with nine recommendations for the CFPB to improve the consumer response system's security controls. I am deeply troubled that not only do we not know how many consumer data files the CFPB has collected, but also that outside entities have expressed serious concerns about the ability of the CFPB to safeguard this data.

I am also concerned about the use and storage of personally identifiable information when collecting consumer data files. Despite the clear intent of Congress that the CFPB should not be collecting personally identifiable information, the CFPB did acknowledge in the fall of 2012, in a system of records notice that the agency will be collecting personally identifiable information that will be held indefinitely to match data files with other records in order to provide the CFPB with more comprehensive data to analyze. Much like the earlier issues I have highlighted, we simply do not know the extent to which the CFPB is collecting, storing, or having outside contractors collect and store consumers' personally identifiable information.

American consumers want answers to these questions. It is my hope that today's hearing will begin a more transparent discussion of how the CFPB is collecting and using consumer data. Many of us have feared that the CFPB would eventually limit the ability of consumers to choose the financial product that best suits their individual needs. However, the prospects of the CFPB watching a consumer's every financial decision could be troubling.

I now yield to Representative Maloney for the purpose of making an opening statement.

Mrs. MALONEY. Thank you, Chairwoman Capito, and welcome to Mr. Antonakes, the Acting Deputy Director of the CFPB. Thank you for being here.

I would like to remind my colleagues that it was insufficient oversight of many financial institutions and the lack of oversight of others that led to the financial crisis. By all accounts, the data wasn't there to make good judgments about what was happening to our economy. Data-driven decisions are absolutely critical to making informed and intelligent determinations about the impact of financial products and their impact on consumers and the broader economy, and to improve the supervision of financial institutions, including those firms like debt collection companies and payday lenders that have gone largely unregulated until now. We know that industry uses data to make decisions and market products. The CFPB should use and have access to the same information to protect the overall economy and to protect consumers.

I would like to note that there have been no objections, to my knowledge, to the CFPB's work from the privacy groups, those groups whose goal is to protect the privacy of consumers. In fact, I ask unanimous consent to place in the record a letter from pri-

vacy and consumer groups in support of the CFPB's use of data. It came in this morning, and it includes the Center for Digital Democracy, Consumer Action, the Consumer Federation of America, the Consumer Watchdog Privacy Rights Clearinghouse, Privacy Times, and USPIRG. They are supporting the use of data and the collection of it.

And may I place this in the record, Madam Chairwoman?

Chairwoman CAPITO. Without objection, it is so ordered.

Mrs. MALONEY. Thank you so much. And I think that it is important that we are having this hearing, because it allows the committee to examine how the CFPB is carrying out both its mandate to protect a data-driven agency and its mandate to protect the privacy of consumers and the confidentiality of the information that it collects.

The more data the Bureau has, the better informed it is when it writes rules. We also, however, have to ensure that the privacy of consumers is properly protected. The key will be striking the right balance between the need for sufficient data and the need to protect consumers' privacy.

The Bureau has done a good job so far in using data analysis to protect consumers and to inform policymakers. For example, in April CFPB Director Cordray—the Bureau needed the authority to collect and analyze data to publish its report on the effects of the CARD Act, a bill that I authored and that I am very close to. And I was very, very encouraged when the Bureau found that the CARD Act has delivered significant benefits to consumers. That is important. This kind of information is helpful for policymakers, because now we know which approaches to regulation work and which approaches don't work.

Turning to its second mandate, it is important to remember that when Congress authorized the CFPB to collect data in Dodd-Frank, it included numerous safeguards designed to protect consumers' personal privacy and to prevent the misuse of confidential information. For example, while the Bureau has the authority to collect data to inform its rule-writing, Congress specifically prohibited the Bureau from collecting data for the purpose of analyzing personally identifiable financial information.

In fact, it is my understanding that the information and who the person is, is completely divided so that you can't even get at that kind of information without going to a second step. Congress required the Bureau to establish and comply with separate rules regarding the confidential treatment of personal information that it collects. Even when the Bureau is sharing information with its fellow bank regulators, Congress specified that the Bureau can only do this, "subject to the standards applicable to Federal agencies for protection of the confidentiality of personally identifiable information."

Not only do other banking regulators often purchase data from the same outside vendors as the CFPB, but other banking regulators also collect far more data from financial institutions than the CFPB does. For instance, in order to prepare the annual stress tests for the largest banks, the Federal Reserve requires these banks to hand over significantly more information than they have to submit to the CFPB.

When the Bureau purchases data from outside vendors or collects it directly from financial institutions, the Bureau rigorously follows its privacy and confidentiality mandate. And that is very important.

Finally, I would like to point out that despite all the talk about the CFPB allegedly being unaccountable, this is the 38th time that a CFPB official has testified before Congress, and we welcome him, and I look forward to his testimony.

And I yield back. Thank you.

Chairwoman CAPITO. Thank you. Mr. Duffy for 2 minutes.

Mr. DUFFY. Firstly, I thank the chairwoman for holding this very important hearing. I think it is important that America knows the kind of information the CFPB is collecting on them.

Some of my friends across the aisle will say that the more data that the Bureau has, the more data that our government has on American citizens, the better off we are, the safer we are. But if you look at the past several months, Americans have found out far more information about what their government is doing in regard to collecting information on them, whether it is the NSA or the IRS.

Many of my constituents are concerned that our government has their health records, their phone records, their Internet records, their e-mails, and now the CFPB is monitoring their financial records. And we have a concern about our constituents' right to privacy in regard to the information that the CFPB or others collect in regard to their very private financial transactions.

My concern here is that much of the information that we received about your data collection or your monitoring of financial information has come from news reports or from Freedom Watch's requirement for freedom of information. And our concern is that you have been less than forthright about saying, "This is what we are collecting, this is who we are collecting it from, this is how long we are keeping it, and this is what we are using it for."

Frankly, there has been a veil of secrecy around the collection of data at a time when the agency, as it is ramping up, has made a pledge to Congress and to the American people to be open and transparent. I believe that the agency or the Bureau should lead by example.

If you want to collect information about Americans' financial transactions, if you want to monitor their financial transactions, you should make a request to them, ask for their permission to collect that data, but you shouldn't collect it without their permission. I yield back.

Chairwoman CAPITO. Mr. Scott for 3 minutes.

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

This is a very timely hearing. The Nation's attention is riveted on this whole issue of monitoring and surveillance. And I think it is very important that we have a very clear explanation, a clear understanding from the CFPB, and answer each of these charges—and they are charges coming from the other side. And this is healthy. This is what American democracy is all about.

Let me just remind everyone why we have the CFPB. The CFPB was put in the Dodd-Frank Act to protect consumers. You cannot protect consumers without the capacity of gathering information. If

you limit that capacity of the CFPB, it is sort of like cutting the legs out from under them and then condemning them for being a cripple.

This is an opportunity for us to let our light shine in this Financial Services Committee and get down to the truth of the matter. And I urge my colleagues on the other side to not use this in scoring political points for one side or the other, but let's score some points for the American people and let us shed some light on the fact that this CFPB needs to be able to gather information and data to protect our public from unscrupulous lenders, and to help make sure we stabilize our financial system.

And the other matter is to deal with how we deal with the reach of the data information overseas. We are no longer just here in the United States. Our economy is worldwide. How do we interface the collection of our data and information in that way?

I think, to Chairwoman Capito's concerns—which are legitimate, and I am glad that she and a couple of my colleagues brought it up—about this personal identification of information, let me make clear that at the very beginning, in Dodd-Frank, the law which created this, it totally forbids the collection of any data that can be personally identified by name, or by Social Security number. All of that is spelled out. It is there. They only have the same charge that our other regulators have, the Fed and others. And we are not talking about that.

So I just want to make sure we understand that we have some serious, serious questions to ask here. I want to take the opportunity to do so. And I do understand the concerns of the other side, and I respect them, and I think there are legitimate points that we have to make sure we get an answer to, from you, Mr. Antonakes.

Thank you.

Chairwoman CAPITO. Mr. Pittenger for 1½ minutes.

Mr. PITTENGER. Thank you, Madam Chairwoman. Thank you for yielding me the time to address this vital issue regarding methods of data collection of the CFPB.

The privacy of American citizens, whom we all have the responsibility of representing, is at stake. Over the past several years, we have learned how the IRS targeted conservative groups during the last Presidential election. We have seen the Department of Justice attack reporters for upholding the First Amendment and how one individual can inflict immense damage on our national security apparatus with NSA data. And now we observe how the CFPB is monitoring and collecting data on millions of Americans with the use of their credit cards, mortgages, and their checking accounts.

The recent Bloomberg articles from this past April state how the CFPB has already targeted at least 10 million Americans in their quest for this private information. The CFPB is obtaining this information in two different ways: by putting pressure on banks under certain Dodd-Frank provisions; and by acquiring it from outside sources. In the wake of what has happened in the IRS and the Department of Justice, the CFPB should exercise extreme restraint with their enormous power. The American people are very hesitant with government overreach, and these new policies could easily fall into the same abusive actions as other Federal agencies.

The questions being addressed here today go to the heart of American liberty and freedom. And I do look forward to the answers. Thank you.

Chairwoman CAPITO. Thank you.

I would like to yield 2½ minutes to the ranking member of the full Financial Services Committee, Ms. Waters from California.

Ms. WATERS. Thank you very much.

The Consumer Financial Protection Bureau fully opened its doors on July 21, 2011. Today, it is just shy of 2 years old. In the months before the agency officially opened, members of the transition team testified before Congress 7 times. As it was a young agency being built from the ground up, that may have been necessary. In addition to the 7 times the CFPB has been called to Congress to testify prior to its opening in July 2011, CFPB officials have been called up to testify in Congress 31 times, more than once a month.

During that time, Director Cordray's nomination has been held up by a Senate minority who claims they want to improve an agency whose creation most of them never supported in the first place. Now, it makes good sense for Congress to perform oversight of government agencies, but at some point, it may be appropriate to consider whether oversight has become a disguise for harassment.

However, in the last 2 years, when the CFPB has not been sitting in a committee room, they have been hard at work. In addition to setting up a brand-new agency, the first of its kind, and issuing regulations that are directed by the Dodd-Frank Act, they have been tirelessly enforcing the laws Congress passed to protect consumers. The CFPB has recovered over $400 million for 6 million American consumers who were the victims of predatory financial practices.

Today, the committee has gathered to talk about the CFPB's data collection practices. We share your concern that this data be treated carefully by regulators, credit-reporting bureaus, data aggregators, and financial services providers to protect the privacy of consumers. We would note that Section 1022 of the Dodd-Frank Act specifically bars the CFPB from gathering or analyzing personally identifiable financial information of consumers.

It is clear that the CFPB has a duty to protect not just the consumers' choices, but also their privacy. It is unclear to me if any legitimate consumer or privacy advocates have raised concerns about the CFPB's data collection practices thus far. However, it is clear that access to this data is vital to the CFPB's mission of protecting consumers.

If we are going to expect the CFPB to create a level playing field for consumers, they are going to need to have at least the same level of access to information about consumers as the largest banks and financial services providers have. That same data will also allow them to emulate other regulators, like the FDIC and the Fed, which provide markets with important consumer banking data and will be a tool for identifying bad lending practices before another crisis happens.

I strongly support the Consumer Financial Protection Bureau and think they have been doing an excellent job on behalf of the consumers. And I look forward to the witness' testimony. I yield back the balance of my time.

Chairwoman CAPITO. Thank you. Mr. Fitzpatrick for 1½ minutes.

Mr. FITZPATRICK. Thank you, Madam Chairwoman.

Today's hearing is, I think, very timely. Events in the news have focused the American people's attention on the very important subject of privacy and government surveillance. Data collection and research is not a bad thing. In fact, it is the sort of diligence that we would expect of our regulators.

However, just because a government agency has good intentions or a benevolent-sounding name doesn't mean Congress should just look the other way while tens of millions of Americans are having their financial history gathered up and stored.

Just as the Dodd-Frank Act gave the CFPB the authority that it is now exercising to collect this data, the law also put some very specific constraints on this activity. Recent stories involving the NSA have demonstrated that the American people and Members of Congress have every reason to be suspicious of so-called metadata gathering, and any analysis of that.

We don't just need assurances that there is nothing potentially harmful or invasive going on. We need maximum transparency to ensure it beyond any doubt. The CFPB must do more in this regard.

The right to privacy is not an inconvenient matter that can just be swept aside when it hinders government investigations. It is a constitutional right that deserves the highest levels of protection. Privacy and freedom from unwarranted surveillance are fundamental to our individual liberties, and we cannot allow any trespass on these hard-fought principles, so I appreciate the chairwoman's work on this matter, and I look forward to the hearing.

Chairwoman CAPITO. Thank you.

Our final opening statement will be from Mr. Luetkemeyer for 1½ minutes.

Mr. LUETKEMEYER. Thank you, Madam Chairwoman.

For the past several months, American citizens have been made aware that the IRS has targeted specific organizations based on political activities. We have witnessed a significant leak from a private contractor who exposed classified and protected documentation showing a broad abuse of current law. We continue to see the potential for personal information to be misused and compromised by the government.

And now we learn that the CFPB, an agency that has always touted itself as being transparent, could be collecting and storing individualized information on potentially millions of Americans.

Despite the self-professed claims of transparency and consumer protection, the CFPB has proven to be unwilling to show how much individual data it is collecting, the level of detail of the information it is collecting, the number of people who have access to this data, or which foreign nations may have access to the information.

The simple fact of the matter is that the CFPB could very well be jeopardizing consumer protection instead of ensuring it. It is time for the CFPB to answer questions and allow for the transparency it claims to value as an organization. I look forward to learning more about the activities of the CFPB, and I hope that our witnesses will be forthcoming and affirmative.

With that, Madam Chairwoman, I yield back.

Chairwoman CAPITO. The gentleman yield backs.

I would like to introduce Mr. Lynch for the purpose of making an introduction.

Mr. LYNCH. Thank you, Madam Chairwoman. I appreciate the courtesy. And I thank the ranking member, as well.

I would like to take this opportunity to welcome—on behalf of Mr. Capuano and I; Mr. Capuano is the senior Member of the Massachusetts delegation on this committee, and he is in another hearing—Mr. Steve Antonakes, who is an over-20-year employee of the Division of Banking in Massachusetts. He spent almost 8 years as the head of our banking division in Massachusetts. As you know, in Massachusetts we have a long and strong tradition of banking regulation that is vigilant in the protection of consumers, while fostering competitive financial markets. So, Steve, thank you for coming to the committee and helping us with our work. And I look forward to your testimony.

And again, Madam Chairwoman, I thank you for the courtesy. I yield back.

Chairwoman CAPITO. Thank you.

I would like to welcome our witness, Mr. Steven L. Antonakes, who is the Acting Deputy Director of the CFPB. Mr. Antonakes, you are recognized for a 5-minute statement. Thank you.

STATEMENT OF STEVEN L. ANTONAKES, ACTING DEPUTY DIRECTOR, CONSUMER FINANCIAL PROTECTION BUREAU (CFPB)

Mr. ANTONAKES. Great. Thank you. Good morning.

Chairwoman Capito, Ranking Member Waters, Ranking Member Maloney, and members of the subcommittee, thank you for the opportunity to testify today about the fundamental importance of data analysis to the Consumer Financial Protection Bureau's mission to protect consumers. My name is Steven Antonakes, and I serve as the Acting Deputy Director for the Bureau.

The Bureau is a data-driven agency, because Congress recognized that the Bureau cannot do its job of protecting consumers and honest businesses unless it understands the consumer financial markets it oversees. The Dodd-Frank Act specifically directs the Bureau to gather market information pursuant to a variety of authorities and through multiple sources. Like other financial service regulators, the Bureau only effectively supervises markets which it understands.

As required by Dodd-Frank, data analysis enables the Bureau to not only better protect and educate consumers, but it also enables the Bureau to coordinate with other regulators and craft tailored rules based on a careful examination of costs and benefits. The Bureau's evaluation of this data also allows it to provide meaningful reports, as required by Congress, and to perform its consumer response function.

In Fiscal Year 2012, the Bureau spent $7 million on obtaining data to support its mission. To place this into context, that comprised 2.4 percent of the Bureau's total budget. To date, the Bureau's Fiscal Year 2013 data procurements total $3 million, or 0.6 percent of the total budget. The Bureau makes every effort to col-

lect market data in an efficient manner with an eye towards reducing the burden and cost on industry. The Bureau also makes every effort to safeguard and protect information that it does obtain.

The Bureau collects and studies data to protect consumers throughout the United States in accordance with its statutory mandate, not to study any particular individuals. In an effort to minimize cost and burden on financial institutions, the Bureau relies on information it already has or that other regulators share. This practice is not only efficient, but also saves industry from providing the same information on multiple occasions.

We may also acquire data from third parties and have already collected and compiled information.

There were also instances where market participants and individuals voluntarily submit data. For example, the Bureau has successfully tackled some of the unique problems facing military consumers based on data submitted to our consumer response office. The Bureau has helped servicemembers resolve issues with mortgage servicers about permanent change of station orders and issued a report detailing the types of consumer financial hurdles servicemembers and their families experience.

The Bureau is also committed to ensuring protection for consumers' personal privacy. In the very limited cases where the Bureau obtains personally identifiable information, it stores and protects that information, along with other confidential information and data, according to information security requirements that comply with applicable Federal laws and regulations. The Bureau publishes a privacy policy on its Web site that sets forth privacy principles and steps that it takes to protect consumers' personal privacy.

We at the Bureau are committed to delivering tangible value to American consumers. With that in mind, I would like to share some Bureau accomplishments where data has impacted our work and benefited consumers.

$6.5 million: the amount returned to servicemembers who participated in the Military Installment Loan Educational Services (MILES) auto loan program and were misled about the fees they were charged and the true cost of their auto loans.

50,000: the number of servicemembers who will get money back as a result of the Bureau's supervisory and enforcement review of the MILES program.

$432 million: the amount of money being refunded through Bureau enforcement actions to consumers who have been subjected to deceptive practices.

6 million: the number of consumers receiving refunds because of 2012 Bureau enforcement actions.

More than 150,000: the number of complaints the Bureau has handled from consumers in every State across the country since the Bureau formally opened its doors in July 2011.

28,000: the number of responses from experts and individuals impacted by student debt. This information enabled the report on student loan affordability.

And 644: the number of colleges voluntarily adopting the financial aid shopping sheet developed by the Bureau and the United States Department of Education.

Chairwoman Capito, Ranking Member Maloney, Ranking Member Waters, and members of the subcommittee, thank you for the opportunity to testify before you today. I will be happy to answer your questions.

[The prepared statement of Mr. Antonakes can be found on page 52 of the appendix.]

Chairwoman CAPITO. Thank you, Mr. Antonakes. I will now recognize myself for 5 minutes for the purpose of beginning the question-and-answer period.

In my opening statement, I asked for specific numbers on how much data you are collecting and from how many individual consumers. Can you give me some specifics on that? You gave me a lot of numbers, but specifically on how many accounts you are collecting and monitoring?

Mr. ANTONAKES. Thank you, Chairwoman Capito. The important thing for us is the data collection that we conduct serves the primary mission of the Bureau, and that is to protect consumers.

Chairwoman CAPITO. Right, so how many—

Mr. ANTONAKES. The vast majority of data that we collect is anonymized and does not include personally identifiable information. And that goes for all the data that we purchase and data that—

Chairwoman CAPITO. And for how many accounts is that? How many accounts is that? If it doesn't have any personally identifiable information, what is the number? That is what I am trying to get.

Mr. ANTONAKES. I don't have the exact number. We will be happy to follow up with you on what the number is, but we do look at a substantial amount of data in order to understand the markets and determine where risks may lie.

Chairwoman CAPITO. Right, so—

Mr. ANTONAKES. The only instances in which we will take in personally identifiable information would come through one of two channels. The first would be when consumers affirmatively reach out to us through our Consumer Response hotline and are seeking our help in resolving a complaint. The only other circumstance is when we are using our supervisory tool, conducting examinations of the banks, the credit unions, and the nonbanks under our jurisdiction. The Bureau conducts examinations in the same fashion that all of the prudential regulators and State regulators do.

And in that instance, that work is what has resulted in our ability to refund significant amounts of monies to consumers. We are seeking data to understand markets and to protect consumers.

Chairwoman CAPITO. Right.

Mr. ANTONAKES. We are not seeking data to monitor individual Americans.

Chairwoman CAPITO. Okay. So in your strategic plan, you mentioned that you were going to maintain a credit card database covering 80 percent of the credit card market, correct? That is in your statement.

Mr. ANTONAKES. Correct, yes.

Chairwoman CAPITO. And so that would be over 900 million accounts. It seems to me, if you are looking for trend lines, 80 percent—I took statistics when I was in school 150 years ago—you

don't need 80 percent of the market to figure out what the trend lines are.

Let me ask you this. You mentioned, too, $7 million for obtaining data. This year, $3 million for obtaining data. Is that the amount of money that the CFPB has paid to private contractors for obtaining financial data?

Mr. ANTONAKES. I believe that to be correct, yes.

Chairwoman CAPITO. That is correct?

Mr. ANTONAKES. I believe that to be correct, yes.

Chairwoman CAPITO. Okay. What kind of proper background investigations do these private contractors have to be able to handle—we have already learned about somebody taking a thumb drive in and exposing national security secrets. What kind of precautions do you require for your private contractors?

Mr. ANTONAKES. We do vet the contractors. Moreover, it is written into our contracts that they have to abide by the Privacy Act and comply with all of the laws. They also have the safeguards that we would have if we were collecting that data on our own behalf.

Chairwoman CAPITO. And then you mentioned, too, that you data share with the other regulators so you are not duplicating this. Can you tell me, from an institutional standpoint, we have heard anecdotally about a lot of institutions which are having to data dump to everybody and they are wondering what happens with all this data. So you are telling me that all the repetitiveness and redundancy is out of the system? That is not what we are hearing anecdotally from the institutions which are regulated by you and others.

Mr. ANTONAKES. That is a great question. I think, in many respects, it gets to the kind of new relationships we continue to furnish with our sister regulatory agencies. We certainly want to ensure that, to the extent we are both seeking information, we are coordinating together. It is far better for us to share that information directly with the Federal agencies than to make a repetitive data request of a financial institution.

Moreover, our examiners are instructed that if the institution tells our examiners that they have already provided very similar data to another agency, they should accept that data in lieu of a second data request. If there is other data that the institution has run for its own purposes, that would essentially provide what we need, they should accept that.

Chairwoman CAPITO. So would you say that is more of a work in progress, where the coordination—

Mr. ANTONAKES. I would say it is a transitional issue that has gotten better over time and will continue to do so.

Chairwoman CAPITO. Okay. How long do you store data for when you collect it, say, in 2013? How long does it stay a part of the system? Is it in the cloud? Or where is this data?

Mr. ANTONAKES. We are in the process of developing and getting approved, through the National Archives, our data destruction schedules. They have not been approved as of yet. We want to make sure that the data is appropriately safeguarded and that we are taking it off our systems in appropriate periods of time.

Chairwoman CAPITO. So basically what you are saying is that you are still holding the data that you have originally collected, because you don't have a data destruction plan, correct?

Mr. ANTONAKES. That is correct.

Chairwoman CAPITO. Correct. All right.

Mrs. Maloney?

Mrs. MALONEY. I thank the chairwoman. And I believe the chairwoman raised some important points about, really, coordinating with other agencies on what data is collected. In preparing for this hearing, I was reading documents which said that other agencies collect far more data than the CFPB does. It would be interesting to see a breakdown of who is collecting what, how it is being coordinated, and I would like to join the gentlelady in the request to the GAO to do such a report. I think it could be helpful in policy and going forward to see who is collecting what data, how could they share it better, streamline it, and I think that is something we could work on.

My colleague, Mr. Lynch, pointed out that you served under Governor Romney as the superintendent of banks, and you also served during the financial crisis of 2008. Could you comment on your experiences? Did the State of Massachusetts have sufficient data to help with this crisis, to help the consumers, help the economy, help the State?

Mr. ANTONAKES. Thank you, Ranking Member Maloney. We did have the advantage, as Congressman Lynch pointed out, of having very strong consumer protection laws in Massachusetts. However, we were significantly disadvantaged, in my mind, by the lack of data that we had at our disposal. I think the financial crisis somewhat brings that to light.

We were busy during that period of time implementing previous State legislation on predatory lending, and adopting regulations to deal with abuses that occurred in the refinance market.

Mrs. MALONEY. So I see that basically you could have protected taxpayers' monies more if you had more data. Is that a fair statement?

Mr. ANTONAKES. Yes, I think we were responding to the earlier issue without the data to see that the abuses had shifted to the purchased money markets.

Mrs. MALONEY. Also in your testimony, you said that you supervised—or your Bureau did—the return of $6.5 million to servicemembers who had been harmed by unscrupulous lenders. Can you talk a little bit more about this case and how the collection of data enabled the Bureau to help nearly 50,000 men and women in the armed services and the distinction of what you said, farming data to come up with policies for credit cards and overdraft, and how that is different from how you helped these 50,000 servicemembers?

Mr. ANTONAKES. Certainly. So this case really stemmed from two sources for us, complaints filed with our Consumer Response division, as well as examination activity that we did: digging into their records; digging into the files; and digging into information that led us to conclude that unfair and deceptive acts and practices had occurred. A number of servicemembers were being charged more than

was disclosed to them in their automobile loans. Data also allowed us to identify those servicemembers who would be reimbursed.

Mrs. MALONEY. I believe that my colleagues on both sides of the aisle have raised the importance of privacy. Not only do you need the data, but we need to protect the privacy of consumers. And, again, I refer to the letter that came in from seven consumer groups saying that they applaud the efforts of the Bureau in collecting this data and that these safeguards are in place.

Because this is such an important issue, I would like to request if we could do an on-site visit to the CFPB and see how the data is secured, how it is done; seeing is believing. And I think no matter how much that you tell us that it is secure and the consumer is protected, I feel that this would be something that could be helpful.

Do you think that would be beneficial? Could we do such a visit, off-site visit?

Mr. ANTONAKES. We would be honored to welcome any members of the committee or the Congress to come to our facilities.

Mrs. MALONEY. I have no further questions. I yield back.

Chairwoman CAPITO. Thank you.

Mr. Duffy for 5 minutes.

Mr. DUFFY. Thank you, Madam Chairwoman.

I want to follow up on a question from Chairwoman Capito in regard to, how many Americans are you collecting data on? How many Americans are you monitoring? You said you would get back to the committee, but can you give us a range? Because we have read reports that it is 10 million Americans who are being monitored or have data being collected on them. What is the range?

Mr. ANTONAKES. Congressman, we are not monitoring any individual Americans. We are collecting broad data on markets to understand how varied markets work.

The PII is constrained to the extent that we are fulfilling our consumer response mandate, as well as our examination mandate.

Mr. DUFFY. I am asking you a question about a range, then, of how many Americans have their data collected by the CFPB. How many?

Mr. ANTONAKES. I can get back to you with precise numbers, but, again, I feel—

Mr. DUFFY. I am not asking you—

Mr. ANTONAKES. —the need to point out that we are collecting broad data that is desensitized, does not include specific information about Americans.

Mr. DUFFY. I know. Reclaiming my time, I know that. But I want a range of how many Americans have their data sampled or collected by the CFPB. What is the range? Is it 10 million? Is it more than 10 million, less than 10 million? What is it?

Mr. ANTONAKES. I can—

Mr. DUFFY. You have to know a range.

Mr. ANTONAKES. I can—Congressman, I am happy to provide you a granular breakdown of what that looks like. I don't have that information in front of me at this moment. But, again, I do think it bears repeating—

Mr. DUFFY. But you don't—reclaiming my time—know a range of the number of how many people have their data collected by the CFPB? You don't know that range today?

Mr. ANTONAKES. I couldn't give you an accurate range.

Mr. DUFFY. You couldn't. Okay. And what is your position, again, at the CFPB?

Mr. ANTONAKES. I serve as both the Acting Deputy Director, as well as the Associate Director for Supervision, Enforcement, and Fair Lending.

Mr. DUFFY. Don't you think that Americans would expect you to know at least the range of how many citizens are having their data collected by your agency? And you can't even give us a range. Is it more than 10 million? Less than 10 million?

Mr. ANTONAKES. Congressman, the data collection activities that occur at the Bureau virtually mirror the data collection activities that occur at other prudential regulators. And, again, our sole purpose here is not to study Americans—

Mr. DUFFY. I will reclaim my time. I appreciate that you can't give us a range.

In regard to the length of time in which you store the data, you are working with the National Archives Records Administration. Have you made a request for a length of time to keep this financial data on Americans?

Mr. ANTONAKES. I believe there are a number of different ranges based upon the types of information that we are gathering.

Mr. DUFFY. How long can you keep the data or is the request to keep the data?

Mr. ANTONAKES. I will have to confirm this with you, Congressman. I believe the request is 10 years.

Mr. DUFFY. Ten years.

Mr. ANTONAKES. I believe so.

Mr. DUFFY. A lot of us are involved in politics. And we see a lot of polling, whether it is with regard to our own races, other races, the President. It is sampling of data. Why can't you sample data? Why are you collecting massive amounts of financial data on Americans and potentially keeping it for years, up to 10 years? Why don't you just sample data to extract the information that you need to make good rules and regulations?

Mr. ANTONAKES. I believe it is important for us to have wholesome data to truly understand these financial marketplaces. I also believe it is important to have the data for a number of years so that you can do market analysis and look at trends over a period of time. We are still learning, I would say, in many respects, the impact on Americans of the financial crisis.

Mr. DUFFY. And I know that the Bureau has made a pledge to be transparent and open. Will you commit to sending us all the contracts that you engage in with third-party vendors? Will you send those to us?

Mr. ANTONAKES. We are happy to provide the contract information to you.

Mr. DUFFY. Thank you. And I know that you send a request to financial institutions to collect data from them, as well. Will you share those letters with the committee that you send to financial institutions requesting data from them?

Mr. ANTONAKES. To the extent that we are requesting data from financial institutions, it is under our confidential supervisory examination program.

Mr. DUFFY. Let me read a quote to you, and tell me if you know who said this: "Transparency is at the core of our agenda, and it is a key part of how we operate. You deserve to know what the new Bureau is doing for the American public and how we are doing it." Do you know who said that?

Mr. ANTONAKES. I am guessing perhaps it was either Director Cordray or—

Mr. DUFFY. Senator Warren.

Mr. ANTONAKES. —Senator Warren.

Mr. DUFFY. Yes. So in that vein, why don't you share that information with the American people? If you are taking data from Americans, why don't you share the request for the data?

Mr. ANTONAKES. We don't share the request for the data to the extent that we are doing it through our confidential supervisory program because our mission there is solely to protect consumers, and no other agency has to make that request. To request that information during the course of an examination—

Mr. DUFFY. So reclaiming my time, in regard to protecting Americans, I know you are not dealing with terrorists, like the NSA. You are dealing with financial data. Don't you think it is appropriate that you ask for permission and consent of Americans before you take their data? Shouldn't you ask them and get their permission?

Mr. ANTONAKES. I think, in the course of an examination, which happens on a routine basis, if we were to ask, it could conceivably cause reputational damage to the institutions that we are examining.

Mr. DUFFY. I yield back.

Chairwoman CAPITO. The gentleman's time has expired.

Ms. Waters for 5 minutes.

Ms. WATERS. Thank you very much.

Congresswoman Maloney asked about your past experiences in Massachusetts and whether or not you had been involved in data collection and was it helpful to you as a State banking regulator, I believe. Let me just ask, do banks and credit card companies have access to this data?

Mr. ANTONAKES. Yes, they do.

Ms. WATERS. What do they do with it?

Mr. ANTONAKES. They collect it on a regular basis. They use it for marketing purposes, for benchmarking, and other internal reviews of the efficiency and effectiveness of the products and services that they offer.

Ms. WATERS. And so if banks and credit card companies have access to this data, is the suggestion here that the consumer protection regulator should not have it? Is that what you are being asked?

Mr. ANTONAKES. I am not sure what the motivation of the question is, Ranking Member Waters. We believe we are seeking only the information that industry has that will allow us to conduct our job, to understand these markets, and understand where risks lie for consumers.

Ms. WATERS. Let me just ask, we have gone through a financial crisis, starting in 2008, and this crisis, of course, was created in the financial services community by many of the initiators of mortgages, et cetera. Would it have been helpful to have more data to be able to address this problem that we were confronted with?

Mr. ANTONAKES. It certainly would have been helpful, yes.

Ms. WATERS. And so, again, if the very agencies or financial services agencies or companies—whatever you want to call them—if they had access to this data and we don't, and they created the problems that we face with the subprime meltdown, doesn't that put us at a great disadvantage of trying to do oversight and regulation?

Mr. ANTONAKES. Ranking Member, I believe regulators are at a substantial disadvantage if they don't have the information that regulated entities have, yes.

Ms. WATERS. Thank you very much. I yield back the balance of my time.

Chairwoman CAPITO. Thank you.

I would like to recognize Mr. McHenry for 5 minutes.

Mr. MCHENRY. Thank you, Madam Chairwoman.

The term, "personally identifiable financial information," has the CFPB defined the meaning of that?

Mr. ANTONAKES. So, Congressman, we would use the term that I think is more broadly defined, in terms of information that would allow you to identify the particular consumer.

Mr. MCHENRY. Is there—

Mr. ANTONAKES. We haven't created our own separate and distinct definition, no.

Mr. MCHENRY. Okay, because in Dodd-Frank, there are two provisions that limit the CFPB's authority to collect personally identifiable financial information. So is it the intent of the CFPB to perhaps have a rule defining that?

Mr. ANTONAKES. There are several provisions in Dodd-Frank whereby we can collect information. There is one specific rule relative to market monitoring that we have not utilized as of yet. We also obtain data through the purchase of commercially available information, through voluntary data, through publicly available data such as the Census Bureau, through our supervisory program, as well as through our consumer complaint intake. Those are the means that we have used thus far to collect this data.

Mr. MCHENRY. Yes, but, okay, so the PII, what is that? Can you define that again? What does that stand for?

Mr. ANTONAKES. Personally identifying information.

Mr. MCHENRY. So that is very different than personally identifiable financial information. Is it different than—

Mr. ANTONAKES. I don't believe it is, Congressman.

Mr. MCHENRY. Okay. You don't think it is different. So in your contract here, you have—we have this document. Judicial Watch got this from a Freedom of Information Act request that some of the data will contain sensitive personally identifiable information. So is the PII different than what is banned in Dodd-Frank, which says the CFPB cannot get individual Americans' data?

Mr. ANTONAKES. We don't believe that Dodd-Frank says we can't collect PII.

Mr. MCHENRY. Okay, well, I will follow up on that. So you don't have a rule. Do you have any intention of writing a rule to define personally identifiable financial information?

Mr. ANTONAKES. We don't at this time, no.

Mr. MCHENRY. So you wouldn't have, perhaps, public input on the meaning of that, to give some assurances that you are not collecting individual data. So the personally identifiable information, would that include a person's name?

Mr. ANTONAKES. Again, I would say, Congressman, it would include a person's name.

Mr. MCHENRY. It would? Okay. Would it include a person's identification number, like a Social Security number, maybe?

Mr. ANTONAKES. Again, it would depend on the context in which the information was being collected. The definition of PII would certainly include those things. It doesn't mean we are necessarily collecting that type of information.

Mr. MCHENRY. Okay. What about an address? Would an address be a part of that?

Mr. ANTONAKES. Would an address be considered PII?

Mr. MCHENRY. Yes.

Mr. ANTONAKES. Yes, sir.

Mr. MCHENRY. Okay. So you have a person's name, you have the person's Social Security number, and address. What about ZIP Code? Not to be redundant, but would that be a part of the address?

Mr. ANTONAKES. It could be.

Mr. MCHENRY. Okay. So what about personal characteristics, like fingerprints or pictures? Is that prevented or is that included in the data?

Mr. ANTONAKES. That would be considered PII. We don't collect that type of information.

Mr. MCHENRY. Okay, okay, so no pictures. That is good. No fingerprints. What about property they own?

Mr. ANTONAKES. Again, Congressman, if we were doing an examination and we were looking at compliance with mortgage rules, during the course of an examination—

Mr. MCHENRY. So, yes, like—

Mr. ANTONAKES. —see the property during the course of an exam.

Mr. MCHENRY. Yes, you would see the property, okay. What about employment information?

Mr. ANTONAKES. Employment information? Again, perhaps during the course of reviewing a mortgage loan, conceivably.

Mr. MCHENRY. Okay. What about medical information?

Mr. ANTONAKES. No, sir.

Mr. MCHENRY. No, sir?

Mr. ANTONAKES. No.

Mr. MCHENRY. Okay. So the fact that somebody is paying a bill to the hospital or has substantial debt owed to a hospital would not be included in this?

Mr. ANTONAKES. During the course of an exam, conceivably.

Mr. MCHENRY. So conceivably medical information, as well.

Mr. ANTONAKES. But—

Mr. MCHENRY. What about credit score?

Mr. ANTONAKES. Credit score conceivably, as well.

Mr. MCHENRY. Okay. So this sounds to me like personally identifiable financial information. And this is a great concern at a time when people are worried about their privacy. So it seems to me you have no definition, no limitation on the type of data you can collect, or for how long you are going to collect it.

Mr. ANTONAKES. Congressman, I would say only that to the extent we are reviewing this type of information, it is through our supervisory process, through our consumer complaint process, and we are following the same process that has been run for years by other Federal and State regulatory agencies. I don't believe we are plowing any new ground here.

Mr. MCHENRY. You are not?

Mr. ANTONAKES. No, sir.

Mr. MCHENRY. This is no new ground?

Mr. ANTONAKES. In terms of our supervisory program? I would say no.

Mr. MCHENRY. So the fact that you want to hold nearly a billion credit cards and update them on a monthly basis and the people's transactions—this sounds like dramatically new ground that your agency is taking.

Mr. ANTONAKES. Other agencies—

Mr. MCHENRY. With that, I yield back.

Mr. ANTONAKES. —have collected credit card data before, sir.

Mr. MCHENRY. On a monthly basis?

Mr. ANTONAKES. Yes.

Mr. MCHENRY. Updated monthly?

Chairwoman CAPITO. The gentleman's time has expired.

Mr. Scott?

Mr. SCOTT. Yes, thank you.

I think it is very important for us to follow up on Mr. McHenry's line of questioning, because I really believe he is getting to the heart of the matter. This information of which you get names, you could get their Social Security number, you can get their addresses, you can, in fact, get this personal identification information. Now, it is very important for you to very quickly explain to the—if Mr. or Mrs. America is watching this program, under what circumstances is this done? How is it protected and insured against someone else getting it?

And this is particularly true, because, yes, according to my information, you can get medical debt data. And I am interested to know how far that would go. Does it go all the way to the type of procedure, the type of treatment? Was it cancer? Was it—so how much of this personal data information are you collecting and why? And do you have the authority to do it now?

And then, secondly, in order to make sure we have America's confidence that none of this will leak out—because I will tell you, this is what I am concerned about. I am concerned about things like this little fellow who is rolling around from airport to airport trying to find a place to land, this—all of these leakers. And there are many of them out there and with the advanced technology of hacking.

So I want you to kind of defend this position a little bit more, because we don't want the American people to go away mis-

informed that you are collecting all this personal data when you say you don't.

Mr. ANTONAKES. Thank you, Congressman. Our statutory mandate, as you know, is to protect consumers. And to the extent we collect and analyze data, it is for the purpose of fulfilling our statutory mandate. We collect, investigate, and respond to consumer complaints. We conduct examinations to determine whether or not violations of consumer financial protection laws exist.

Mr. SCOTT. Let me ask you, though, I am trying to get my hands around the quantity of this personal identification. How many have you gotten that fit this category? And how do you protect that personal identification? We have to get an answer to that in order to maintain the credibility of the CFPB to know that it is going to be protected. I am not—I am just saying, there has to be a reason.

Dodd-Frank outlaws it up to what the other Federal regulators do, like the Fed. Can they do the same thing? I am trying to give you a chance here to get out from under this accusation that I think Mr. McHenry very eloquently articulated here. I think this is a legitimate question that we have to get answered.

Mr. ANTONAKES. Congressman, to the extent we collect PII, it is exceptionally limited, generally through the consumer response process, as well as our supervisory process. This is very consistent with the way other regulators collect this information.

Mr. SCOTT. Nothing you do is beyond what other regulators do in collection of that personal data?

Mr. ANTONAKES. That is correct. And then we secure it, to the extent we have to collect it to do our jobs, we secure it on our systems. There is very limited access to those systems. They meet FISMA standards, the Federal standards, and have received clean audits from GAO and the Fed and the CFPB Inspector General, in terms of those systems.

Mr. SCOTT. So far, has the data security system you have been collecting, has it been breached? Have there been attempts to hack it? Do we have a fail-safe there?

Mr. ANTONAKES. Congressman, to my knowledge, it has not. And I would say, again, we have standards in place that meet the requirements of existing Federal law.

Mr. SCOTT. On the medical debt issue, I wanted to go back to that. On that information, do you also have information contain what that treatment was? This is very private. This is very personal information.

Mr. ANTONAKES. No, we don't.

Mr. SCOTT. So there is no diligence into what kind of procedure he had, what kind of disease, or anything else? That is totally unacceptable?

Mr. ANTONAKES. Correct.

Mr. SCOTT. All right. Thank you, sir.

Chairwoman CAPITO. Thank you.

Mr. Luetkemeyer for 5 minutes.

Mr. LUETKEMEYER. Thank you, Madam Chairwoman.

I guess I will follow up on Mr. McHenry's questioning, as well. What are you trying to do whenever you monitor 80 percent of the credit card market?

Mr. ANTONAKES. We have a statutory mandate to understand the credit card market, as well as other financial marketplaces. We also have a congressional mandate to do a study on the effectiveness of the CARD Act. So to the extent that we are looking at this data—and, again, I need to emphasize that other agencies have similar processes in place whereby they look at credit card data—it is to fulfill those requirements, to understand the credit card market, understand where there may be inherent risk to consumers in that market, and also to inform the work we have to do as part of the CARD Act.

Mr. LUETKEMEYER. You are a former examiner, right?

Mr. ANTONAKES. Yes.

Mr. LUETKEMEYER. I am also a former examiner. If we went into a bank or financial institution, you always cut on the loans to get a certain percentage, and you wouldn't look at the lower loans. You would look at only the big loans, because that is where most of the risk was.

Mr. ANTONAKES. Correct.

Mr. LUETKEMEYER. Why are you not doing that with credit cards? There is no—you are not looking at the risk situation there. You are monitoring habits. And I am not sure that the CFPB needs to be looking at the habits of consumers. They need to be looking for the risks that they are taking or some sort of risk that is inherent within the system of the credit card company or within the system of the credit card industry.

Mr. ANTONAKES. Congressman, I think it is important to point out a couple of things. In terms of the credit card data collection, we do not receive data about individual purchase transactions. Moreover, we cannot identify specific cardholders. We can't identify specific purchases. We don't know the items they purchase, who purchased them, when they were purchased. We don't look for that type of information.

In terms of your questions on where you cut the line, you are absolutely correct. From an examination point of view, you are taking a sample, you are looking at a certain line, the higher risks. But to understand this on a more macro level, which is really our other function, the market monitoring function, to understand where risks may appear more broadly, that is where the more wholesome—

Mr. LUETKEMEYER. Okay. So why do you need the personal information, then, if you are just looking at macro prints?

Mr. ANTONAKES. We aren't collecting personal information on the credit card data collection. We are not looking—

Mr. LUETKEMEYER. What about the rest of the information?

Mr. ANTONAKES. In terms of the exams, we could look for it conceivably in those circumstances to ensure that if consumers are being overcharged, they are being refunded. But the broader data collection that you are speaking of—

Mr. LUETKEMEYER. Okay, with regards to exams—

Mr. ANTONAKES. —there is no PII required.

Mr. LUETKEMEYER. With regards to the exams—

Mr. ANTONAKES. Yes.

Mr. LUETKEMEYER. —you know what I am talking about when I talk about the pink pages or the informational—

Mr. ANTONAKES. Yes, I do.

Mr. LUETKEMEYER. —the information that is there on the stockholders, major owners, as well as employees. Is that information taken by the CFPB?

Mr. ANTONAKES. We don't include pink pages in our examination.

Mr. LUETKEMEYER. You don't accumulate that information at all?

Mr. ANTONAKES. We do not.

Mr. LUETKEMEYER. Okay. So, therefore, it is not given out to anybody else, either?

Mr. ANTONAKES. We are not a safety and soundness regulator, so we don't see the need to collect that type of information.

Mr. LUETKEMEYER. Okay. Well, that is good news.

Mr. ANTONAKES. Okay.

Mr. LUETKEMEYER. But we do have concerns with regards to the rest of the information that you are giving out, because according to some information I have here, you are giving it out to, like, 500—do you have contracts with like 500 different groups to be able to give the information out to some folks through the FTC's arrangement with their Sentinel Network?

Mr. ANTONAKES. I believe you are referring to the extent to which we provide access to our consumer database to other State agencies. I would say that our consumer response database and the manner in which we share with other regulators really mirrors the FTC Sentinel program.

So if there are other agencies—be it a State agency—that has comparable jurisdiction over one of the State-licensed non-bank entities that we may supervise or has supervision over a State-chartered bank that we may supervise, then we believe they have the right to have this complaint information and perhaps—

Mr. LUETKEMEYER. Will they have the right to access your files, as well?

Mr. ANTONAKES. They would access the complaint information that we have. That is what they have access to, the complaint, and they have to go through a diligence process and sign agreements with us before they can access that type of information.

Mr. LUETKEMEYER. Okay. So how many agreements do you have at this point?

Mr. ANTONAKES. I would have to verify that for you, Congressman, but, again, it is for other agencies with similar supervisory responsibilities.

Mr. LUETKEMEYER. Do you have agreements with other countries?

Mr. ANTONAKES. Not that I am aware of.

Mr. LUETKEMEYER. According to the data here with regards to the Sentinel Network, now you are—has that information been absorbed by you or you have agreement with them?

Mr. ANTONAKES. With the FTC?

Mr. LUETKEMEYER. Yes.

Mr. ANTONAKES. I believe we have an agreement with the FTC.

Mr. LUETKEMEYER. Therefore, you have access to that information?

Mr. ANTONAKES. I believe so, yes.

Mr. LUETKEMEYER. So, therefore, any other entity that has access to you has access to that information, as well?

Mr. ANTONAKES. I believe they would have to have their own. I don't believe we are a pass-through. I don't believe another agency can make an agreement with us and, therefore, get an agreement with the FTC. I believe they would have to do their own agreement with the—

Mr. LUETKEMEYER. Do you have any agreements with any foreign countries to have access to your information?

Mr. ANTONAKES. I will verify that for you, Congressman. I am not aware of any.

Mr. LUETKEMEYER. Okay. Thank you very much. I will yield back.

Chairwoman CAPITO. Thank you.

Ms. Velazquez for 5 minutes.

Ms. VELAZQUEZ. Thank you.

Mr. Antonakes, there is still, I guess, by the line of questions that you have heard here—understand there are a lot of critics who continue to argue that the Bureau's collection procedures are too broad and burdensome. I just would like to hear from you what percentage of the data you collect must be obtained from market participants. And how would you counter the argument that businesses are negatively impacted by this data request?

Mr. ANTONAKES. Congresswoman, we receive information from a variety of sources. To the extent we can reduce burden on the industry and collect it through third parties that already have that information, information that is already provided by the financial service companies, we try to use that information. To the extent it is in the public domain, we try to use that information, as well. And then in terms of our supervisory responsibilities, ensuring that Federal financial consumer laws are being followed, that is when we would make specific data requests of the banks, the credit unions, and the nonbanks that are specifically under our jurisdiction.

Ms. VELAZQUEZ. And also, you have heard how much we care about the—securing the—and providing identity protection, and that issue would be one of the Bureau's top priorities. One breach will erode public trust, and it will set back your research significantly. And I heard you saying that you are complying with Federal laws and regulations in order to protect personally identifiable data.

But beyond that, what additional steps are you taking to protect consumer privacy throughout the process, from collection to publication?

Mr. ANTONAKES. Yes, so we certainly do share this concern. And really, the best way we can ensure that we protect this information is to collect as little PII as possible. And that is our first fundamental goal.

To the extent we do have to collect it, we store it accordingly. We significantly limit, to a need-to-know basis, who in the Bureau has access to that information, and we have significant security protocols built into our system, as well. Once our destruction schedules are approved, we will have the means of flushing this data out of our system as well, on a regular basis.

Ms. VELAZQUEZ. Recently, Mr. Raj Date, the CFPB's former Deputy Director, stated that the Bureau's data analysis could lead

lenders to innovate in ways that cut consumer costs and help regulators create more efficient rules. Will you be able to elaborate on how data collection may lead to better regulation and more innovation in the financial markets?

Mr. ANTONAKES. Well, certainly. Certainly, industry has collected this information for a number of years, and technology has enhanced their ability to collect it, and it has led to a lot of innovation in the financial service marketplace, which ultimately has been good for consumers.

Our use of this data collection is to understand these markets, to monitor these markets, and prioritize our limited resources accordingly. That essentially is what we are trying to do with this information.

Ms. VELAZQUEZ. And you stated in your testimony that information is essential to protecting consumers from unscrupulous activity, supervising the financial markets, and maintaining the stability of the economy. Can you highlight some instances where your current data collection and analysis efforts have successfully protected consumers?

Mr. ANTONAKES. Sure. There are a number of circumstances in which the data collection we have done has resulted in us prioritizing resources in certain areas. To the extent that we have secured significant reimbursement orders against some of the large credit card providers because of unfair and deceptive acts and practices related to add-on services, some of our most significant reimbursements thus far have been the result of information coming in through our complaint channel, our understanding of the consumer credit card markets, and the actual examination of those physical consumer files at the credit card institutions.

Ms. VELAZQUEZ. Thank you.

Thank you, Madam Chairwoman.

Chairwoman CAPITO. Mr. Pittenger for 5 minutes.

Mr. PITTENGER. Thank you, Madam Chairwoman.

Dr. Antonakes, you have a very impressive resume.

Mr. ANTONAKES. Thank you.

Mr. PITTENGER. You have served as commissioner of banks. You have been a voting member of the Federal Financial Institutions Examination Council, vice chairman of the Conference of State Bank Supervisors, governing boards of Nationwide Mortgage Licensing System. You have graduated from very esteemed universities. And I applaud you for that.

You now are the number-two man in a very important agency, perhaps the most powerful ever in the history of this country. This agency now assumes all the responsibilities previously held by the Federal Reserve, the Office of the Comptroller of the Currency, the now-defunct Office of Thrift Supervision, the Federal Deposit Insurance Corporation, the FTC, the National Credit Union Administration, and the Department of Housing and Urban Development. That is pretty impressive.

In many ways, you could say that your board manages the entire financial system of this country. You could be likened in ways to Joseph under the Pharaoh in Egypt. You are a powerful man. And you know that. It is a powerful agency. Wouldn't you agree?

Mr. ANTONAKES. I thank you, Congressman. I am not sure I am quite as powerful as you described. We have—

Mr. PITTENGER. But let's just set the stage that it is correct.

Mr. ANTONAKES. We have inherited some of the responsibilities of those other regulatory agencies—

Mr. PITTENGER. But never have we had an agency that has had the power that is unchecked of—you are accountable basically to no one. You don't go through appropriations. Isn't this a very powerful agency? And yet the core of what we have been told is your transparency is going to be imprimatur of your agency. And right now, we have reports on the lack of that.

Here is one memo that went out to keep your calendar entries brief in general. If possible, avoid annotating entries with agendas, detailed discussions, et cetera. The flyer also instructs employees to minimize attachments to your calendar appointments, consider using e-mail to send related attachments.

You know the power you have. Is there a disconnect to you between the power of this agency, its accountability to the American people, the transparency that it claims to have, and yet these kinds of e-mails that have been conveyed to its employees?

Mr. ANTONAKES. Congressman, I don't believe our agency is entirely different than in many other agencies. Several other agencies have a single director structure and none of the bank regulatory agencies that you referenced are subject to the appropriations process.

We, in fact, are the only bank regulatory agency that actually has a hard cap on the ceiling of its budget. We have authority in the consumer protection laws that were transferred to us by Dodd-Frank. We also have significant responsibility to the American people and to the other regulatory agencies. We have to, by statute, coordinate our examination activities with those other regulatory agencies. We have to provide copies of our reports of examination—

Mr. PITTENGER. Yes, sir. I hear that.

Mr. ANTONAKES. —for comment to those other regulatory agencies.

Mr. PITTENGER. My concern is, sir—

Mr. ANTONAKES. So I do believe there are significant checks and balances—

Mr. PITTENGER. —that the power you have enables you to exercise it in any way that you feel is right for you. And the rights of the American people really are the foremost, aren't they, and their privacy, and their consideration? You are collecting lots of data. And I think it is just a concern to this body, the accountability that you have to the American people and, frankly, back to the Congress of what you are doing with the data that you are obtaining and what role that you are going to play in ensuring that you are really transparent and that you are doing what is really in the best interest and what is really needed for the American people and not abuse the power, as we have seen in other agencies in this government.

There is a no-confidence vote right now in government. You probably are aware of that. And I would implore you to use the power that you have with full discretion. I yield back my time.

Chairwoman CAPITO. The gentleman yields back.

Mr. Lynch for 5 minutes.

Mr. LYNCH. Thank you, Madam Chairwoman.

And, again, I thank the witness for his willingness to help the committee. I do want to—just at the outset—point out some contradictions here. All of the parade of horribles, the evils that have been described by my friends on the other side of the aisle that might lurk within this agency that is charged with the mission of protecting consumers is now in the possession of private banks. And even more so, private banks, credit card companies, payday loan operators, you name it, they all go on these social network sites and they actually get the data that you are concerned that this agency might get.

You have massive data-mining companies, data brokers like Acxiom and others. They actually sell this information that you are worried that this agency that protects consumers might have. The paradox there is that those banks are completely unregulated with respect to the conduct that they are undertaking and there are no checks and balances.

In fact, a couple of weeks ago, we passed legislation that would allow those same banks that take that information without concern for privacy to work with affiliates and other countries that have that information, but that are outside the regulatory jurisdiction of the United States, that our consumers would be totally unprotected by your legislation. That is one paradox or one contradiction here today I want to point out.

The second one is that, as each and every regulatory agency comes before this committee and others, there has been a debate here in Congress, driven by my colleagues in the Majority, that have required each and every regulatory agency to make sure that every regulation that they adopt, every rule that they adopt is supported by data-driven, fact-based analysis of how they operate.

So you have told these regulators that everything they do must be data-driven, everything they do must be fact-based, everything they do must be analyzed to prove that the costs do not exceed the benefits of that regulation. So you are requiring them on the one hand, last week, to get as much data as they possibly can, to make sure that their regulations are fact-based and in real time. And today, you are wringing your hands, saying, "Oh, my God, they are going after data." Well, you can't have it both ways.

You are asking these regulators to base their decisions and regulations on data, data-driven analysis. And now, you are wringing your hands and saying, "Oh, we can't do this."

I do want to mention that the Patriot Act, which was heavily supported by your side and some on our side, requires a lot of this information right off the top. And one of the principal premises of that legislation is to know your customer, for the banks to know their customer and to make sure that they aren't allowing bad actors to capitalize on the legitimate banking industry.

Mr. Antonakes, I happen to work very closely with the Massachusetts regulators and the Boston office of the Fed. And during the housing crisis, I thought it was very helpful that the Fed could actually tell me how many homeowners—and they could give me the data by town, by county, by my congressional district—how many people were in arrears on their mortgages. They could tell

me how many people were in default. They told me how many—they could tell me how many people were in the foreclosure process and how many were going to be evicted, so we could target resources.

And it was very different. I have 3 cities, 18 towns, and 720,000 people in my district, and they were very helpful. That is a lot of data that they are getting already. How are you working with some of these other agencies? Some of these concerns are legitimate about making sure we don't let this personal information get out there and be abused.

But how are you coordinating with these other agencies that are actually scooping up this data, as well? And can we minimize the exposure and minimize the cost of doing what I would describe as due diligence, in terms of protecting consumers?

Mr. ANTONAKES. Congressman, we do have information-sharing agreements with the other regulators, and we are not seeking to collect information which they already have. So to the extent that we can share it, we welcome that opportunity. It would reduce cost and burden on the industry.

Mr. LYNCH. Thank you. My time has expired.

Chairwoman CAPITO. The gentleman's time has expired.

Mr. LYNCH. I yield back.

Chairwoman CAPITO. Thank you.

Mr. Fitzpatrick for 5 minutes.

Mr. FITZPATRICK. I thank the Chair.

And I also want to say to the witness that we all appreciate your testimony here today. This subject matter is very sensitive to everybody I know, everybody I represent back home in Pennsylvania, which is why this hearing is so important.

News reports indicate that the CFPB is assigning an identifier to each individual and requiring that all data providers use that same identifier for each individual when submitting their data. Sir, is that true?

Mr. ANTONAKES. I believe it is true, in terms of the credit card collection data.

Mr. FITZPATRICK. For what purpose would the Federal Government need to track the financial habits of an individual consumer?

Mr. ANTONAKES. We are not seeking to identify who the consumer is. We are not seeking to monitor individual purchases. But it does allow us to see trends over a period of time, in terms of balances, in terms of interest rate, and in terms of impact. And that is really all we are seeking to do.

We are not interested in individual American behavior. We are not interested in where they purchased their goods, what they are buying. We are simply interested in knowing over a period of time what happens with credit card balances. Do they go up? Do they go down? How are fees associated? How is the broader economy impacting those balances, as well? And this allows us to track that type of information. We have no interest whatsoever in identifying the specific individual who owns that card.

Mr. FITZPATRICK. But if you are using identifier numbers on this data that is being collected, the amount of which you haven't been able to really tell us today how much—and I certainly hope, sir, that you will follow up the questions where you had no specific an-

swers and provide that information to the committee—but if your Bureau is using identifying numbers to link data together, how is that not creating a consumer data file on individual Americans? Even if you don't know who that American is, theoretically, you are linking data sets together through an identification number and you are building a consumer file on an individual. Is that not true?

Mr. ANTONAKES. We are looking at individual loan level account information. That is correct, sir. But we are not seeking to determine who that particular consumer is. That is the way that we can understand how these marketplaces are working. That is how we can basically determine where risks may lie and look at trends over a period of time, but we have no interest whatsoever in trying to determine or reverse engineer who that specific individual is.

Mr. FITZPATRICK. Does that not mean, though, that the Bureau has a picture of the financial transactions at an individual level?

Mr. ANTONAKES. The only information that we are collecting, to my understanding, is the interest rate, fees, previous balance, and new balance.

Mr. FITZPATRICK. Madam Chairwoman, I will yield the balance of my time to Mr. Duffy.

Chairwoman CAPITO. Mr. Duffy?

Mr. DUFFY. Thank you. Just quickly, I want to go back to some of the other questions that I have asked. What institutions, again, are you monitoring? You have nine of them, right, for financial data?

Mr. ANTONAKES. In what respect, Congressman?

Mr. DUFFY. What institutions are you getting financial data from?

Mr. ANTONAKES. We are looking and, through a variety of contacts, we take data from the institutions that are under our primary jurisdiction, banks and credit unions, over $10 billion in assets, as well as nonbank—

Mr. DUFFY. So from all of them, you are collecting financial data?

Mr. ANTONAKES. The extent of the data may vary based upon their business model and the type of operations they have.

Mr. DUFFY. Okay. And, again, you are not willing to provide the letters of request for that financial data to this committee, is that correct?

Mr. ANTONAKES. The letters themselves are confidential supervisory information. We can perhaps discuss what—we could give you—

Mr. DUFFY. But don't—

Mr. ANTONAKES. —we could give you—

Mr. DUFFY. Don't you think Americans have a right to know which financial institutions are providing you their financial data? Don't you think that is an American's right to say, listen, I know the government is collecting my data if I bank with X bank, and I know they give my credit card transactions to the CFPB? Don't they have a right to know that? And why won't you share that with us?

Mr. ANTONAKES. So to the extent that is done, Congressman, it is done through our supervisory process, just as it is done with the Federal Reserve, the FDIC, the OCC—

Mr. DUFFY. That is not my question.

Mr. ANTONAKES. —bank regulators, as well.

Mr. DUFFY. But you are the Consumer Financial Protection Bureau.

Mr. ANTONAKES. Right.

Mr. DUFFY. And you protect consumers. Do you think consumers would be more apt to bank with the institutions that you collect data on or less likely to bank with those institutions?

Mr. ANTONAKES. I believe it is problematic. It would impact our ability to efficiently supervise institutions.

Mr. DUFFY. That is right. Because—

Mr. ANTONAKES. And I also believe that it could have unintended consequences for institutions, as well.

Mr. DUFFY. That is right. Because Americans don't want you to have their financial data. That is exactly right. That is the point. And so if they don't want you to have their financial data, don't take it. Or ask their permission. But you make the point for us. They don't want you to have the data, and you are taking it anyway, under the auspices of the Consumer Financial Protection Bureau. You take their data, they don't want you to have it, and you don't care.

I yield back.

Chairwoman CAPITO. Mr. Heck?

Mr. HECK. Thank you, Madam Chairwoman. I yield 2 minutes to the gentleman from Georgia, Mr. Scott.

Chairwoman CAPITO. Mr. Scott?

Mr. SCOTT. Yes, I have two points to make. First of all, in response to Mr. Duffy, for whom I certainly have great respect, but at the one point, he is trying to point out how we want to make sure information is secure and, on another point, we want to share it. You can't do both.

And I think what we are trying to get here is a delicate balance, where you get the information. And, again, I think it is very important to repeat that many of these requests for this personal data come from that individual reaching out to you. Is that not correct?

Mr. ANTONAKES. Much of it does. Certainly, anything coming in through our consumer complaint hotline, 150,000 requests for help from every State in the country has affirmatively come to us from consumers.

Mr. SCOTT. Right, no different from—you have the banking operations, you have other operations, financial operations, get the same information. But my point is—there is one area we missed here that I think we need to clear up. There are third parties involved here. You have vendors, investigators going out and collecting this information.

Can you tell us how our information is protected through these third parties? Where does that line come down? How do we protect information that these third parties are getting, that have contracts and were paid millions of dollars and are helping get the money to get back to the consumers? When do we wash their hands of this information so it doesn't get out through third-party vendors?

Mr. ANTONAKES. So, Congressman, any laws that we have to follow to protect consumer information they have to follow, as well, if we are engaging them specifically.

Mr. SCOTT. All right. Well, thank you. I want to take the time to thank the gentleman, Mr. Heck, for allowing me those 2 minutes. Thank you.

Mr. HECK. Thank you, sir. Thank you for your presence, your testimony, and your service to our country.

I have the honor and privilege to represent a congressional district that includes Joint Base Lewis-McChord, the third-largest military installation in America. And as a consequence, I ask the following question: The proposal to require an opt-in on the part of individuals, would that affect the Bureau's servicemembers' office's ability to protect members of the military and their families? Would it materially affect your ability to protect those members? And if so, can you describe briefly what that would look like?

Mr. ANTONAKES. Congressman, thank you. It is something that I haven't considered thus far, but I would say my initial reaction is it conceivably could impact our ability to protect servicemembers, as it would other consumers, as well.

To the extent servicemembers are serving abroad, they may not have ready access to mail, and an opt-in could conceivably be difficult in certain circumstances. It also—and this is really the broader concern, and I believe the other regulators would share this concern—the ability to efficiently examine institutions would be significantly impacted, and our ability to identify risks, our ability to identify violations of law, and most importantly, our ability to identify who should be receiving refunds.

In the case of the MILES program, which servicemembers should be receiving $6.5 million in refunds, in the case of our other activity, over $425 million in additional refunds last year alone, as a result of our ability to look at individual transactions in supporting information and data.

Mr. HECK. So it would hurt your ability to protect members of the military?

Mr. ANTONAKES. Yes, sir.

Mr. HECK. Part of our frustration with this discussion is that it seems to offer a false choice between treasured and cherished values of privacy and that of consumer protection. I am acutely sensitive to this as it relates to members of the military. And I just don't think these—this is a zero-sum game and that these values are mutually exclusive.

And I have to say, if I can get this out, yesterday I had the privilege to visit Walter Reed Hospital. I spent quite a bit of time in the amputation wing. And I observed a young man who had a double amputation up to and including his hips. And I observed him walking on prosthetic devices.

I have no idea what the technology behind that is, which enabled him to do it, but I will tell you, I have never, ever observed the level of courage that I did in those young servicemembers. And I don't want to do anything that sacrifices our ability for you to protect those servicemembers and those who put themselves in harm's way. And I don't believe for one second that we have to sacrifice the value of privacy in order to do that.

Thank you for the job you have done, sir.

Chairwoman CAPITO. Thank you.

Mr. Rothfus for 5 minutes.

Mr. ROTHFUS. Thank you, Madam Chairwoman.

Welcome, Mr. Antonakes. I am glad to see a Penn State grad here. A point has been made about banks having this information already, but isn't it true that private financial institutions are subject under Gramm-Leach-Bliley to maintain the privacy of consumer data?

Mr. ANTONAKES. Yes, sir.

Mr. ROTHFUS. Now, the CFPB is not subject to Gramm-Leach-Bliley. Is that correct?

Mr. ANTONAKES. We have other data standards that we have to follow.

Mr. ROTHFUS. If we could go a little bit to the credit card collection program that you have and get a little more specific types of data that you are collecting under there, it has been reported that there have been 100 data fields per account that you are collecting. Is that true?

Mr. ANTONAKES. I would have to verify that for you, Congressman.

Mr. ROTHFUS. Can you, again, tell me the types of data fields that would be collected: interest rate; balances; month to month? I think you testified to that, correct?

Mr. ANTONAKES. Yes.

Mr. ROTHFUS. Other information? Would the ZIP Code of an account be collected?

Mr. ANTONAKES. I don't believe we are collecting any PII on the credit card information.

Mr. ROTHFUS. Okay, so you are—among the hundred data fields or so, you are not including the ZIP Code?

Mr. ANTONAKES. I don't believe so, but we can verify that for you, Congressman.

Mr. ROTHFUS. And you would not include date of birth?

Mr. ANTONAKES. That is correct.

Mr. ROTHFUS. When are you collecting personally identifiable information?

Mr. ANTONAKES. When we do collect PII, it is generally through our consumer response function, in which American consumers are reaching out directly to us to help them in their financial transactions with institutions that we supervise. And it is also—

Mr. ROTHFUS. You are collecting that data directly from the consumer in that case?

Mr. ANTONAKES. That is correct. They provide it to us voluntarily, subject to our privacy disclosure, so that we can then reach out to their financial institution to determine whether or not a violation of consumer protection law did, in fact—

Mr. ROTHFUS. Now, are you ever collecting data from an institution that has not been alleged to have committed any wrongdoing?

Mr. ANTONAKES. We would review certain data during the course of our examination function. We examine—

Mr. ROTHFUS. Would you ever ask such an institution that has not been accused of any wrongdoing? Have you ever asked them for personally identifiable information about any consumer?

Mr. ANTONAKES. So, Congressman, during the course of an examination, we don't presume someone is guilty before we conduct an examination, but we have to do certain transaction testing, we

have to look at certain information to, in fact, verify that there haven't been violations of law.

Mr. ROTHFUS. Now, you are going to try to collect information, for example, 80 percent of the credit card accounts in the country?

Mr. ANTONAKES. I believe that is the type of data we are trying to collect—

Mr. ROTHFUS. Do you have any idea of the cost of complying with a request like that for a private institution?

Mr. ANTONAKES. My understanding is this is information that they collect and provide already.

Mr. ROTHFUS. That they are already—so up to 80 percent of the accounts are already being provided information to a government—

Mr. ANTONAKES. No, they collect 100 percent of this data already. They provide some of this data to other Federal regulators.

Mr. ROTHFUS. Do you have any idea how much the cost would be for them to put together—having this data sent over to the CFPB?

Mr. ANTONAKES. I don't know the specific costs, Congressman, but I need to point out that they collect this data and they review this information already.

Mr. ROTHFUS. Are you aware that consumers are seeing increases in fees and costs being passed onto them by financial institutions?

Mr. ANTONAKES. I don't believe the fees that may be passed on to consumers is the result of our data collection activities.

Mr. ROTHFUS. What about the loss of free checking that we are seeing out there in the marketplace? You are aware of that?

Mr. ANTONAKES. I am also aware of other market trends and laws that have resulted in shifts in how checking accounts are charged.

Mr. ROTHFUS. There is no right for a consumer to opt out of having a private institution that they have an agreement with to have that institution opt out from giving you their data. Is that correct?

Mr. ANTONAKES. To the extent we are collecting data through our supervisory process, no, there is not. And there isn't for all of the other prudential regulators and State regulators that conduct similar activities.

Mr. ROTHFUS. Now, with respect to collect—being able to process claims for people who have made complaints—I think we talked about 50,000 individuals, servicemembers—that you have the data both from complaints and from examination activity. Do you have any idea the breakdown—for example, of the 50,000 who were due refunds, how many do you get from complaints versus the examination activity?

Mr. ANTONAKES. I believe in that case the activity was brought to our attention through a consumer complaint, and then the—

Mr. ROTHFUS. Do you have any idea how many consumer complaints there were?

Mr. ANTONAKES. I can verify that for you. I don't believe there was a significant number of consumer complaints. And I believe the more wholesome impact on servicemembers was borne out during the course of our examination and investigation.

Mr. ROTHFUS. Wouldn't it be possible, though, to target in that case—if you hear complaints coming from consumers, and you see

that there might be an actor out there that is not doing what they should be doing, then you can target and go directly at that particular bad actor. Isn't that right?

Chairwoman CAPITO. The gentleman can answer.

Mr. ANTONAKES. Certainly, consumer response serves two purposes for us in many respects, the first of which is an immediate means of providing responsiveness and potential relief to consumers who reach out directly to us. It is as you appropriately point out, also a means by which our priorities for supervision and investigations can be impacted, if we see certain trends developing through that channel.

Mr. ROTHFUS. Thank you.

Chairwoman CAPITO. The gentleman's time has expired.

Mr. Posey?

Mr. POSEY. Thank you, Madam Chairwoman.

The Consumer Financial Protection Bureau is a great sounding name. But there seems to be some reason to question whether the title actually reflects the mission, or if in reality it is an oxymoron. On December 21st, I sent you a letter and listed 19 separate questions regarding the loan level data collection project. You—and when I say "you," I mean your agency; I sent it to Mr. Cordray's attention—responded 2 months later with a three-paragraph letter that didn't answer a single doggone question in any detail at all, the same kind of gibberish that you gave the vice chair a little while ago when he asked you one of the 19 questions that I asked you.

It is inconceivable to me, unless you are from the most dysfunctional agency in the entire world, that you would come here before this committee today unprepared to answer the very simple questions that you have been asked. It is inconceivable to me that your agency cannot answer the 19 questions that I asked you 6 months ago. And yet you call yourselves the most transparent agency—your hallmark is supposed to be transparency.

I know more about your agency from Bloomberg than I do from any communications you or anybody from your agency have had with my office or with me. You have transparency as a core of your agenda. Why is it your agency has a flyer instructing employees to keep calendar entries brief and general and avoid entertaining entries with agenda detail discussions? How can you claim to be transparent when you can't provide a single e-mail in response to the Freedom of Information request from Judicial Watch?

It has been alluded to that the financial crisis was caused because we didn't have a CFPB, when I think most people with a brain know we already have enough agencies, we have enough rules, we have enough bureaus, we have enough employees. We just don't have enough of them doing their jobs. And that is why we had a financial crisis.

I don't think that, if we had a dozen CFPBs before and they didn't perform any better than any of the other agencies, it would have changed anything. And I haven't heard any way yet you would stop—anything your agency is authorized to do that would stop the same thing from happening again. You are going to have all the financial records of 80 percent of Americans. And then the next obvious question is, well, why not 100 percent? Who are you

exempting? Why would you exempt them? It is going to be like the people who wrote Obamacare. Are they going to exempt themselves?

These are natural questions my constituents have, and I don't blame them for being suspicious. Americans like their privacy. They enjoy the Fourth Amendment, and they don't like it violated. And the more I hear from you, the more I hear that you are intentionally violating their Fourth Amendment. You are violating their privacy.

People haven't asked you to—you go to most businesses in America and say, "Hey, I am from the government. How can I help you?" Those are the most feared words they can hear. You want to help them? Stay the heck away from them.

I think we definitely need to have an opt-in to this thing. I just think that the fact that you are so ill-prepared to answer any questions here today speaks volumes about what is already wrong with that agency.

When Mr. Cordray was here the first time, he appeared before us, and we asked a bunch of questions he couldn't answer. He said, "I will come back and answer them." Instead, he sent "secretary somebody" who had the same answer to all the questions he did: "I don't know."

I think Mr. Capuano asked her how much she wsa being paid not to know anything. And several other Members also asked her. She refused to tell her salary. That is how transparent they are. I heard Mr. Lynch from Massachusetts talk about all this detailed mortgage information that he has about his district. I have asked for that information, and I have never gotten one ounce of that information before.

So I am very suspicious, and I would just like for you to tell me why you can't answer any questions that we have asked here that have already been asked of your agency and you should have been well-prepared to answer today.

Mr. ANTONAKES. So, Congressman, I appreciate your comments very much. And to the extent—

Mr. POSEY. I bet you do.

Mr. ANTONAKES. —our response was not satisfactory to you, I am happy to try to follow up and provide you more information, as well. We, I believe, have tried to answer that in the vast majority of cases, we do not collect personally identifying information—

Mr. POSEY. Listen—

Mr. ANTONAKES. We have—it has resulted—

Mr. POSEY. Reclaiming my time, that is the same baloney that you gave Mr. Duffy. And that is basically the only answer he gave me. I asked you 19 specific questions. We all know you claim not to have detailed personal information, just like the NSA and just like the IRS don't abuse that power. We are not even going there yet.

We asked you very simple, easy-to-answer questions that you should be able to respond to honesty.

Chairwoman CAPITO. The gentleman's time has expired.

Mr. Pearce?

Mr. PEARCE. Thank you, Madam Chairwoman.

Thank you, Mr. Director. And trying to put things into context, why the questions come up, I hear of your and I read in your statement that empirical analysis is necessary for good policy, so you collect more of it. Probably no one collects more information than the IRS, yet in 2009, they had 100,000 people, employees of the Federal Government, who were not paying their taxes. And, of course, that was led by Treasury Secretary Geithner, who didn't think it was his duty to pay taxes.

And now within the last 2 years, that number has gone to 312,000 and $3.5 billion now owed by Federal Government employees. The government has the information. They just choose to check on conservative groups rather than check on the people who are not paying their taxes.

So if there is a little concern about what you are collecting—and I was a little bit confused. I thought you said to Mr. McHenry that part of the PII is name, address, Social Security number, ZIP, property they have, credit score, and balances. And then I heard a different answer, I thought, to Mr. Rothfus. Is this PII? So—name, address, Social Security, ZIP, property they have, credit score, I thought you had affirmed to Mr. McHenry. Was I hearing backwards? That is not stuff you collect and as part of PII?

Mr. ANTONAKES. No, sir. So—

Mr. PEARCE. So it is not part of it?

Mr. ANTONAKES. We collect PII through our consumer response—

Mr. PEARCE. So that—PII includes—

Mr. ANTONAKES. —supervisory—

Mr. PEARCE. If I could reclaim my time, PII includes name, address, Social Security number, ZIP, property, credit score? I thought Mr. McHenry walked through that, so is that part of PII or is it not? Yes or no?

Mr. ANTONAKES. The answer is it is part of PII. It may not be—

Mr. PEARCE. Okay. So if it is part of PII, maybe we should invoke the Geneva Convention for consumers. Under the Geneva Convention, when I went to Vietnam there were a lot of pilots being shot down. We only had to give our name, rank, and Social Security number. Here, you collect all the other jazz. You have the potential to misuse it, exactly like the IRS is misusing it.

So I was interested in your response to Ms. Velazquez. She noted properly that one breach will erode the confidence. And she asked, what steps have you taken to see that you don't have a breach? You said that the answer was to collect as little information as possible. Are there any other things that you do to stop a breach?

Mr. ANTONAKES. Sure. Congressman, our systems are compliant with the Federal—

Mr. PEARCE. No, I didn't ask what you are compliant with. What other steps do you take to ensure there is no breach?

Mr. ANTONAKES. We have robust security systems, IT systems that are constantly being reviewed and audited. We have limited significantly which personnel have access to this information, and we are trying to ensure that we have the procedures in place to discard this information when it is no longer necessary.

Mr. PEARCE. So you have contractors that have access to information?

Mr. ANTONAKES. We have limited contractors that have access—

Mr. PEARCE. But some contractors do. I am sure Mr. Snowden was one of a very limited number. Have you gone and done case studies on agencies or consumer groups, credit card companies where information has been distributed, where people have leaked or shared or hacked in? Have you studied those? Has your agency—as someone said, you are a very powerful agency. You are probably going to have more information than even the IRS.

Have you done any case studies on the people who have leaked Mr. Snowden or any of the others? Did you stop—as a manager, did you stop everyone and say, "Hey, this is a wake-up call. If it can happen in the most secret of our agencies, it might happen to us." Did you, as Deputy Director, number-two guy, stop everybody and say, "Wait, we need to sit down and have a discussion on our ethics internally. If it could happen over there, it could happen here?"

Mr. ANTONAKES. So we do take data security—

Mr. PEARCE. No, I did not—did you have any case studies looking at specific things where people have leaked or stolen information? That is a fairly simple question.

Mr. ANTONAKES. We do—

Mr. PEARCE. You are the number-two guy in the company or the—

Mr. ANTONAKES. —do not have any specific case studies where other agencies have leaked information, Congressman.

Mr. PEARCE. That is incredible to me that you would not look at what happened. The breakdowns have happened in some of the credit card companies where massive information has been received. It is incredible that you as the number-two guy have not done that.

Do any of the people, when you make these awards, have any bonuses been given to employees or investigators or people who are collection agencies? Have any awards been given to people who help you get the information?

Mr. ANTONAKES. I am not sure I understand the question, Congressman.

Mr. PEARCE. Okay. You said that you found 28,000—or employees are—Defense Department people. You got awards back to them. Did anybody get finder's fees? Because I am finding that in many agencies.

Mr. ANTONAKES. No, sir.

Mr. PEARCE. No finder's fees?

Mr. ANTONAKES. No.

Mr. PEARCE. No bonuses, no nothing?

Mr. ANTONAKES. Not—no.

Mr. PEARCE. Okay.

Mr. ANTONAKES. Not to—

Mr. PEARCE. I yield back. Thank you, Madam Chairwoman.

Chairwoman CAPITO. Mr. Barr for 5 minutes.

Mr. BARR. Mr. Antonakes, I am just seeking a little clarification here. Under what circumstances does the Consumer Financial Protection Bureau obtain in its data collection efforts personally identifiable information?

Mr. ANTONAKES. We will collect it through our consumer response portal, if consumers reach out directly to us for assistance—

Mr. BARR. I understand that. And what is the second category?

Mr. ANTONAKES. And also during our supervisory process. When we conduct examinations of the banks, credit unions, and nonbanks that are under our jurisdiction, we may have access to that information to report for exams.

Mr. BARR. Okay. So Section 1022 of Dodd-Frank specifically prohibits your agency from collecting data "for the purposes of gathering or analyzing the personally identifiable financial information of consumers." How do your data collection efforts that contain personally identifiable information comport with that statutory prohibition?

Mr. ANTONAKES. That statutory prohibition lends itself to broader market monitoring data collection activities. It does not go specifically toward data collection activities through our supervisory process.

Mr. BARR. Okay, are you—

Mr. ANTONAKES. There are other provisions in Dodd-Frank that allow us to do it.

Mr. BARR. —familiar with the system of records notice that was published in the Federal Register by your agency in November of last year?

Mr. ANTONAKES. Generally.

Mr. BARR. Okay. Are you aware that the system of records notice, which is required under the Privacy Act of 1971, that requirement is triggered by the collection of information that is actually retrieved by a personal identifier and that these SORN notices are used to provide notice to members of the public that their information is being used by an agency? Are you aware of that?

Mr. ANTONAKES. Yes, sir.

Mr. BARR. And so you are admitting that your agency has issued one of these system of records notices to alert the public that you are collecting personally identifiable information. Is that correct?

Mr. ANTONAKES. Yes, sir, as we are allowed under other provisions of Dodd-Frank to fulfill our other mandates to protect consumers.

Mr. BARR. Okay. And so is the information—the PII that you are collecting pursuant to this systems of records notice, is that personally identifiable information, is that searchable by personally identifiable information in your database or your contractors' database?

Mr. ANTONAKES. We would collect information for our consumer response portal, as well as through our supervisory process, for the—

Mr. BARR. I understand you collect it. Is it searchable by personally identifiable information?

Mr. ANTONAKES. I would have to get back—

Mr. BARR. Could you get back with us on that?

Mr. ANTONAKES. Yes, I would be happy to.

Mr. BARR. We would be interested to know that. And specifically, we want to know if the data can be retrieved by personal identifiers. So that would be something of interest to this committee, if you could get back to us on that.

How long is the data that includes personally identifiable information retained? What policies or procedures do you have in place for records retention of that PII?

Mr. ANTONAKES. We have policies that we have submitted to the National Archives Center and we are waiting for their approval of our destruction schedules.

Mr. BARR. So, you don't have a policy in place right now?

Mr. ANTONAKES. We don't have an approved policy in place by the National Archives Center.

Mr. BARR. So at this point, the PII that you all have obtained is not subject to any kind of records retention schedule as of yet?

Mr. ANTONAKES. As of yet, but we have significant hopes that we will have those schedules approved shortly.

Mr. BARR. Okay, under the system of records notice regarding your data collection activities, has the CFPB also conducted a privacy impact assessment of that?

Mr. ANTONAKES. I would have to confirm that for you, Congressman.

Mr. BARR. Okay. If you could get back to us on that. And if—and in addition to whether or not you have conducted the privacy impact assessment, if you have not, we would like to know why you have not yet subjected the agency to a privacy impact assessment.

And then a third follow up, please, which would be why would the CFPB not have made public the privacy impact assessment, if, in fact, you have conducted one? So, again, if you are unaware of the answer to those questions, if you could follow up with my office or the committee, that would be appreciated.

Mr. ANTONAKES. I will be happy to do so.

Mr. BARR. Okay. Are any individuals—since you are conceding that you—and you have issued this notice in the Federal register that you are collecting personally identifiable information—are any of the individuals whose personally identifiable information that has been collected, are any of these individuals—have any of these individuals been given notice prior to that collection?

Mr. ANTONAKES. No, sir, because it is not required under our supervisory authority.

Mr. BARR. Okay. I yield back.

Chairwoman CAPITO. The gentleman's time has expired.

Mr. Westmoreland?

Mr. WESTMORELAND. Thank you, Madam Chairwoman.

You are the Associate Director of Supervision and Enforcement, correct?

Mr. ANTONAKES. That is correct.

Mr. WESTMORELAND. Do your enforcement officers carry firearms?

Mr. ANTONAKES. No, they don't, sir.

Mr. WESTMORELAND. So they do not carry firearms?

Mr. ANTONAKES. No.

Mr. WESTMORELAND. Do they wear uniforms?

Mr. ANTONAKES. No, sir.

Mr. WESTMORELAND. Okay. Do the PII, do the individuals know that you are storing their data?

Mr. ANTONAKES. To the extent information is coming into our consumer response channel, there is a privacy notice for them, and I would say, yes, they know that we are storing their information. If it is coming through the examination process, then not necessarily.

Mr. WESTMORELAND. How many questions do you ask these folks if they call in with a problem?

Mr. ANTONAKES. We are basically trying to ask the minimum questions that will allow us to remedy the situation, if, in fact, there has been a violation of consumer law.

Mr. WESTMORELAND. And so then you tell them you are storing their information for later use?

Mr. ANTONAKES. I'm sorry, sir?

Mr. WESTMORELAND. You are getting this information, and they know you are getting it to store the data.

Mr. ANTONAKES. That is correct.

Mr. WESTMORELAND. So you tell them—

Mr. ANTONAKES. Yes—

Mr. WESTMORELAND. —we are storing your data?

Mr. ANTONAKES. There is a notice that indicates that.

Mr. WESTMORELAND. Okay. How many people have access to this?

Mr. ANTONAKES. It is limited to those who are responding directly to the complaints, as well as some other folks in the Bureau that—

Mr. WESTMORELAND. I know that, but how many people is that?

Mr. ANTONAKES. I would have to get back to you with a precise number.

Mr. WESTMORELAND. You don't know?

Mr. ANTONAKES. I don't know the precise number. It would depend on—it is—

Mr. WESTMORELAND. Would the Director know the precise number? Who would know the number?

Mr. ANTONAKES. We could provide that information to you. I just don't know it off the top of my head.

Mr. WESTMORELAND. Sure.

Mr. ANTONAKES. It is focused on a need-to-know basis, for those who either are directly responding to—

Mr. WESTMORELAND. I think it is pretty unusual that you wouldn't know how many people had access to this, but what type of security clearance do these CFPB employees have, who have access to this information?

Mr. ANTONAKES. They all go through significant background checks, as well. I think we have the security clearance that is akin to agencies of—

Mr. WESTMORELAND. Is it—what kind of security clearance is it?

Mr. ANTONAKES. It is not top-secret clearance.

Mr. WESTMORELAND. Okay, so they have information to all these personal names, Social Security numbers, addresses, birth dates, and whatever. And they don't have any type of level of security clearance?

Mr. ANTONAKES. We do attempt affirmatively to limit the PII that we need to collect—

Mr. WESTMORELAND. Do you do it yourself?

Mr. ANTONAKES. Do I do it myself?

Mr. WESTMORELAND. No.

Mr. ANTONAKES. No.

Mr. WESTMORELAND. Does the CFPB do it within its own agency?

Mr. ANTONAKES. We attempt through our consumer response portal to limit the type of PII. We collect just enough to be able to go back to the company so that they can actually identify the account and the complaint and then verify that, in fact, it is an actual complaint.

And the security background checks that everyone would have to go through are exhaustive and extensive, and we have certain policies and procedures in place, as well, that will—

Mr. WESTMORELAND. I guess what I want you to answer is, who does the background checks?

Mr. ANTONAKES. The Office of Personnel Management, and they use their sources that they do for personnel background checks.

Mr. WESTMORELAND. So you really don't know who does the background checks?

Mr. ANTONAKES. The degree of, I think, background checks depends on their rank and the positions of the—

Mr. WESTMORELAND. So you don't know how many people have access to these files? And you don't know really what type of background check they have had?

Mr. ANTONAKES. I know they have substantial background checks. I know the number of people is significantly limited to those who work in our consumer response area and those who work in our supervision and enforcement areas.

Mr. WESTMORELAND. But you don't know the number?

Mr. ANTONAKES. I can provide you with the number. I don't know the number offhand.

Mr. WESTMORELAND. Sure. Okay. Let's say one of my constituents calls you up and says, "Can I see my data? Can I see my file that you have on me? First of all, do you have a file on me?" And if the answer would be yes, can they request the information that you have?

Mr. ANTONAKES. The only information that we would have would be the information that they have provided us—

Mr. WESTMORELAND. No. No, no, no, no. You are getting information from these outside groups, the banks. So can you give them that?

Mr. ANTONAKES. The information that we would have on a consumer that came in through our consumer response portal would be the information they provided us, and then we would have a summary of—

Mr. WESTMORELAND. I am not talking—I am talking about the PII.

Mr. ANTONAKES. So we are not collecting PII for consumers who respond to our consumer response—

Mr. WESTMORELAND. Well, no, but you do have this personally identification information, right?

Mr. ANTONAKES. If they have provided it to us.

Mr. WESTMORELAND. So if they find out that you have stored this and they don't realize it or don't remember it, can they ask to opt out?

Mr. ANTONAKES. They are affirmatively reaching out to us and voluntarily providing us this information. There is a privacy notice which is provided to them at the moment that they are filling out that information.

Mr. WESTMORELAND. I look forward to some of these answers that you said you are going to respond to from these questions. And I appreciate you coming, and I appreciate your service. But I find it really hard to believe that you didn't realize some of the questions you were going to be asked today. So thank you for coming.

Mr. ANTONAKES. Thank you.

Chairwoman CAPITO. Thank you, Mr. Westmoreland.

That concludes our first round, but I am going to go to a second round, because we have a few more interested folks who have additional questions, one of whom is me. And the thing I am concerned about is, because I think we have a difficulty understanding exactly—because in my—in your first response to my question, you said you do not collect PII. But in your subsequent testimony, you have said that on two occasions you would, when a consumer would opt in from a consumer complaint, and the other might be from other institutions or other information.

That is the part, I think, that we are having the issue with, is not that the consumer is opting in to ask you to help them with the consumer complaint, but in the rhetoric, you are saying, no—or in your first statements, you said no. But in subsequent testimony, you are really saying, yes, we do, in certain instances. Maybe not the $800 million credit card cases, but in other cases, we do have this PII.

As clearly as possible, please explain that part and when that would come into play.

Mr. ANTONAKES. Madam Chairwoman, I am sorry if I was not clear on this point in particular, trying to distinguish between some of the data that we are purchasing versus the data that we have access to through our supervisory program. So to the extent that we are conducting examinations which are mandated by Dodd-Frank, we are required to examine the large banks over $10 billion in assets—

Chairwoman CAPITO. Right.

Mr. ANTONAKES. —the large credit unions over $10 billion in assets—

Chairwoman CAPITO. Right.

Mr. ANTONAKES. —and certain non-bank entities, we have to examine them on a regular basis to determine whether there are violations of consumer protection laws. During the course of our examinations, our examiners go on-site to these institutions and they conduct transaction testing, in which they are sitting down and looking at actual loans and loan-level data to determine whether there are violations of law.

We are not maintaining or collecting this data unnecessarily. If it is a clean—

Chairwoman CAPITO. Okay.

Mr. ANTONAKES. —exam, we move on and we don't collect it.

Chairwoman CAPITO. Okay. Let me stop you right there, so I understand. So if you have—on your supervisory job, you are collecting a transaction on a person, which then would have this—you have already said what PII might be, Social Security number, mortgage, whatever name, address, all those things.

So are you saying, then, that because you are conducting this in the supervisory, that you then don't bring that information back

into the CFPB and hold it for 10 years in the cloud? Or do you leave it at the financial institution in the course of an exam?

Mr. ANTONAKES. If there are violations found and it requires some form of corrective action, be it an informal action, be it a formal enforcement action, be it the requirements at reimbursement, then some of that information may be stored.

Chairwoman CAPITO. So you bring that and store it?

Mr. ANTONAKES. In certain circumstances, yes.

Chairwoman CAPITO. Okay. In terms of the—what the gentleman from Georgia was asking about, whether you could opt out, I guess I am reading here in the Federal Register where individuals seeking notification and access to any record contained in this system of records or seeking to contest its comments may inquire in writing, according with instructions?

Mr. ANTONAKES. That is correct.

Chairwoman CAPITO. Okay. I didn't hear you say that.

Mr. ANTONAKES. I'm sorry. Anyone can ask at any point in time if we have any records or information on them, and we would be obligated to respond.

Chairwoman CAPITO. Right. That doesn't mean they get to see their records, though.

Mr. ANTONAKES. That is correct.

Chairwoman CAPITO. It just means that they can respond about their records. Would that be clarification?

Mr. ANTONAKES. Right. Yes.

Chairwoman CAPITO. Yes? Okay. And I think you understand the concern on the privacy issue and the concern on what Americans are now finding out is being collected at all levels, whether it is financial information, concern, obviously, about health records, concern about national security records, concern about tax records. All of these things, I think it begs to have a great national discussion on where the fine lines between your own personal privacy is, whether it is in your financial institutions or not.

Again, I am going to go back to the PII information, because I think you have given a little bit of conflicting testimony, not intentionally, but more in terms of what your actual mission is, not to collect PII, but in the course of moving forward in your supervision and in your examination procedures, PII is part of what you do collect and keep. So would that be a true statement?

Mr. ANTONAKES. Madam Chairwoman, for the market monitoring, we don't see the need to collect PII. We are not studying individual Americans. We are trying to protect Americans.

So to the extent there is PII that is collected, it is in response to consumer complaints or through our supervisory work, which, as I testified earlier, has resulted in significant reimbursements for American consumers already.

Chairwoman CAPITO. Right. That would be mostly through your consumer complaint center—

Mr. ANTONAKES. And—no. Primarily through our supervision program and enforcement program. That is where the 430 million-plus has come.

Chairwoman CAPITO. And my last—I don't even have a last—but I do thank you for your service and your testimony, for which I will

thank you again at the end of the hearing. We will go to—Mr. Scott, did you have an additional question?

Oh, I'm sorry. Mrs. Maloney?

Mrs. MALONEY. I think privacy is incredibly important. And everyone keeps going back to the PII. So I would like you to put your policy on the PII on your Web site that for broad areas, looking at interest rates, no one looks at anything private. But if an individual calls and says, they retroactively raised my interest rate on my credit card by 30 percent, then you look into that particular situation. So I would like to request that you put this information up on your Web site so it is very clear.

I would like to remind my colleagues why we created the CFPB in the first place. We had a financial crisis that economists tell us was the first financial crisis in the history of our country that was caused by policies that hurt consumers. This country lost anywhere from $12 trillion to $16 trillion because of a financial crisis that could have been prevented.

That is why they were created, because consumer protection, the subprime crisis, was totally abusive and unfair prices—or policies that were put out there by some bad actors, some—not the full industry. There are many honest, good financial institutions. But some bad actors, some of whom were not regulated, put this out there and brought this country to its knees. And our citizens are still suffering.

No agency was looking at consumer protection. It was a secondary thought, a third thought, or not thought about at all. So we believed—many of us—to have an agency that looked at protecting our veterans as they were overseas fighting, that looked at protecting our students that we need to educate for our future, from high interest card rates, to protect our citizens. The credit card bill of rights that many of us worked on, according to the Pew Foundation, saved consumers $10 billion last year. That is a lot of money that goes into the hands of working men and women who need it.

So the financial board came in place, and I would like to ask unanimous consent to place in the record a series of areas where they have saved consumers money, kept the money in the consumer's pocket, which has helped the working men and women of this country.

So they have been tasked and are mandated to look at policies in a broad way so that they can prevent abusive policies in the future, that new products that are created, that they look to see if they are fair to consumers, that consumers can understand them.

Their success rate has been phenomenal, and their reports—granted, they take a long time to do, because they are data-driven—have helped us with better policies. In overdraft, an area that I work in, in credit card, an area that I work in, in student loans, it has helped us make better policy decisions.

They are basically collecting data. We have to make sure that it is secure and private, but one aspect that you answered earlier, you testified that other financial agencies such as the Federal Reserve are collecting more data than the CFPB is collecting. So what I don't want this to be is a witch hunt after the CFPB, which is trying to protect consumers.

The other regulators—and they do a very important job—are protecting institutions to make sure that they don't go under or hopefully will protect them from going under. But could you elaborate on what other financial institutions by law are collecting?

And I believe you testified that they are collecting more information than the CFPB is. Is that correct?

Mr. ANTONAKES. Ranking Member, I don't know precisely how much information the other Federal regulators are collecting.

Mrs. MALONEY. The chairwoman and I are going to do a GAO report and find out—

Mr. ANTONAKES. Right.

Mrs. MALONEY. —so that we can understand and also streamline it so that agencies aren't collecting the same information.

Mr. ANTONAKES. But my understanding is they do collect substantial amounts of information. The credit card information we are collecting has been collected by other Federal agencies for several years.

Mrs. MALONEY. And what about stress tests that the Fed does? What kind of information do they collect?

Mr. ANTONAKES. Certainly, the Fed has very broad authority, both in terms of monetary policy and bank regulation, and they are collecting very different data in many respects than the type of information that we are collecting.

Mrs. MALONEY. What type of information—are they doing interest rates? Are they doing—

Mr. ANTONAKES. Well, certainly, unemployment information—

Mrs. MALONEY. So that is what you are collecting?

Mr. ANTONAKES. —a wide variety of information, but I would not be the best person to ask what particular information the Federal Reserve is collecting.

Mrs. MALONEY. I think we need to really review—

Chairwoman CAPITO. The gentlelady's time has expired.

Mrs. MALONEY. —all of the agencies. What are they collecting? And how are they protecting the consumer and financial institutions?

I yield back.

Chairwoman CAPITO. Mr. Duffy?

Mr. DUFFY. I would agree with the gentlelady from New York. We should know what other agencies are collecting, as well. But I would disagree with her in the sense that she mentions that obviously the more data that you have, the better you are able to protect consumers.

I actually would agree with that component of it. But we always have a balance with the private sector and our government in privacy and our civil liberties. And, yes, more data might mean more protection, but it also means less privacy for Americans. And I think you are tipping the scales into the privacy component, as opposed to the protection component.

In regard to data collection, what other agency collects nearly a—because you have 1.2 billion credit cards out there. You are collecting 73 percent, going to 80 percent. That is almost a billion credit card accounts. What other agency is collecting that kind of data out there? A billion accounts.

Mr. ANTONAKES. I believe the data collection activities that we have under way in the card space is very similar to other data that has been collected by the Federal Reserve, as well as the Office of the Comptroller of the Currency.

Mr. DUFFY. I do want you to answer my question. Is there another agency that collects about 80 percent—a billion accounts? Does the Fed do that?

Mr. ANTONAKES. I don't know what percentage of the accounts that the other agencies collect, but I do know that they collect substantial amounts of credit card data.

Mrs. MALONEY. Point of personal privilege, because my name was mentioned?

Chairwoman CAPITO. Will the gentlelady suspend?

Mrs. MALONEY. Pardon me?

Chairwoman CAPITO. Hold just a minute, please—time to ask you a question—

Mr. DUFFY. Yes, I would yield to the gentlelady from New York.

Mrs. MALONEY. I agree completely with Congressman Duffy that we need to have the right balance. We need to protect the consumers overall and have fair and honest banking practices, but we also have to protect privacy. And, again, I placed in the record a letter from five different consumer privacy groups—

Mr. DUFFY. Reclaiming my time—

Mrs. MALONEY. —who believe that the right balance was achieved—

Mr. DUFFY. —gentlelady from New York—

Mrs. MALONEY. —in the CFPB.

Mr. DUFFY. —with me in regard to the privacy balance. I just want to mention that—I believe that Senator Crapo had asked 3 times that the CFPB to provide him information in regard to how many accounts and how many Americans have their financial data collected by your agency. And the CFPB has refused to provide that information to the Senate.

Today, you have agreed to provide that information to us. Now, I am disappointed that you don't have that number for this committee. You knew the question was going to come up, and you were ill-prepared to answer it. But to that point, can we expect that information within 2 weeks?

Mr. ANTONAKES. Congressman, we have to be, I think, entirely precise, just so we can answer you correctly, in terms of what particular information you are seeking—

Mr. DUFFY. How long—

Mr. ANTONAKES. There is a lot of information.

Mr. DUFFY. How many accounts? How long will it take to get that information?

Mr. ANTONAKES. Congressman, are you speaking to the instances in which we collect PII or more broad information that does not include PII?

Mr. DUFFY. All accounts.

Mr. ANTONAKES. Again, it is not accounts in some cases. It is loan-level data. It is other types of information, as well. We can seek to provide that information to you. We will do it in as timely a fashion as possible.

Mr. DUFFY. Okay. I want to move to another issue. In regard to how you store financial data, do you silo your supervisory role, data that you collect in your supervisory role? Do you silo that information from the information you collect in your market monitoring? That information and data is siloed? They are separated? They are not merged? Is that correct?

Mr. ANTONAKES. We don't merge different data sets. Conceivably, market monitoring personnel would have access to some of the information, because we are allowed to collect data for multiple purposes and sources, but we are not mixing and matching data sets.

Mr. DUFFY. So through the supervisory process, the data that you collect can be merged with the market monitoring. Is that correct?

Mr. ANTONAKES. That is not what I said. I said that they would have access and the ability to look at that information, but we are not mixing and matching data sets. We are not trying to re-identify consumers, from which we have not collected PII on.

Mr. DUFFY. Okay. We received a contract that the CFPB had with Experian through Judicial Watch. And that contract would have been used in the market monitoring function. Is that correct?

Mr. ANTONAKES. That is correct.

Mr. DUFFY. And you have also testified today that in a market monitoring function, you don't obtain personally identifiable information. Is that also correct?

Mr. ANTONAKES. I am saying that if it is coming through purchases, voluntary information requests, we are not collecting PII.

Mr. DUFFY. Okay.

Mr. ANTONAKES. If it is coming through the supervisory channel, it could conceivably—

Mr. DUFFY. That is right. But through market monitoring, you are not collecting it. In regard to Mr. McHenry's question—and you also said that addresses, as well as ZIP Codes, plus four, are personally identifiable information, correct?

Mr. ANTONAKES. Correct.

Mr. DUFFY. Now, I have a contract here provided from Judicial Watch, your contract with Experian, which requests that the contractor shall provide ZIP plus four or other geographic location information, such as census block identifiers. So I have a contract right here that shows that you are actually collecting that information, and so your testimony today is actually incorrect, per your contract with Experian. Is that right?

Mr. ANTONAKES. I would have to verify the contract with Experian to see exactly what type of information we are—

Mr. DUFFY. So you are obtaining personally identifiable information in the market monitoring function, contrary to the testimony here today. I yield back.

Mr. ANTONAKES. I don't believe we are, sir.

Chairwoman CAPITO. The gentleman's time has expired.

Mr. Scott?

Mr. SCOTT. Yes, thank you, Madam Chairwoman.

Let me just mention—and again, let me just commend the ranking member, with whom I very much agree on the need for this, and let me commend the chairwoman of the committee for this extraordinarily important hearing.

And, again, let me go to one point that needs clarification, which Mr. Duffy raised. First of all, we raise this huge number of $80 million on the credit card issue. But isn't it true that there probably is no other area of great complaint and concern for consumer protection than the credit cards? We are almost a credit card society. We have stolen credit cards. We have misplaced credit cards.

And I think it is very important to clarify that this PII information that you have to request comes from the personal request of the individual coming to you to get you to look into this matter. Are those points correct?

Mr. ANTONAKES. I would say credit cards is one significant area of complaints for us. There are others, but it is a significant area of complaints.

And I would say, to the extent that a consumer is reaching out to us directly through our consumer response channel, in that instance, we are collecting PII because they are asking us to intervene on their own behalf.

Mr. SCOTT. And while Dodd-Frank, as we mentioned, outlaws PII information and so forth, it does so within the context that you fit in with the same parameters as the FDIC, the Federal Reserve, and other regulatory agencies. Is that correct?

Mr. ANTONAKES. That is correct.

Mr. SCOTT. All right. Now, with that information, the other request that comes from the other side—and on this request for numbers and how many and so forth—might have something to do with the aspect of confidentiality and—we love C-SPAN, and it is all across the Nation, and the good people hear it, as well as bad people hear it, and so forth, so there is a reason for some method of confidentiality.

But you have agreed to find a way individually to make that known to those various members of the committee who have been asking for it, correct?

Mr. ANTONAKES. Correct.

Mr. SCOTT. All right. Now, let me just ask you this question again. I don't know if I matched it before, but I think it is very important. Has there been any breach in the CFPB's data system concerning this information? Has there been any breach in that information getting out?

Mr. ANTONAKES. There has been no breach that we are aware of, Congressman.

Mr. SCOTT. No breach that you are aware of. Which means, are there any—

Mr. ANTONAKES. I don't—

Mr. SCOTT. —that you may be unaware of? I need a clear—

Mr. ANTONAKES. Congressman, I don't believe we have had a breach.

Mr. SCOTT. I don't believe, but—is there anybody else in there where information is brought that there may be a breach?

Mr. ANTONAKES. We have no reason to believe there has been a breach.

Mr. SCOTT. All right. Now, are there firewalls, internal firewalls that you have involved for storing and using any of this data so that we can give the public additional assurance that you have some system in place for various probabilities, that you have people

there whose job it is to just sit all day and all day and their job is to figure out, how can anything happen to get this information out to protect it? And do we have firewalls there?

Mr. ANTONAKES. Yes, Congressman, we have firewalls, we have data security personnel, folks whose sole responsibility is to make sure that any data we collect is being maintained in a secure fashion.

Mr. SCOTT. Okay. All right. And finally, I have one other very, very important point I would like to make, which is that we are working to try to get something right here to protect the American people who were grossly taken advantage of in so many areas.

And I would say, of all that we have done in this lawsuit reform, the primary role of the CFPB is as the enforcer. And you can't do that without getting the information. Is there anything you would recommend to this committee that you need to be able to do a better job? And especially responding to some of the concerns that we have had.

Mr. ANTONAKES. Congressman, I believe we have the tools necessary to protect American consumers, which is our mandate and all that we focus upon and why we collect and analyze this data.

Mr. SCOTT. Thank you, sir.

Chairwoman CAPITO. Mr. Barr?

Mr. BARR. Mr. Antonakes, thank you for your testimony today. I appreciate you providing this committee and the Congress with more information about the handling of American citizens' personally identifiable information by the Consumer Financial Protection Bureau.

But I wanted to follow up on a line of questions, which, with all respect, I don't think we have the answer that I think some of my colleagues were seeking, and that has to do with the categories of information that you are collecting, the categories of PII that you are collecting.

One category is a category of PII that you get from consumers who voluntarily disclose it to your agency, correct?

Mr. ANTONAKES. Correct.

Mr. BARR. The second and—there are only two, as I understand it, from your testimony—the second is personally identifiable information that the Bureau obtains in the course of exercising its supervisory function. Is that correct?

Mr. ANTONAKES. That is correct.

Mr. BARR. Okay, I am interested in this second category, where you are obtaining PII from third parties, okay? In those cases, would an individual be able to, through a FOIA request or some other mechanism, obtain a file in the possession or custody of the Bureau with their PII that was obtained from a third party?

Mr. ANTONAKES. So my understanding—and I want to answer this carefully, Congressman, to make sure it is completely accurate and responsive to your question—my understanding is, under the Privacy Act, an individual consumer could request to know whether or not we had collected information on that person. And I believe—I have to verify—that we would then provide that information to the individual consumer. They couldn't ask about other consumers; they could just ask about their own personally identifiable information.

Mr. BARR. Right, but to follow up Mr. Westmoreland's line of questioning, for that category of information, PII—

Mr. ANTONAKES. Yes.

Mr. BARR. —that is obtained by your agency from a third party, in the course of your supervisory functions—

Mr. ANTONAKES. Right.

Mr. BARR. —could the individual to which that confidential information or personal information applies—could that person obtain the file that you are keeping?

Mr. ANTONAKES. I want to verify this, but I believe they have the right to ask, and then we will provide that information to them.

Mr. BARR. Okay. Let me ask you another question about the disclosure and the rules and the regulations that govern the Bureau's disclosure of this personally identifiable information. One of the regulations, 12 CFR 1070.41(b), provides the Bureau with authority to make disclosures to your contractors and your agents. How many contractors, agents, and third parties have been granted access by the Bureau to this database of information?

Mr. ANTONAKES. I would say we have different folks in a contractual arrangement serving different roles at the Bureau.

Mr. BARR. Yes, how many, approximately?

Mr. ANTONAKES. I would have to provide that information for you. I want to be accurate. I would have to get that information for you.

Mr. BARR. Are we talking a dozen or are we talking—approximately how many contracts do you all have with third parties with whom you share this information?

Mr. ANTONAKES. We have certain areas that we contract with to do certain services for certain work for us, so it varies. But those contractors would have access only to the information that is fundamental to the job that they are doing. They wouldn't have broad access to all of the information—

Mr. BARR. When you disclose this information to the contractor or third party, who decides whether or not the information contains the PII?

Mr. ANTONAKES. It would be germane to the particular area.

Mr. BARR. Okay, so—

Mr. ANTONAKES. So if we had contractors, for example, supporting our consumer response function, then they may have access to some of the information coming in from complainants. They wouldn't have information coming in through our supervisory channel.

Mr. BARR. But the bottom line is, is both your systems of records notice and your regulatory framework contemplates sharing PII with third parties?

Mr. ANTONAKES. With people who are working for us and who are operating under Federal privacy laws.

Mr. BARR. One final question about the data that you collect from your supervisory role and then the purchase data sets. Do you match up the data that you obtain from purchased information, from Experian or CoreLogic or some of these other organizations—do you match at the individual level that data with the PII that you obtain under your supervisory functions?

Mr. ANTONAKES. No, sir, we do not.

Mr. BARR. Okay, my time has expired.

Chairwoman CAPITO. Mr. Heck?

Mr. HECK. Thank you, Madam Chairwoman.

Hopefully, to close this maybe on a little bit of a positive note, and to use but one tiny but important example of how working with the CFPB has helped people, according to current law—I hope I say this accurately in its entirety—if you are a member of the service and you produce your orders with a stipulated end date, you are exempt from your student loan rate rising above a certain level while you are on active-duty service.

Because of a peculiarity in the law, if you are an officer, your orders don't carry a stipulated end date. And as a consequence, we have all manner of 22-year-old ROTC graduates about to get hammered by high student loan interest rates.

Our office, working with the Bureau, through their efforts, identified this as a problem, and there was an amendment added to the National Defense Authorization Act which corrected this, and that could not have occurred, sir, without the work of your agency ferreting that out, identifying it, working it with the lenders, and with our office to amend the bill so that we can correct this going forward. Just a tiny example of where people have been helped and protected because of the work of your Servicemember Affairs Office. And I thank you for that, as well.

Mr. ANTONAKES. Thank you, Congressman. Holly Petraeus and our entire Office of Servicemember Affairs do a tremendous job. Congress really appropriately identified in Dodd-Frank the special needs of servicemembers and how they have, on occasion in the past, been taken advantage of. So the work they do is critically important. Thank you.

Mr. HECK. Thank you.

I yield back the balance of my time.

Chairwoman CAPITO. Thank you. I would like to thank the witness. I would also like to just review that we have a request for information from follow up from the CFPB, specifically, I think, on the numbers of records more specific.

Also, I would like to add to that, if you could, the categories of PII that you have been collecting in the supervisory—I am not sure we got that definitively answered, and I think that would help the committee.

So I would like to thank—

Mrs. MALONEY. What categories in general are they collecting?

Chairwoman CAPITO. Yes, what categories in general of the PII. And if you could submit that to me, too, I know some of the other Members, like Mr. Duffy and others, had asked for specific information. And thank you for indulging us a second round. I appreciate that.

The Chair notes that some Members may have additional questions for this witness, which they may wish to submit in writing. Without objection, the hearing record will remain open for 5 legislative days for Members to submit written questions to this witness and to place his responses in the record. Also, without objection, Members will have 5 legislative days to submit extraneous materials to the Chair for inclusion in the record.

And without objection, the hearing is adjourned. Thank you very much.

[Whereupon, at 12:27 p.m., the hearing was adjourned.]

A P P E N D I X

July 9, 2013

Written Testimony of Steven Antonakes
Acting Deputy Director
Consumer Financial Protection Bureau
Before the House Committee on Financial Services
Subcommittee on Financial Institutions and Consumer Credit

July 9, 2013

Chairman Capito, Ranking Member Meeks, and Members of the Subcommittee, thank you for the opportunity to provide testimony today about the fundamental importance of data analysis to the mission of the Consumer Financial Protection Bureau (the Bureau). The Bureau is a data driven agency, because Congress recognized that the Bureau cannot do its job of protecting consumers and honest businesses unless it understands the consumer financial markets it oversees.

My name is Steven Antonakes, and I serve as the Acting Deputy Director of the Bureau. I joined the Bureau in November 2010 as the Assistant Director for Large Bank Supervision and was named the Associate Director for Supervision, Enforcement, and Fair Lending in June 2012. I began my professional career as an entry level bank examiner with the Commonwealth of Massachusetts Division of Banks in 1990 and served in numerous managerial capacities before being appointed by successive Governors to serve as the Commissioner of Banks from December 2003 until November 2010.

Congress created the Consumer Financial Protection Bureau in order to ensure that consumers have access to markets for consumer financial products and services, and that those markets are fair, transparent, and competitive.

In carrying out its congressionally mandated supervisory, enforcement, and regulatory functions, the Bureau relies on rigorous empirical analysis – grounded in data – about how the markets for consumer financial products and services actually work. Data analysis is also fundamental to fulfilling our mandate to protect consumers. Analysis of data, as the law creating the Bureau prescribed, enables the Bureau to not only better protect and educate consumers, but it also enables the Bureau to coordinate with other regulators and craft tailored rules based on a careful examination of costs and benefits. The Bureau's evaluation of this data also allows it to provide meaningful reports, as required by Congress, and to perform its consumer response function.

In Fiscal Year 2012, the Bureau spent $7,129,460 on obtaining data to support its mission. To place this in context, this comprised 2.4 percent of the Bureau's total budget. To date, the Bureau's Fiscal Year 2013 data procurements total $3,169,300 or 0.6 percent of the total budget. The Bureau makes information about its non-government data vendors publicly available on USASpending.gov.

The Bureau makes every effort to obtain market data in an efficient manner with an eye toward reducing the burden and cost on industry. The Bureau also makes every effort to safeguard and protect the information that it does obtain. The Bureau collects and studies data in order to

protect consumers throughout the United States in accordance with its statutory mandate, not to study any particular individuals.

* * *

As the events leading up to the financial crisis illustrate, all regulators must have timely and accurate information about the markets they oversee. Information is essential to properly supervise market participants, regulate markets, protect consumers and honest businesses from unscrupulous activities, and ensure the stability of the financial system and of the economy generally. Simply put, no agency can effectively supervise that which it does not understand.

For example, the financial crisis showed that the lack of a comprehensive source for mortgage loan information - from origination through servicing – was a barrier to regulators' ability to understand the market, foresee emerging risks, and ensure consumers were protected. For that reason, the Bureau, in partnership with the Federal Housing Finance Agency, is creating the National Mortgage Database. This database will help to fill the information gap with loan-level data of a random and representative sample of mortgages. The sample is being drawn from commercially-available data. The Database will not contain personal identifiers such as names or social security numbers, and the agencies will implement safeguards against potential re-identification of individual borrowers. By populating the database with information that already exists, the agencies have sought to reduce any burdens imposed on market participants. Additionally, the database is intended to provide a foundation for satisfying the obligation that the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (the Dodd-Frank Act) placed upon the Bureau, in collaboration with the Department of Housing and Urban Development, to build and make publicly available a default and foreclosures database.

The Bureau's focus on empirical analysis to protect consumers is not merely good policy; it is a central theme of the Dodd-Frank Act. Congress specified one of the Bureau's primary functions as "collecting, researching, monitoring, and publishing information relevant to the functioning of markets for consumer financial products and services to identify risks to consumers and the proper functioning of such markets."[1] To support this function, Congress directed the establishment of an Office of Research at the Bureau "whose functions shall include researching, analyzing, and reporting on" the markets for consumer financial products or services.[2] More broadly, Congress directed the Bureau, "in order to support its rulemaking and other functions," to "monitor for risks to consumers in the offering or provision of consumer financial products or services, including developments in markets for such products or services."[3]

Another important consumer protection activity that the Dodd-Frank Act prescribed is the supervision of certain institutions participating in the markets for consumer financial products and services.[4] The Dodd-Frank Act authorizes the Bureau to require reports and conduct examinations of institutions in order to assess their compliance with Federal consumer financial

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[1] *See* 12 U.S.C. 5511(c)(3).
[2] *See* 12 U.S.C. 5493(b)(1).
[3] *See* 12 U.S.C. 5512(c)(1).
[4] *See* 12 U.S.C. 5511(c)(4).

laws, to obtain information about their compliance programs and activities, and to detect and assess risks to consumers and to the markets for consumer financial products and services.[5] The Bureau is committed to empirically grounded analysis, and it is the Bureau's practice to reduce burden on supervised institutions by utilizing when possible publicly available information, information obtained from other regulators, and information initially obtained or generated by other parts of the Bureau.

In mandating that the Bureau monitor the markets for consumer financial products or services, Congress granted the Bureau "the authority to gather information from time to time regarding the organization, business conduct, markets, and activities of covered persons and service providers," directed the Bureau to gather such information from a variety of sources, and expressly authorized the Bureau to utilize information initially collected for other purposes, such as consumer complaints or confidential supervisory information.[6] When the Bureau uses information collected for other regulatory purposes to perform its market monitoring functions, it first strips the information of personal identifiers and then performs aggregate analysis on that market data, rather than focusing on any individual.

Although the Bureau does not analyze data containing personal identifiers when performing its market monitoring function, access to such data is sometimes necessary for the Bureau to fulfill its broader mission to protect consumers. For example, the Bureau will use data obtained through its supervisory authority to ensure restitution of approximately $6.5 million to close to 50,000 servicemembers harmed by violations of Federal consumer financial law. Additionally, through the collection of complaint data, the Bureau has highlighted the problems that servicemembers, in particular, face as consumers. For instance, the Bureau has helped individual servicemembers with permanent change of station orders resolve issues with mortgage servicers, and has issued a report detailing the types of issues faced by servicemembers, based on complaint data submitted to the Bureau's Consumer Response Division.

In several contexts, firms as well as individuals have voluntarily submitted data that the Bureau requested in order to fulfill its statutory mandates. For example in February, the Bureau asked the public to provide input on potential policy options to tackle the problem of unmanageable student debt. The Bureau received more than 28,000 responses from experts and individuals impacted by student debt. In May, the Bureau published a report on student loan affordability that discusses what the Bureau learned from the public about potential solutions for the market. The report concluded that unmanageable student loan debt can significantly limit the financial choices of individual Americans and, in the aggregate, could negatively affect the broader economy and society

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To identify risks to consumers, the Dodd-Frank Act authorizes the Bureau to collect information from "a variety of sources" including consumer complaints, examination reports, and "available

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[5] *See* 12 U.S.C. 5514(b)(1), 5515(b)(1).

[6] *See* 12 U.S.C. 5512(c)(4)(A) and (B)(i); *see also* 12 U.S.C. 5493(b)(3) (directing the Bureau to share consumer complaint data to facilitate market monitoring).

databases."[7] In accordance with these provisions, when the Bureau performs its market monitoring function, it seeks to rely, to the greatest extent possible, on information already in its possession, information in the possession of its fellow regulators, and information already aggregated in available databases. This practice serves to reduce any burden associated with institutions' production of data by relieving them of the obligation to provide the same information twice for two different purposes. The Bureau is always cognizant of the potential burdens on industry and has worked with supervised institutions collaboratively to attempt to reduce any burden associated with Bureau requests for information.

The Bureau has also avoided creating burdens on industry by acquiring data from third parties when possible. For example, the Bureau obtained through a third party about 10 years of de-identified credit record data representing approximately 4 percent of consumers. The Bureau uses this information to perform independent analyses and reach independent conclusions with respect to risks to consumers and to markets. The Federal Reserve Bank of New York has been purchasing similar data for years, which it uses to prepare its widely quoted Quarterly Report on Household Debit and Credit. Other regulators collect similar information from market participants, and the Bureau makes conscious efforts to avoid duplicative requests and to share information with other regulators.

Congress recognized, however, that in certain instances these available information sources may be insufficient, and it thus expressly authorized the Bureau to collect information directly from consumers through voluntary "surveys" and "interviews."[8] For example, the Bureau recently requested authorization from the Office of Management and Budget to conduct a nationwide telephone survey of 1,000 credit card holders as part of its statutorily-mandated study of mandatory pre-dispute arbitration agreements.[9] It also authorized the Bureau to require covered persons and service providers to provide "information . . . necessary for the Bureau to fulfill the monitoring, assessment, and reporting responsibilities imposed by Congress," provided the Bureau does not do so "for purposes of gathering or analyzing the personally identifiable financial information of consumers."[10] As noted above, when the Bureau collects and analyzes data to perform its market monitoring function, it is interested in the way that consumers in the aggregate interact with the consumer financial markets, and not in the interaction of a particular individual with the markets. Accordingly, it does not analyze data that contains personal identifiers.

In all of these ways provided by Congress, the Bureau is authorized and directed to rely on consumer financial marketplace data for many of its functions. It is important to emphasize that, in collecting data as Congress authorizes and directs the Bureau to do, the Bureau's sole interests and intentions are to understand the market for consumer financial products and services, to assess the conduct of providers of such products and services, and to inform, educate, and protect consumers of such products and services.

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[7] *Id.*
[8] 12 U.S.C. 5512(c)(4)(B)(i).
[9] *See* 78 Fed. Reg. 34352 (June 7, 2013).
[10] 12 U.S.C. 5512(c)(4)(B)(ii), (C).

Moreover, the Bureau is committed to ensuring protections for consumers' personal privacy. The Bureau stores and protects personally identifiable information, along with other confidential information and data, according to information security requirements that comply with applicable Federal laws and regulations.[11] The Bureau publishes a privacy policy on its website that sets forth privacy principles and steps that it takes to protect consumers' personal privacy. These principles include minimizing the Bureau's collection of personal information, informing consumers about how and why the Bureau collects and uses information about them, and training the Bureau's employees and holding them accountable for their treatment of personal information.

The Bureau has also issued regulations that limit the circumstances in which it may disseminate internally, share with other agencies, or disclose to the public confidential information, including consumers' personal information. Internal dissemination of confidential information is limited to those employees for whom such information is relevant to the performance of their duties. External dissemination is strictly limited.[12] The Bureau's rules permit the disclosure of materials derived from confidential information (for example, in reports to Congress), but only "to the extent that such materials do not identify, either directly or indirectly, any particular person to whom the confidential information pertains."[13]

* * *

A deep and thorough understanding of the consumer financial marketplace is essential to accomplish the Bureau's mission, and that, understanding must be based on data. Without adequate data, the Bureau could not fulfill its critical statutory mandates to protect consumers, monitor the consumer financial marketplace for risks, provide reports to Congress, and consider the potential benefits and costs to both consumers and market participants when proposing regulations. The Bureau has always sought to fulfill its statutory duties while respecting individuals' personal privacy and imposing the least possible burden on market participants.

Chairman Capito, Ranking Member Meeks, and Members of the Subcommittee, thank you again for this opportunity to appear before you today. I will be happy to answer your questions.

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[11] *See, e.g.*, the Federal Information Security Act of 2002, 44 U.S.C. 3541, *et seq*; the Privacy Act of 1974, 5 U.S.C. 552a.
[12] *See* 12 CFR 1070.41(a).
[13] *See* 12 CFR 1070.41(c).

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B. Dan Berger
Executive Vice President
Government Affairs

National Association of Federal Credit Unions | www.nafcu.org

July 8, 2013

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

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

Re: "Examining How the Consumer Financial Protection Bureau Collects and Uses Consumer Data"

Dear Chairman Capito and Ranking Member Meeks:

On behalf of the National Association of Federal Credit Unions (NAFCU), the only trade association that exclusively represents the interests of our nation's federal credit unions, I write today in conjunction with tomorrow's hearing, "Examining How the Consumer Financial Protection Bureau Collects and Uses Consumer Data." NAFCU member credit unions and their 96 million member-owners appreciate the subcommittee's continued focus on this common sense issue as the mishandling of sensitive information could have a devastating impact on both consumers and financial service providers.

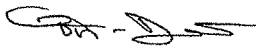
As you know, the Consumer Financial Protection Bureau (CFPB) has broad authority to collect information from credit unions from a variety of sources including exam reports and consumer complaints. As the CFPB works to meet requirements outlined in the Dodd-Frank Wall Street Reform and Consumer Protection Act [P.L. 111-203], NAFCU has consistently cautioned that data collection efforts must include several layers of protection to ensure that sensitive information is not compromised. Specifically, NAFCU has expressed concern about the response intake fields on the CFPB's consumer complaint form and has asked that the Bureau outline implementing procedures to ensure that employees handle this information with care. In an effort to minimize the potential for problems, NAFCU believes the CFPB should start by simply minimizing the breadth and scope of the personal information requested. NAFCU has also expressed similar concerns to the Treasury Department as it creates a records system for the CFPB. Unfortunately, the CFPB has not done enough to wane our concerns. In fact, the CFPB's inspector general recently found "weaknesses" in the agency's security program and the Government Accountability Office has similarly expressed concerns about data security.

In short, unfortunately the federal government, much like several private sector industries, has been responsible for the unauthorized release of sensitive personal information in the past. Certainly, nobody intends to be a victim of data breach or theft; nonetheless the government, including the CFPB, needs to do everything possible to ensure that great care is taken in handling this information. With a constantly shifting regulatory environment driven by an inordinate amount of new rule writing, the last thing credit unions should have to worry about is the personal information of their member-owners being lost or stolen at the hands of the government. Credit unions have strict privacy procedures they must follow and the CFPB should also be held to stringent standards. We also believe the CFPB should consider risks associated with credit unions' well-earned reputation as entities that protect their members' interests. Accordingly, NAFCU looks forward to tomorrow's hearing and learning more about the CFPB's prudence in this regard.

As the subcommittee examines these issues at the CFPB, we would urge members to also keep in mind the general need for better data security standards for those who handle personal financial data, as many of those entities are not subject to the same standards that financial institutions are. NAFCU communicated the need for greater data security standards to you as part of our five-point plan for regulatory relief that was shared with the House Financial Services Committee on February 12th of this year.

Thank you for holding this important hearing and for providing us with the opportunity to express our views. If you have any questions or would like further information about any of these issues, please do not hesitate to contact me or NAFCU's Vice President of Legislative Affairs Brad Thaler by telephone at (703) 842-2204 or by e-mail at bthaler@nafcu.org.

Sincerely,



B. Dan Berger
Executive Vice President, Government Affairs

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

COMMITTEE ON FINANCIAL SERVICES
Subcommittee on Financial Institutions and Consumer Credit
Examining the Consumer Financial Protection Bureau's
Collection and Use of Consumer Data
July 9, 2013

QUESTIONS FROM CHAIRMAN SHELLEY MOORE CAPITO
AND VICE CHAIRMAN SEAN DUFFY

CAPITO/DUFFY 1.
How many U.S. consumer accounts is the CFPB monitoring as part of its data collection activities?

Response
The Consumer Financial Protection Bureau (Bureau) does not monitor the accounts of particular consumers and does not track the financial habits or activities of any individual consumer. Instead, in the normal course of carrying out its statutory mandate to protect consumers, ensure regulatory compliance, and monitor the financial services and products markets for risks to consumers, the Bureau collects information about accounts from consumers who seek the Bureau's help through the consumer response function and from the institution involved in the complaint. The Bureau also collects information from covered persons who are the subject of supervisory examinations or enforcement activity, as well as from whistleblowers and third parties who may have information relevant to an enforcement action.

In addition, the Bureau performs market monitoring activities, which involve the analysis of market trends and risks to consumers based upon aggregating and analyzing account information stripped of direct or personal identifiers. Specifically, the Bureau's market monitoring activities include:

The Bureau has procured from a national credit reporting agency (CRA) credit information, stripped of direct or personal identifiers, with respect to a random and representative sample of consumers with a credit report. For the records comprising this Consumer Credit Panel (CCP), the Bureau receives the information in the CRA's database with respect to all accounts associated with the record. The CCP records cover approximately a 4% sample of credit reporting agency records. The CCP is similar to panels that the Federal Reserve Board of Governors and the Federal Reserve Bank of New York each have maintained for several years.

The Bureau is partnering with the Federal Housing Finance Agency (FHFA) to construct the National Mortgage Database (NMDB). For this database, the FHFA and Bureau have procured from a CRA credit information with respect to a random and representative sample of 5% of mortgages held by consumers. This credit information, like the data in the CCP, does not include direct or personal identifiers for individual consumers. The Bureau receives the information in the CRA's database with respect to all accounts associated with the record. The Bureau cannot directly link data in the CCP with data in the NMDB and thus does not know whether any of the records are common to the two databases. The Bureau also procures

commercially-available mortgage data from CoreLogic and BlackBox Logic that, like the CCP and NMDB, does not contain personal identifying information directly linked to individual consumers.

In the exercise of its supervisory authority the Bureau is obtaining data stripped of direct or personal identifiers with respect to all credit card accounts maintained by a number of large card issuers. This data is collected and housed on behalf of the Bureau by Argus Information and Advisory Services, a company that is in the business of obtaining account-level data for credit cards and other financial services from financial services companies. The data being provided to the Bureau are the same type of data that credit card issuers regularly provide to Argus, such as the monthly balance, fees charges, interest charged, and payments received on accounts. The data the Bureau receives does not include transactions, such as purchases. Through a Memorandum of Understanding, the Bureau is also able to access data that is collected by a partner prudential regulator from an additional set of credit card issuers. The combined data represent approximately 85-90% of the outstanding card balances. None of the foregoing credit card data contain information that directly identifies individuals.

CAPITO/DUFFY 2.
How many American citizens hold these accounts?

Response
As discussed in the response to question 1, the Consumer Financial Protection Bureau (Bureau) does not monitor the accounts of particular consumers and does not track the financial habits or activities of any individual consumer. Instead, in the normal course of carrying out its statutory mandate to protect consumers, ensure regulatory compliance, and monitor the financial services and products markets for risks to consumers, the Bureau collects information about accounts from consumers who seek the Bureau's help through the consumer response function and from covered persons who are the subject of supervisory examinations or enforcement activity, as well as from whistleblowers and third parties who may have information relevant to an enforcement action. Additionally, the Bureau performs market monitoring activities that involve analysis of account information stripped of direct or personal identifiers. These activities are described in response to question 1. Without direct or personal identifiers, the Bureau cannot link these records to individual consumers. As a result, the Bureau cannot determine the number of citizens with respect to which data is being collected.

CAPITO/DUFFY 3.
How many data fields are the CFPB collecting per account?

Response
There is no single system of consolidated data maintained by the Consumer Financial Protection Bureau (Bureau). The data fields contained in any particular database utilized by the Bureau vary depending on the purpose for which the data within it is gathered. As noted in response to question 1, the Consumer Credit Panel contains fields collected by the credit reporting agency from which this data is being purchased, excluding fields that contain information identifying individual consumers (e.g., name, address, or social security number) or individual creditors. The National Mortgage Database (NMDB) will contain those fields, plus additional fields that are obtained by matching the records in the NMDB with other mortgage-related data, such as

data reported pursuant to the Home Mortgage and Disclosure Act. With respect to the credit card database, the fields are listed in the Request for Proposals that the Bureau issued and which can be accessed at
https://www.fbo.gov/index?s=opportunity&mode=form&tab=core&id=61f9e255acb3ac044ffeb4ae10c6ec00.

In addition to these databases, the Office of Enforcement has received evidence and information from consumers, financial service providers, third-party entities, and other government agencies. This data is generally provided in unstructured form without searchable data fields. The Bureau is also authorized to gather information from institutions it supervises in order to assess compliance with the requirements of Federal consumer financial law, obtain information about the institutions' activities and compliance systems or procedures, and detect and assess risk to consumers and to consumer financial markets. The type, amount, and format of information requested varies depending on which regulatory requirements are under review.

CAPITO/DUFFY 4.
What types of information do these fields include?

Response
Please see the response to question 1.

CAPITO/DUFFY 5.
How many data fields does the CFPB's contract with Argus Information and Advisory Services specify should be collected and retained?

Response
Please see the response to question 3.

CAPITO/DUFFY 6.
Will you provide this Committee with each of the complete contracts that the CFPB has entered into with private entities for purposes of data collection, analysis, and storage? If so, please provide these contracts along with your responses to these questions. If not, please explain why the CFPB will not do so.

Response
Attached are contract copies (and modifications). Contracts are limited to those that involve the purchase, collection, analysis, and storage of relevant data.

- Argus Information and Advisory Services LLC (5 attachments)
- Blackbox Logic LLC (7 attachments)
- Brattle Group Inc. (5 attachments)
- Clarity Services Inc. (4 attachments)
- CLC Compliance Technologies Inc. (6 attachments)
- CoreLogic Information Solutions Inc. (4 attachments)
- Deloitte Consulting LLP (1 attachment for contract number CFP-12-D-00006)
- Deloitte Consulting LLP (5 attachments for contract number TPD-CFP-12-C-0008)

- Experian (4 attachments)
- Fors Marsh Group LLC (7 attachments)
- PriceWaterhouseCoopers LLP (2 attachments)

Please be aware that the documents provided are contractual documents that may contain trade secrets and/or proprietary or confidential information of private entities. The companies should be consulted before any of this information is released publicly to avoid possible competitive harm to these private parties.

ATTACHMENT: Contract Copies

CAPITO/DUFFY 7.
How many memoranda of understanding (MOUs) has the CFPB signed with federal, state, and local governmental entities regarding the collection and sharing of data?

Response
The Consumer Financial Protection Bureau (Bureau) Office of Consumer Response has agreements to share consumer complaint data with 25 state and federal agencies.

In addition, the Bureau has signed MOUs with the Conference of State Bank Supervisors and other signatories from all 50 states plus Puerto Rico and the District of Columbia designed to preserve the confidentiality of any supervisory information shared between the parties or related to the operation of the Nationwide Mortgage Licensing System and the Mortgage Call Report.

The Bureau has also signed approximately 40 other MOUs with federal, state, and local governmental entities regarding the potential sharing of data and/or the treatment of shared data.

CAPITO/DUFFY 8.
Has the CFPB signed MOUs with any federal financial prudential regulators? Which ones?

Response
The Consumer Financial Protection Bureau has signed MOUs with each federal financial prudential regulator, including the Board of Governors of the Federal Reserve System, the Federal Deposition Insurance Corporation, the National Credit Union Administration, and the Office of the Comptroller of the Currency.

CAPITO/DUFFY 9.
How many MOUs has the CFPB signed with foreign governmental entities?

Response
The Consumer Financial Protection Bureau does not have MOUs with any foreign governmental entities.

CAPITO/DUFFY 10.
How many MOUs has the CFPB signed with foreign non-governmental entities?

Response
The Bureau does not have MOUs with any foreign non-governmental entities.

CAPITO/DUFFY 11.
Will you provide this Committee with copies of any and all such MOUs that the CFPB has entered into with any entity regarding the collection and sharing of data? If so, please provide these MOUs along with your responses to these questions. If not, please explain why the CFPB will not do so.

Response
The Consumer Financial Protection Bureau (Bureau) will provide the Committee with copies of MOUs that the Bureau has entered into with other governmental entities regarding the collection and/or sharing of data, with the exception of MOUs that contain nonpublic information, such as confidential supervisory information or other sensitive information of other governmental entities.

CD ATTACHMENT.

CAPITO/DUFFY 12.
Has the CFPB issued orders to any company requesting data or other information that has been used by the agency in any way to inform or augment its market monitoring efforts? If so, has it made these orders available to the public?

Response
The Consumer Financial Protection Bureau (Bureau) recently issued a number of similar orders pursuant to its authority under section 1022(c)(4)(B)(ii) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) seeking standard form consumer credit agreements from a number of covered persons. The information the Bureau will collect is intended to assist the Bureau as it works to complete the study mandated by section 1028(a) of the Dodd-Frank Act. These orders have not been published by the Bureau.

CAPITO/DUFFY 13.
If the CFPB has requested data or other information from companies for its market monitoring efforts, but such requests have constituted an order, in what form have these requests been made?

Response
The Consumer Financial Protection Bureau's (Bureau) recent orders seeking standard form consumer credit agreements were in the form of short orders setting forth the purpose of the request, the authority for the request, instructions for complying with the request, and contact information to permit recipients to follow-up with the Bureau with any questions.

CAPITO/DUFFY 14.
From which private companies and governmental agencies has the CFPB requested data? What is the scope of those data requests and how frequently do the entities provide the CFPB with the requested data? Please provide a complete answer for each such company and agency.

Response
The Consumer Financial Protection Bureau (Bureau) has purchased commercially available data from Experian that is updated quarterly; data from CoreLogic and BlackBox Logic that is updated monthly, and data, as a one-time purchase, from Clarity. None of these data contain direct or personal identifiers.

As noted in responses to questions 7 and 8, the Bureau has also requested data from other agencies with which it has MOUs. For example, the Bureau received data from the Federal Housing Finance Agency regarding mortgage loans to aid in the Bureau's development of its recent mortgage rules. In each instance, the data requested and received did not contain direct or personal identifiers.

In the course of its supervisory activities and enforcement activities, the Bureau has requested data from companies that are either subject to its supervision or subject to its enforcement jurisdiction. While most of these have been one-time requests, some may recur annually. The Bureau has also sought, one time, standard form consumer credit agreements pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act 1022(c)(4)(B)(ii). Because the supervisory and investigatory processes depend upon confidentiality, the Bureau does not disclose the names of the companies to which it makes supervisory or investigatory requests.

Some companies have voluntarily submitted data to the Bureau under a pledge of confidentiality. The Bureau's ability to obtain data voluntarily would be severely compromised if the Bureau were to breach its confidentiality pledge and reveal the identity of those companies. These have been one-time submissions. In each instance, the data requested and received did not contain direct or personal identifiers.

CAPITO/DUFFY 15.
News reports indicate that the CFPB is collecting consumer financial data on credit cards, credit card add-on products, overdraft fees, payday loans, and mortgages. Are these reports accurate? Are there any other areas in which the CFPB is collecting consumer financial data?

Response
The response to question 1 identifies instances in which the Consumer Financial Protection Bureau (Bureau) is obtaining data on an ongoing basis.

In each supervisory examination that the Bureau conducts, it obtains financial data relevant to that exam. For what product the Bureau obtains information would depend on the scope of a particular examination.

In the course of preparing reports to Congress as mandated by the Dodd-Frank Wall Street Reform and Consumer Protection Act, the Bureau has obtained information on a voluntary basis from a number of student lenders, a credit reporting agency, and a remittance transfer provider. In each case, the data did not contain any direct or personal identifiers.

In the course of investigating potential violations of Federal consumer financial laws, the Office of Enforcement obtains information relating to consumers in various segments of the financial services industry and uses that information to enforce compliance with the law and to obtain restitution and other forms of relief for consumers. For example, the Bureau has obtained consent orders requiring restitution be provided to servicemembers who were misled when taking out loans. The Bureau has also obtained court-ordered restitution for victims of foreclosure relief scams in two separate federal court judgments.

The Bureau's response to consumer complaints also may involve collection of consumer financial information needed to process complaints accurately. The information the Bureau collects to process any consumer complaint would depend upon the nature of the problems experienced by the individual consumer.

CAPITO/DUFFY 16.
News reports indicate that the CFPB is assigning an identifier to each individual and requiring that all data providers use this identifier for each individual when submitting their data. Is this true? Please explain fully how the CFPB is using personal identifiers in its data collection activities.

Response
The Consumer Financial Protection Bureau (Bureau) does not assign an identifier and does not require all data providers to use this identifier. The Bureau has published System of Records Notices (SORNs) for any data for which personally identifiable information is retrieved by direct or personal identifiers. With respect to the SORN for Market and Consumer Research Records, the Bureau proactively published a notice that described a range of potential data collections and uses, however none of the data collected by the Bureau to date for market monitoring purposes have in fact contained direct or personal identifiers. The Bureau's SORNs are available at http://www.consumerfinance.gov/privacy-office.

CAPITO/DUFFY 17.
Why does the CFPB need to track the financial habits of an individual consumer?

Response
The Consumer Financial Protection Bureau (Bureau) does not track the financial habits of any individual consumer.

In carrying out its congressionally mandated supervisory, enforcement, and regulatory functions, the Bureau relies on rigorous empirical analysis – grounded in data – to evaluate how the markets for consumer financial products and services actually work. Data analysis is also fundamental to fulfilling our mandate to protect consumers. Analysis of data, as the law creating the Bureau contemplated, enables the Bureau not only to better protect and educate consumers,

but also to coordinate with other regulators and craft tailored rules based on careful examination of costs and benefits. The Bureau's evaluation of this data also allows it to provide meaningful reports, as required by Congress, and to perform its consumer response function.

CAPITO/DUFFY 18.
Does the CFPB monitor any financial transactions at the individual level?

Response
The Consumer Financial Protection Bureau does not monitor any individual's financial transactions.

CAPITO/DUFFY 19.
Are any of the CFPB's databases or IT systems capable of monitoring financial transactions at the individual level? Can any CFPB database retrieve financial information by individual identifier?

Response
The Consumer Financial Protection Bureau (Bureau) does not monitor individuals' financial transactions. Please see responses to questions 1 and 3 for explanation of the types of information the Bureau collects and the purposes for that collection, including supervisory and investigatory information and information obtained from financial institutions in the resolution of consumer complaints, some of which contains personally identifiable financial information. The Bureau has published System of Records Notices (SORNs) for any data for which personally identifiable information is retrieved by direct or personal identifiers. With respect to the SORN for Market and Consumer Research Records, the Bureau proactively published a notice that described a range of potential data collections and uses, however none of the data collected by the Bureau to date for market monitoring purposes have in fact contained direct or personal identifiers. The Bureau's SORNs are available at http://www.consumerfinance.gov/privacy-office.

CAPITO/DUFFY 20.
How does the CFPB track or match its records with multiple datasets?

Response
There are limited cases where the Consumer Financial Protection Bureau (Bureau) matches records with multiple datasets. The Bureau may obtain updates or supplements to a dataset and, in those circumstances, may use record locators unique to the entity providing the update in order to update or supplement the individual records. For example, with respect to the Consumer Credit Panel and the National Mortgage Database, the credit reporting agency that supplies that data provides a unique record locator with respect to each record that enables the providers to update the database on a quarterly basis. With respect to the credit card database, each individual issuer that supplies data includes a unique record locator with respect to each account that enables the provider to update the database on a monthly basis. These record locators do not enable the Bureau to link these records to the identity of individual consumers or to records supplied to the Bureau by other entities.

With respect to the credit card database, issuers provide data, on a quarterly basis, directly to a national credit reporting agency (CRA) and provide to that CRA an identifier which enables the CRA to append to the record data maintained by the CRA. However, in this case, the Bureau does not do the match, the identifier is not transmitted to the Bureau, and the Bureau does not identify the account holder for any account in the database.

In some other instances, the Bureau may match records based on fields such as geography and without the use of direct or personal identifiers. This was done for example when developing the data needed to inform the Title XIV rulemakings.

CAPITO/DUFFY 21.
How does the CFPB define "personally identifiable financial information?"

Response
Pursuant to the Gramm-Leach-Bliley Act, the Consumer Financial Protection Bureau (Bureau) defines "personally identifiable financial information" by regulation as follows:

> (q)(1) *Personally identifiable financial information* means any information:
> (i) A consumer provides to you to obtain a financial product or service from you;
> (ii) About a consumer resulting from any transaction involving a financial product or service between you and a consumer; or
> (iii) You otherwise obtain about a consumer in connection with providing a financial product or service to that consumer.
>
> * * *
>
> (2) *Information not included.* Personally identifiable financial information does not include: . . . .
> (B) Information that does not identify a consumer, such as aggregate information or blind data that does not contain personal identifiers such as account numbers, names, or addresses.

The remainder of the definition provides examples. The complete definition can be found at 12 C.F.R. §1016.3(q), along with interrelated terms.

CAPITO/DUFFY 22.
Will the CFPB commit to writing a rule to define the phrase "personally identifiable financial information?"

Response
Please see response to question 21. The Consumer Financial Protection Bureau (Bureau) issued an interim final rule defining the phrase "personally identifiable financial information," pursuant to the Gramm-Leach-Bliley Act privacy provisions, consistent with the definitions of that term that other agencies had used in prior rules. *See* 76 Fed. Reg. 79025, 79032 (December 21, 2011) (promulgating 12 C.F.R. §1016.3(q)). That Bureau definition has been in effect since December 30, 2011.

CAPITO/DUFFY 23.
If not, will the CFPB commit to seeking public input and comment about the meaning of this undefined term?

Response
Please see responses to questions 21 and 22. When the Consumer Financial Protection Bureau (Bureau) published its interim final rule defining the phrase "personally identifiable financial information" pursuant to the Gramm-Leach-Bliley Act, it solicited comment. The comment period ended February 21, 2012. The Bureau intends to issue a final rule by the end of 2013.

CAPITO/DUFFY 24.
What kind of personal information constitutes "personally identifiable financial information"? Does a person's name? Does a personal identification number such as an SSN? Does address information? How about a ZIP+4? Telephone numbers? Personal characteristics such as pictures or fingerprints? Information identifying personally owned property? Employment information? Medical information? Credit score?

Response
Please see responses to questions 21 and 22. The Consumer Financial Protection Bureau's definition of "personally identifiable financial information" pursuant to the Gramm-Leach-Bliley Act provides examples of information that is and is not included in the definition. The relevant portion of the rule reads as follows:

> (2) *Examples.* (i) *Information included.* Personally identifiable financial information includes:
> (A) Information a consumer provides to you on an application to obtain a loan, a credit card, a credit union membership, or other financial product or service;
> (B) Account balance information, payment history, overdraft history, and credit or debit card purchase information;
> (C) The fact that an individual is or has been one of your customers or has obtained a financial product or service from you;
> (D) Any information about your consumer if it is disclosed in a manner that indicates that the individual is or has been your consumer;
> (E) Any information that a consumer provides to you or that you or your agent otherwise obtain in connection with collecting on, or servicing, a loan or a credit account;
> (F) Any information you collect through an internet ''cookie'' (an information collecting device from a Web server); and
> (G) Information from a consumer report.
> (ii) *Information not included.* Personally identifiable financial information does not include:
> (A) A list of names and addresses of customers of an entity that is not a financial institution; and

(B) Information that does not identify a consumer, such as aggregate information or blind data that does not contain personal identifiers such as account numbers, names, or addresses.

CAPITO/DUFFY 25.
What kind of financial information constitutes "personally identifiable financial information"? Is any of this information linked or linkable to other information in the CFPB's database?

Response
Please see responses to questions 21 and 24. There is no single system of consolidated data maintained by the Consumer Financial Protection Bureau.

CAPITO/DUFFY 26.
Does the CFPB collect any type of "personally identifiable financial information" about any U.S. citizen? If so, what types of information does it collect? In what circumstances? For what purposes?

Response
Please see responses to questions 1 and 3 for explanation of the types and purposes of information the Consumer Financial Protection Bureau (Bureau) collects, including supervisory and investigatory information and information obtained from financial institutions and consumers in the resolution of consumer complaints, some of which contains personally identifiable financial information.

CAPITO/DUFFY 27.
Do any CFPB contracts or MOUs with any outside entity provide for the collection of personally identifiable information? If so, which ones? Please identify any such contract and MOU.

Response
The Consumer Financial Protection Bureau (Bureau) has MOUs that relate to the sharing of information or the treatment of shared information with federal and state agencies, as discussed in response to question 7.

The Bureau has contracts to accomplish numerous aspects of its statutory mandate to protect consumers. Some of the work done under these contracts involves, as a component of carrying out our work, the collection of personally identifiable information (PII). Those contracts include the following:

- Contact Center Services/Consumer Response System Support – Vendor may obtain information about a particular consumer to help process a consumer's complaint.

- Compliance Analysis Tool, Analytical Services, Support & Training – Vendor receives loan portfolio data to support the Bureau's supervisory function.

- Nationwide Mortgage Licensing System and Registry Services – Vendor is tasked with ongoing operation, maintenance, technical support, and end user support services which involves PII collection.

- Forms Disclosure Testing & Support Services – Vendor collects PII from consumer testing participants. The Bureau does not request nor obtain any of the PII.

- Redress and Civil Penalty Fund 3rd Party Administrator – Vendors may receive and/or collect information about harmed individuals/consumers for the purpose of distributing redress funds to these consumers in case-specific matters.

- Human Resources Support Services – Vendors may be tasked with recruitment support which would entail collecting PII of potential job candidates. Vendors may also collect or have access to the PII of Bureau employees for workforce planning, data analysis, and other related support services.

- Administration of Benefit Programs – Vendors may collect or handle the PII of Bureau employees for purposes of administering benefits, such as flexible spending accounts, dental insurance, vision insurance, and long and short term disability.

- Interpreting Services – Vendor provides interpreting services to Bureau employees and applicants who request ASL for reasonable accommodation. Vendor receives names of those requesting assistance and their physical locations for the event.

- Equal Employment Opportunity Counseling, Mediation, and Investigation Services – Vendors may collect PII through interviews or data collection for use in preparing counseling or investigation reports.

- Consumer Experience Design Services – Vendor collects PII for the screening of individuals to be interviewed. This research data is used solely by the vendor. The Bureau does not receive this information.

- Training Services – Vendor collects trainee information.

- Subscription Services – Vendor collects user information for purposes of establishing accounts/licenses.

CAPITO/DUFFY 28.
What is the CFPB's statutory authority for demanding personally identifiable financial information from companies? On which specific provision of the Dodd-Frank Act does the CFPB rely?

Response
A number of provisions in the Dodd-Frank Wall Street Reform and Consumer Protection Act, among them 12 U.S.C. § 5512(c), 12 U.S.C. § 5514(b), 12 U.S.C. § 5515(b), 12 U.S.C. § 5534, and 12 U.S.C. § 5562, authorize the Consumer Financial Protection Bureau (Bureau) to request

information. The Bureau's information-gathering is consistent with these authorities and with limitations regarding personally identifiable financial information.

CAPITO/DUFFY 29.
If the CFPB requires that companies provide personally identifiable financial information as part of its monitoring activities, doesn't the Dodd-Frank Act require it to prescribe the form of its requests by rule or order? Why has the CFPB not issued a rule governing the form of its data requests?

Response
Section 1022(c)(4)(B)(ii) of the Dodd-Frank Wall Street and Consumer Protection Act (Dodd-Frank Act) gives the Consumer Financial Protection Bureau (Bureau) authority to require covered persons and service providers to submit reports and written answers regarding their participation in the markets for consumer financial products and services. As noted above, the Bureau has recently issued orders seeking standard form consumer credit agreements from covered persons pursuant to its authority under 1022(c)(4)(B)(ii) of the Dodd-Frank Act. The information sought by the Bureau does not include personally identifiable financial information.

CAPITO/DUFFY 30.
Does the CFPB's failure to issue a rule expose financial institutions to legal liability under the Gramm-Leach-Bliley Act for unlawfully disclosing non-public information?

Response
As explained above in response to question 1, the information that the Consumer Financial Protection Bureau (Bureau) receives directly from credit reporting agencies and other commercially available sources excludes direct or personal identifiers. The Gramm-Leach-Bliley Act and its implementing regulation, Regulation P, define "personally identifiable financial information" to exclude "information that does not identify a consumer, such as aggregate information or blind data that does not contain personal identifiers, such as account numbers, names, or addresses." 12 C.F.R. § 1016.3(q)(2)(ii)(B).

Where the Bureau receives personally identifiable financial information pursuant to its supervisory or enforcement activities or to resolve consumer complaints, these disclosures are exempt under the Gramm-Leach-Bliley Act and Regulation P. The Gramm-Leach-Bliley Act and Regulation P do not restrict financial institutions from disclosing personally identifiable financial information about consumers to "government regulatory authorities having jurisdiction for examination, compliance, or other purposes as authorized by law." 15 U.S.C. 6802(e)(8) and 12 C.F.R. § 1016.15(a)(7)(iii).

CAPITO/DUFFY 31.
May a financial institution refuse to provide the CFPB with information on this ground or any other legal ground? Under what circumstances may a financial institution refuse to provide requested information to the CFPB? Would refusing to do so violate the CFPB's recently-released bulletin regarding "responsible business conduct" for supervised entities? What action would the CFPB take in such a case?

Response
As explained in response to question 30, restrictions in the Gramm-Leach Bliley Act and its implementing regulations would not be an appropriate reason for declining to provide information to the Consumer Financial Protection Bureau (Bureau) as required under the Dodd-Frank Wall Street Reform and Consumer Protection Act.

The Bureau's bulletin regarding responsible conduct describes various forms of conduct that the Bureau will view favorably in assessing a company's violation of law. Like many other law enforcement agencies, the Bureau believes it is appropriate to take account of the steps a company had taken to avoid violating the law and how, once a violation nonetheless occurred, the company responded to it.

CAPITO/DUFFY 32.
Isn't it true that the Dodd-Frank Act prohibits the CFPB from collecting "any personally identifiable information about a consumer from the financial records of the covered person or service provider," except when consumers give their permission? If not, on what legal authority does the CFPB rely for the collection of this information?

Response
The question refers to Section 1022(c)(9) of the Dodd-Frank Wall Street Reform and Consumer Protection Act. That provision also allows for the collection of covered information as permitted or required under other legal provisions, consistent with the Right to Financial Privacy Act. The Right to Financial Privacy Act, as amended when Congress established the Consumer Financial Protection Bureau (Bureau), specifically exempts from its restrictions the disclosure of information to the Bureau in the course of supervision.

CAPITO/DUFFY 33.
Is the CFPB subject to the Privacy Act of 1978?

Response
The Consumer Financial Protection Bureau is subject to and complies with the Privacy Act of 1974.

CAPITO/DUFFY 34.
The CFPB issued a Statement of Records Notice (SORN) on November 12, 2012, entitled "CFPB.022 – Market and Consumer Research Records." According to the SORN, the purpose of the database is "to enable CFPB to monitor, research, analyze, and report information relevant to the functioning of markets for consumer financial products and services." Is this the database the CFPB is using for its data collection and market monitoring efforts?

Response
The Consumer Financial Protection Bureau (Bureau) does not maintain a single database of consolidated information. The Bureau published the System of Records Notice (SORN) for Market and Consumer Research Records (CFPB.022) on November 14, 2012. The SORN set out the types of records that could be collected and the potential uses that could be made of those

records. The Bureau believes that in publishing SORNs for public comment it is appropriate to identify the range of potential data to be collected and potential uses.

The SORN covers records which are retrieved by direct or personal identifiers. As explained in response to question number 1, the data that the Bureau has secured does not contain, and is not retrieved by, direct or personal identifiers. Therefore, these data fall outside the scope of the SORN and no activities have taken place with respect to the SORN.

CAPITO/DUFFY 35.
Why does the CFPB need to use personal identifiers for monitoring and analyzing markets? Why not just select random samples of datasets?

Response
The Consumer Financial Protection Bureau (Bureau) does not collect direct or personal identifiers of consumers for the purposes of monitoring and analyzing markets.

As explained in response to question 1, the Bureau's Consumer Credit Panel and National Mortgage Database contain a random sample of records drawn from a credit reporting agency, none of which contain direct or personal identifiers. For the credit card database, credit card issuers provide a full file of accounts to the Bureau's contractor, stripped of direct or personal identifiers, rather than a random sample because this is the same format in which they provide data to the same contractor for benchmarking services that they purchase from the contractor pursuant to private agreements. This reduces costs and burden for the issuers supplying the data as it avoids the need to draw a random sample, to provide data with respect to those accounts on an ongoing basis, and to add to the sample each time the data is provided to assure that the sample remains representative of all accounts, including newly-originated accounts.

CAPITO/DUFFY 36.
Is the CFPB using, or does it intend to use, its database to conduct longitudinal studies about consumer behavior?

Response
The Consumer Financial Protection Bureau (Bureau) does not maintain a single database of consolidated information. The Consumer Credit Panel and National Mortgage Database described in response to question 1, in order to capture the period before the financial crisis, contain 10 years of history. The credit card database contains over 5 years of history. The Bureau intends to update these records on a regular basis. These databases may be used to understand trends in the market, including consumers' behavior in the aggregate, but are not used to understand any specific individual's behavior.

CAPITO/DUFFY 37.
Is the CPFB subject to the E-Government Act of 2002?

Response
The Consumer Financial Protection Bureau (Bureau) is subject to Section 208 of the E-Government Act of 2002, including its requirements related to privacy impact assessments.

Although the Bureau is not legally obligated to follow OMB-issued guidance, including the guidance promulgated pursuant to Section 208(b), it voluntarily follows OMB privacy-related guidance as a best practice and to facilitate cooperation and collaboration with other agencies.

CAPITO/DUFFY 38.
Why hasn't the CFPB issued a "Privacy Impact Assessment," or PIA, for its "Market and Consumer Research Records" database?

Response
There is no single "Market and Consumer Research Records" database. The Consumer Financial Protection Bureau (Bureau) published a System of Records Notice (SORN) for Market and Consumer Research Records on November 14, 2012, for public comment. The SORN set out the purposes for which certain information could be collected and the potential uses and disclosures that could be made of those records. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

In general, the Bureau safeguards privacy by conducting and publishing Privacy Impact Assessments (PIAs) whenever we introduce new technologies or modify existing technologies that contain or work with personally identifiable information, pursuant to the definition established by the Office of Management and Budget in OMB Memorandum 07-16 (M 07-16) "Safeguarding Against and Responding to the Breach of Personally Identifiable Information, May 22, 2007." The Bureau has not published a PIA for any market and consumer research records because no such change has been introduced.

CAPITO/DUFFY 39.
Who is responsible for conducting and approving a PIA at the CFPB? Who is the CFPB's Chief Privacy Officer?

Response
In accordance with the Consumer Financial Protection Bureau's (Bureau) regulation on "CFPB Disclosure of Records and Information," the Chief Information Officer (CIO) is responsible for ensuring compliance with federal privacy requirements. 12 C.F.R. part 1070 (2013). The CIO has delegated this authority to the Chief Privacy Officer, Claire Stapleton.

CAPITO/DUFFY 40.
Will the CFPB commit to conducting and publicly releasing a PIA for its "Market and Consumer Research Records" database? If so, by what date? If not, why not?

Response
Please see response to question 38.

CAPITO/DUFFY 41.
Has the CFPB calculated the total cost, to date, of its data collection efforts, including, but not limited to, costs incurred in the acquisition, storage, protection and analysis of data?

Response
The cost to date of the Consumer Financial Protection Bureau's (Bureau) contracts to obtain data is: FY 2013 - $6,061,900; FY 2012 - $7,129,460. Both fiscal years include contracts with commercial and government vendors.

We are unable to break out the costs of storing and protecting this specific data. Our managed service contract for our technology environment includes costs for hardware, software, labor, facilities, and computing power. These costs are shared across a number of Bureau technology needs, making it very difficult to ascertain the costs for discrete components, e.g. specific data, within that environment.

CAPITO/DUFFY 42.
Has the CFPB ascertained the costs incurred by supervised institutions in complying with its data requests? Has it asked these institutions for an accounting of the costs each incurs? If so, what are the costs?

Response
The Consumer Financial Protection Bureau (Bureau), like the federal prudential regulators, must obtain certain information from the institutions it supervises. The Bureau conducts examinations and requires reports to carry out its functions under Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act to: (i) assess compliance with the requirements of Federal consumer financial law, (ii) obtain information about the activities and compliance systems or procedures of these persons, and (iii) detect and assess risks to consumers and to markets for consumer financial products and services. 12 U.S.C. §§ 5514(b)(1) and 5515(b)(1). The Bureau recognizes the importance of minimizing burdens on the institutions it supervises. For that reason the Bureau has, for example, worked with institutions that have informed it that particular information requests would be difficult and/or expensive to fulfill and modified requests accordingly.

CAPITO/DUFFY 43.
Has the CFPB solicited feedback from any institutions about the cost of these data requests and production? Have any financial institutions volunteered or shared feedback with the CFPB that information? If so, which ones?

Response
Throughout the supervisory process, the Consumer Financial Protection Bureau (Bureau) maintains an open dialogue with the institutions it supervises. The Bureau regularly receives input on a variety of matters, and, as noted in response to question 42, has received input on the difficulty and/or expense of fulfilling an information request. In certain instances, the Bureau has been able to modify its information requests to reduce the burden on the supervised institutions while still accomplishing the purposes of the examination. Under the Bureau's

disclosure rules, it generally may not reveal confidential supervisory information, which would include the identities of institutions and the substance of discussions with them within the context of the supervision process. 12 C.F.R. part 1070.

CAPITO/DUFFY 44.
How does the CFPB plan to utilize the data it collects in each of the following areas: (i) research and analysis, (ii) supervision, (iii) enforcement, and (iv) regulation?

Response
The Consumer Financial Protection Bureau (Bureau) has several tools for gathering information, including through examinations, civil investigative demands, publicly available sources, consumer complaints, and through the Section 1022(c)(4) authority discussed above.

Data collected using one of these tools may be relevant to both the function for which it was collected and another related function. For example, one of the Bureau's primary functions is to collect, investigate, and respond to consumer complaints. Although the Bureau receives complaints in the course of performing this function, the complaints, and the data derived from them, also support other Bureau functions, including, for example, its consumer education function and its supervisory and enforcement functions. Similarly, data the Bureau gathers in examining institutions for purposes of detecting risks to consumers and to consumer financial markets will also often help the Bureau fulfill Congress' mandate that it monitor the markets for risks to consumers.

The Bureau utilizes the data it possesses for empirical analyses such as those included in our reports on private student loans (which relied on anonymized data provided voluntarily to the Bureau by a number of lenders) and payday lending and deposit advance products (which relied principally on data collected through supervisory exams). These analyses may include descriptive tabulations in addition to more formal econometric modeling, which together, support the Bureau's mission to understand consumer financial markets; to monitor for risks to consumers in the offering or provision of consumer financial products or services; and more generally, to follow developments in markets for such products or services. These data and analyses also support policy development, including rulemaking and any related considerations of the benefits, costs, and impact of particular rules.

The Bureau utilizes data—including data gathered during examinations, consumer complaints, and publicly available data—to prioritize its supervisory activities and to examine institutions' compliance with Federal consumer financial law, their compliance programs, and the risks their activities pose to consumers.

The Bureau is directed to enforce Federal consumer financial law for the protection of consumers, and is authorized to obtain information where there is reason to believe it may be relevant to a violation of that law. The Office of Enforcement uses such information to uncover wrongdoing by those who violate Federal consumer financial protection laws, to prevent and deter such violations, and to obtain refunds and other relief for consumers who have been harmed. Such information, which may include data that contains individual information, is obtained and maintained in accordance with all applicable laws and protections.

In fifteen enforcement actions resolved since the Bureau's creation in 2011, the Bureau has levied fines of more than $62 million and has obtained orders requiring more than $445 million to be returned to 5.8 million consumers who were harmed by the unlawful practices of credit card companies, foreclosure and debt relief scams, and mortgage referral kickback schemes.

CAPITO/DUFFY 45.
How does the CFPB plan to ensure that personally identifiable information (PII) obtained through the consumer complaint process is not used contrary to gathering limitations on such information under CFPB rulemaking authority?

Response
The limitations on the Consumer Financial Protection Bureau's (Bureau) gathering of personally identifiable financial information to which this question refers are contained in Section 1022(c)(4)(C) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), which concerns the Bureau's authority to obtain records from regulated entities to perform its market monitoring and reporting obligations. This provision does not relate to the Bureau's consumer complaint functions. The Dodd-Frank Act expressly requires the Bureau to accept and assist in the resolution of consumer complaints. Inherent in such a requirement is authority to collect personally identifiable information from consumers who choose to submit complaints to enable the Bureau to facilitate the complaint resolution process. The Bureau's collection of personally identifiable information during the consumer complaint process thus does not conflict with Section 1022(c)(4)(C) and its limitations in any way.

CAPITO/DUFFY 46.
The CFPB's Privacy Policy released on December 6, 2012 states "Before we collect PII, we tell you what we are collecting, why we are collecting it, and how we are going to use it." Is the CFPB currently living up to its privacy policy? Who is the "you" in this statement and where is this information displayed that tells "you" what, why and how PII is used?

Response
The "you" referred to in the Privacy Policy published by the Consumer Financial Protection Bureau (Bureau) on December 6, 2012 is the American consumer. The Bureau is living up to its Privacy Policy. In numerous ways, the Bureau notifies individuals of its intentions to collect personally identifiable information, of its purposes in doing so, and of its uses of such information. For example, the Bureau publishes in the Federal Register Systems of Records Notices, as required by the Privacy Act, which contain such notifications with respect to major categories of the Bureau's information collection activities, including its supervisory, law enforcement, consumer response, and consumer research activities. The Bureau also provides Privacy Act Statements to individual consumers when it collects information from them directly, such as when it accepts consumer complaints. Many Bureau media releases and policy statements also include discussions of the details of its information collection activities. Finally, in many instances, the statutes governing the Bureau's activities provide notice by expressly requiring or authorizing the Bureau to collect certain information, such as consumer complaints, and to use that information for certain purposes. The Bureau's comprehensive Privacy Policy and Legal Notices, available at http://www/consumerfinance.gov, provide further information.

CAPITO/DUFFY 47.
Would forcing financial institutions to disclose this information cause them to violate their legal obligations to protect the privacy of the customers' personal information?

Response
The Consumer Financial Protection Bureau does not require financial institutions to disclose information that would violate their legal obligations to protect the privacy of customers' personal information. For information about the application of the Gramm-Leach-Bliley Act and its implementing regulations to the disclosures at issue here, please see the response to question 30.

CAPITO/DUFFY 48.
Is the amount of data and the frequency of the data collection appropriate for the specific stated purpose by CFPB for how the agency intends to use the data?

Response
The Consumer Financial Protection Bureau's (Bureau) responses herein, including responses to questions 1, 3, and 44, describe the Bureau's usage of data to fulfill its statutory mandates, including supervision, enforcement, regulation, research and analysis, and consumer response. The Bureau makes every effort to ensure that its data collections are appropriate in frequency and amount to the regulatory functions for which they are to be used. For example, the Consumer Credit Panel and the National Mortgage Databases are updated quarterly. This reduces the cost compared to a monthly update and still provides information in a timely fashion. With respect to the credit card database, the credit card issuers who are clients of Argus already provide information to Argus on a monthly basis. Thus, the credit card database is updated monthly. This assures that as supervisory examinations are planned and conducted, the Bureau is operating on the most current data.

CAPITO/DUFFY 49.
Is it possible for the CFPB, or any third party vendor working on behalf of the CFPB, to reverse engineer raw data to identify individual consumers?

Response
The Consumer Financial Protection Bureau (Bureau) is sensitive to the concept and risks of re-identification generally and has been careful to minimize that risk by using de-identified data to perform its market-monitoring function and by keeping each data collection for market monitoring separate from other such collections. The Bureau purposefully reduces the likelihood of data being re-identified by restricting access to data to those whose work requires it, and providing privacy and security training to Bureau personnel on how to handle and protect data appropriately. Neither the Bureau nor its contractors (who are subject to the same security requirements as Bureau employees) attempt to re-identify data that is or has been rendered de-identified.

CAPITO/DUFFY 50.
Has the CFPB set a time period for retaining this data, and will the individual consumer financial information be purged from all federal records after this retention period?

Response
The Consumer Financial Protection Bureau (Bureau) will manage all computer and paper files as permanent records until the disposition schedule for these records is approved by the National Archives and Records Administration, at which time, the Bureau will dispose of such files in accordance with the schedule.

CAPITO/DUFFY 51.
Has the CFPB suffered any breaches of data, and has any data breach reached consumer information?

Response
To date, the Consumer Financial Protection Bureau (Bureau) has been notified of and responded to a total of 3 incidents that were deemed to be breaches, which is defined as involving the breach, loss, or compromise of personally identifiable information (PII). Each incident involved the PII of one consumer, and each consumer was notified of the incident(s) and provided credit monitoring services/subscriptions for one year. The breaches impacted consumers who had submitted complaints through the Bureau's consumer response system. In each case, the breach resulted from a Bureau employee error. The employees received additional training, the consumer response system was updated to allow only one complaint to be accessed at a time to reduce the chance of human error when attaching documentation, and additional supervisor checks have been established.

CAPITO/DUFFY 52.
Are data sets gathered from the CFPB's market research function merged with data sets from its consumer complaint database? Or are there walls in between this data?

Response
The data sets gathered for market research are not merged with consumer complaint data sets.

Regarding the CFPB's SORN entitled "CFPB.022 – Market and Consumer Records," please answer the following questions fully:

CAPITO/DUFFY 53.
What data is being collected, used, disseminated, or maintained in the system?

Response
As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 – Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau, nor a single Market and Consumer Records database.

The Market and Consumer Research Records SORN set out the types of records that could be collected and the potential uses that could be made of those records. The Bureau believes that in publishing SORNs for public comment it is appropriate to identify the range of potential data to be collected and potential uses. As documented in the SORN, the records may include: (1) contact information (e.g., names, phone numbers, email addresses, physical addresses, and governmental-issued identification numbers); (2) information collected from consumers as part of surveys, randomized controlled trials, or through other mechanisms; (3) consumer financial transaction data and other information related to consumers' financial statuses; (4) information about the legal relationships between consumers and market participants, such as contracts and dispute records; (5) information about commercial relationships between consumers and other market participants; and (6) information on consumer characteristics collected by market participants or other entities.

No activities have taken place with respect to this SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

CAPITO/DUFFY 54.
Why is the information being collected, used, disseminated, or maintained?

Response
As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 – Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met should any data collection necessitating a SORN be undertaken.

In general, the reason for information being collected, used, disseminated, or maintained is documented in a SORN. In this case, as documented in the SORN, were data to be collected, it would be collected for purposes of monitoring, researching, analyzing, and reporting information relevant to the functioning of markets for consumer financial products and services.

CAPITO/DUFFY 55.
What are the sources of information in the system?

Response
As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 – Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to this SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

Potential sources of information are documented in the SORN for Market and Consumer Research Records, which was published on November 14, 2012. The SORN set out the types of potential sources of information that could be accessed and the potential uses that could be made

of records drawn from those sources. The Bureau believes that in publishing SORNs for public comment it is appropriate to identify the range of potential data to be collected and potential uses.

CAPITO/DUFFY 56.
What technologies are being used to collect the data?

Response
As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 – Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

In general, the Bureau primarily receives data through secure File Transfer Protocol (sFTP) and physical media transfers. Secure File Transfer Protocol is a standard protocol that enables the secure transferring of files from one entity to another. When in-taking data by physical media, the dataset is uploaded into a secure environment and the physical media is delivered to the Records team for retention.

CAPITO/DUFFY 57.
How is the information collected?

Response
As requested, this response pertains to the Consumer Financial Protection Bureau's SORN entitled "CFPB.022 – Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

CAPITO/DUFFY 58.
What legal authority and/or agreements allow the information to be collected?

Response
As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 – Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

A number of provisions in the Dodd-Frank Wall Street Reform and Consumer Protection Act,

among them 12 U.S.C. § 5512(c), 12 U.S.C. § 5514(b), 12 U.S.C. § 5515(b), 12 U.S.C. § 5534, and 12 U.S.C. § 5562, authorize the Consumer Financial Protection Bureau to request information.

CAPITO/DUFFY 59.
What information is retained? How long and for what reason is it retained?

Response
As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 – Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

In general, the Bureau will manage all computer and paper files as permanent records until the disposition schedule for these records is approved by the National Archives and Records Administration, at which time, the Bureau will dispose of such files in accordance with the schedule.

CAPITO/DUFFY 60.
Is there a records retention schedule that has been approved by the National Archives and Records Administration (NARA) for the information system? If so, what is the name of the records retention schedule? If not, why not? If a records retention scheduled has been drafted but not yet approved by the NARA, please provide a copy of the draft schedule.

Response
As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 – Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

The Bureau is currently drafting a retention schedule for the data that may be collected with respect to the SORN for Market and Consumer Research Records.

CAPITO/DUFFY 61.
Are there any forms or surveys that are associated with the collection of the information that would be covered by the Paperwork Reduction Act?

Response
As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 – Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these

privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

CAPITO/DUFFY 62.
Are there any privacy risks for this system that relate to the purpose of the collection? If so, how will the CFPB mitigate these risks?

Response
As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 – Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

The general privacy risks associated with all collections of personally identifiable information is that individuals do not understand how information about them is being used, and that the PII is inappropriately used or disclosed. The Bureau takes care to provide individual with notice of the authority under which it is collecting information, and maintains such information in a manner consistent with the Privacy Act of 1974, 5 U.S.C. § 552a, the Federal Information Security Management Act of 2002, 44 U.S.C. § 3541 et seq., and other applicable Federal laws and regulations. The Bureau further mitigates privacy risks by relying on pulling samples or conducting surveys of population segments; by limiting access to information to personnel with a business need for that access; by providing its personnel with privacy and security training as well as job training to ensure the appropriate use and protection of information; and by reducing the risk of misuse of the data by removing direct or personal identifiers, masking, or aggregating the data as appropriate to the use.

CAPITO/DUFFY 63.
Are individuals given notice prior to the collection of personal information about them? If not, why not?

Response
As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 – Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

In general, where the Bureau collects personal information from individuals directly, the Bureau provides individuals with actual notice through a Privacy Act Statement. When the Bureau collects information about individuals indirectly, including when it obtains such information from other agencies, financial institutions, or other third parties, the Bureau provides individuals to whom the information pertains with notice of its collection activities by publishing a SORN in the Federal Register. In addition to these Privacy Act notices, in general, the Bureau also

provides notice of its information collection activities through media such as press releases, policy statements, and web postings.

CAPITO/DUFFY 64.
Are individuals given notice prior to their information being shared with any entity outside of the CFPB? If not, why not?

Response
As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 – Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

When the Bureau collects information about individuals indirectly, including when it obtains such information from other agencies, financial institutions, or other third parties, the Bureau provides individuals to whom the information pertains with notice of its collection activities by publishing a SORN in the Federal Register.

CAPITO/DUFFY 65.
Do individuals have the opportunity and right to decline to provide information?

Response
As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 – Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

In general, where the Bureau collects personal information from individuals directly, the Bureau provides individuals with actual notice through a Privacy Act Statement that informs such individuals as to whether their provision of information to the Bureau is mandatory or voluntary and, if mandatory, what the consequences to them are, if any, of their refusals to provide the information to the Bureau. When the Bureau collects information about individuals indirectly, including when it obtains such information from other agencies, financial institutions, or other third parties, the Bureau provides individuals to whom the information pertains with notice of its collection activities by publishing a SORN in the Federal Register. In these instances of indirect collection, the Bureau does not generally provide individuals with an opportunity to refuse to provide the information to the Bureau.

CAPITO/DUFFY 66.
Do individuals have the right to consent to particular uses of the information? If so, how does the individual exercise the right?

Response
As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 – Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

In general, when the Bureau collects personal information directly from individuals, the individuals would be notified regarding applicable opportunities and rights to consent to particular uses of their information to the extent provided under the Privacy Act. They may have the right to decline to provide information or withhold consent at the time the information is collected.

CAPITO/DUFFY 67.
Whose information is included in the system?

Response
As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 – Market and Consumer Research Records" (CFPB.022). There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to this SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

CAPITO/DUFFY 68.
What Personally Identifiable Information will the system include? Why is the collection and use of Personally Identifiable Information necessary to the project or system?

Response
As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 – Market and Consumer Research Records" (CFPB.022). There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

CAPITO/DUFFY 69.
Will the system aggregate previously unavailable data about the individual to create new data about the individual? If so, how will this data be maintained and used?

Response
As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 – Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to this SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

CAPITO/DUFFY 70.
What controls exist to protect the consolidated data and prevent unauthorized access?

Response
As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 – Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

The Bureau practice is to categorize all of its systems using Federal Information Processing Standard Publication 199, Standards for Security Categorization of Federal Information and Information Systems (FIPS 199). Based on this categorization, the Bureau implements security controls from National Institute of Standards and Technology Special Publication 800-53, Recommended Security Controls for Federal Information Systems and Organizations, to secure its data. Any additional Bureau policies, processes, and procedures, including those related to access, are based on these standard federally-practiced controls, industry best practices, as well as other guidelines and mandates issued for government agencies.

CAPITO/DUFFY 71.
Will the system monitor the public?

Response
As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 – Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

With respect to information collected by the Bureau, please see response to questions 1 and 17.

CAPITO/DUFFY 72.
What kinds of reports can be produced on individuals? Will the data included in the reports produced be anonymized?

Response
As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 – Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

The Bureau does not publish reports of data that are directly identifiable to any particular consumer or that it has reason to believe are likely to identify any particular consumer indirectly.

CAPITO/DUFFY 73.
How will the information in this system be used?

Response
As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 – Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

With respect to information collected by the Bureau and its use, please see response to questions 1 and 17.

CAPITO/DUFFY 74.
Is the information in the project limited to only the information that is needed to carry out the purpose of the collection?

Response
As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 – Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

In general, the Bureau collects information to carry out its statutory mandates with emphasis on promoting efficiency and minimizing burdens on those involved in the collection.

CAPITO/DUFFY 75.
What types of tools are used to analyze data and what type of data may be produced?

Response
As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 – Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

In general, the Bureau uses standard statistical querying tools such as SAS, Stata, Matlab and Gauss to analyze data. Using these tools, the Bureau is able to produce descriptive analyses and more complex econometric models

CAPITO/DUFFY 76.
If the system uses commercial or publicly available data, how and why is this data used?

Response
As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 – Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

With respect to commercial or publicly available data collected by the Bureau, please see responses to questions 1 and 17.

CAPITO/DUFFY 77.
With which internal organizations is information shared? What information is shared, and for what purpose? How is this information transmitted or disclosed?

Response
As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 – Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

CAPITO/DUFFY 78.
With which external organizations, including federal, state, local, or foreign agencies, or private sector organizations, is information shared? What information is shared, and for what purpose?

Response
As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 – Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

CAPITO/DUFFY 79.
Is the sharing of information outside the CFPB compatible with the original collection? What legal mechanisms, authoritative agreements, documentation, or policies are in place detailing the extent of the sharing and duties of each party?

Response
As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 – Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

The SORN covering Market and Consumer Research states that the Bureau may share externally certain information as authorized by law.

CAPITO/DUFFY 80.
Under what legal mechanism is the system allowed to share the information in identifiable form or personally identifiable information outside of the CFPB?

Response
As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 – Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

The Privacy Act of 1974 generally prohibits the disclosure of a record contained in a system of records, except as provided for in the Privacy Act or pursuant to a routine use described in a

SORN. The Market and Consumer Research Records SORN set out the types of records that could be collected and the potential use and disclosures that could be made of those records. In addition, the Dodd-Frank Wall Street Reform and Consumer Protection Act, 12 U.S.C. §5512(c)(6), directs the Bureau to "prescribe rules regarding the confidential treatment of information obtained from persons in connection with the exercise of its authorities under Federal consumer financial law," and to, in certain circumstances, provide access to other agencies to confidential supervisory information. To these ends, the Bureau promulgated regulations, at 12 C.F.R. part 1070, that set forth its rules regarding the appropriate treatment of confidential information. These rules, in limited circumstances, authorize the sharing of confidential information.

CAPITO/DUFFY 81.
How is the data transmitted or disclosed to these entities? What security measures safeguard its transmission?

Response
As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 – Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

CAPITO/DUFFY 82
How is the data secured by external recipients?

Response
As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 – Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

CAPITO/DUFFY 83.
Will the database interact with other systems, whether within the CFPB or outside the CFPB? If so, which databases and how?

Response
As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 - Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

CAPITO/DUFFY 84.
How is the information collected by the database verified for accuracy and completeness?

Response
As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 – Market and Consumer Research Records" (CFPB.022)." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

CAPITO/DUFFY 85.
Who has access to data in this project? How many total individuals have been authorized by the CFPB to access the data? What is the authorization process for access to the project? Has every individual with access to the CFPB's database been subjected to – and passed – a full background investigation?

Response
As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 – Market and Consumer Research Records" (CFPB.022)." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN. The SORN was proactively published; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

CAPITO/DUFFY 86.
Do CFPB contractors and/or agents have access to the system? If so, what controls exist to ensure appropriate access and what Privacy Act clauses have been inserted in their contracts?

Response
As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 – Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to this SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

In general, contractors (including contractor employees and subcontractors) may have access to specific databases, with access limited by several control points provided by the general Cybersecurity and IT Security clauses included in Bureau contracts. These clauses operate to ensure adequate contractor IT processes and contract employee IT security awareness training; contractor compliance with relevant Federal laws, including but not limited to the Federal Information Security Management Act of 2002 (FISMA); Bureau oversight of contractor cybersecurity and pre-screening of contractor personnel; and signed contractor nondisclosure agreements (NDAs), as appropriate.

CAPITO/DUFFY 87.
How many contractors and agents currently have access to the database?

Response
As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 – Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

In general, access to Bureau data is controlled and access logs to Bureau systems are kept and maintained in accordance with Bureau policy based on National Institute of Standards and Technology Special Publication 800-53 Recommended Security Controls for Federal Information Systems and Organizations (NIST SP 800-53) guidelines.

CAPITO/DUFFY 88.
How is access to the data by a user determined? Are procedures documented? Are access logs kept?

Response
As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 – Market and Consumer Research Records" (CFPB.022). There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

In general, Bureau Technology staff follow a process that generates an approved privileged user access list following an articulated justification as to why access is required for any given database. Access to Bureau data is controlled and access logs to Bureau systems are kept and maintained in accordance with Bureau policy based on National Institute of Standards and Technology Special Publication 800-53 Recommended Security Controls for Federal Information Systems and Organizations (NIST SP 800-53) guidelines.

CAPITO/DUFFY 89.
Has the CFPB completed a system security plan for the information system supporting this project?

Response
As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 - Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

CAPITO/DUFFY 90.
How is the system secured?

Response
As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 - Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

In general, the Bureau categorizes its systems using Federal Information Processing Standard Publication 199, Standards for Security Categorization of Federal Information and Information Systems (FIPS 199). Based on this categorization, CFPB then utilizes recommended security controls from National Institute of Standards and Technology Special Publication 800-53 Recommended Security Controls for Federal Information Systems and Organizations (NIST SP 800-53) to secure its systems and data. Bureau policies, processes, and procedures, including those related to access are based on these controls as well as other federally-mandated guidelines and standards.

CAPITO/DUFFY 91.
Are there any mechanisms in place to identify security breaches? If so, what are they?

Response
As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 - Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

In general, the Consumer Financial Protection Bureau has multiple security controls in place to identify security breaches of CFPB databases and Systems of Record. These controls are derived from National Institute of Standards and Technology Special Publication 800-53 Recommended Security Controls for Federal Information Systems and Organizations (NIST SP 800-53) guidance and include audit log monitoring, analysis, and reporting. A "defense in depth" approach is used that includes monitoring at various levels of the system from application, operating system, database to network firewalls and intrusion detection systems (IDS).

CAPITO/DUFFY 92.
What auditing measures/controls and technical safeguards are in place to prevent misuse (e.g., unauthorized browsing) of the data?

Response
As requested, this response pertains to the Consumer Financial Protection Bureau's SORN entitled "CFPB.022 – Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

In general, the Bureau's controls are derived from National Institute of Standards and Technology Special Publication 800-53 Recommended Security Controls for Federal Information Systems and Organizations (NIST SP 800-53) guidance. Access to data and system resources is limited; technical controls and other safeguards are implemented and monitored to identify potential misuse.

CAPITO/DUFFY 93.
What opportunities are available for individuals to consent to uses, decline to provide information, or opt out of the project? If no opportunities are available to consent, decline or opt out, why not?

Response
As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 - Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

In general, where the Bureau collects information directly from individuals under the Privacy Act, it provides them with Privacy Act Statements that inform such individuals as to whether their provision of information to the Bureau is mandatory or voluntary and, if mandatory, what the consequences to them are, if any, of their refusals to provide the information.

CAPITO/DUFFY 94.
What procedures will allow individuals to access their information?

Response
As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 - Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

In general, where the Bureau collects information that is retrieved by a direct or personal identifier and maintained in a SORN under the Privacy Act, individuals may request access to, amend, and correct records that pertain to them by submitting a request in writing in accordance

with instructions appearing in Title 12 part 1070 of the Code of Federal Regulations, "Disclosure of Records and Information."

CAPITO/DUFFY 95.
Can individuals amend information about themselves in the system? If so, how? If not, why not?

Response
Please see the response to question 94.

CAPITO/DUFFY 96.
What are the procedures for correcting inaccurate or erroneous information?

Response
Please see the response to question 94.

CAPITO/DUFFY 97.
How are individuals notified of the procedures for correcting their information?

Response
Please see the response to question 94.

CAPITO/DUFFY 98.
What privacy training is provided to users, either generally or specifically relevant to the project?

Response
As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 - Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met should any data collection necessitating a SORN be undertaken.

In general, the Bureau provides privacy and security training to all employees of the Bureau, including contractors who handle personally identifiable information on behalf of the Bureau, in accordance with OMB M-07-16, Safeguarding Against and Responding to the Breach of Personally Identifiable Information, May 22, 2007, available at http://www.whitehouse.gov/sites/default/files/omb/memoranda/fy2007/m07-16.pdf.

QUESTIONS FROM REP. BLAINE LUETKEMEYER

LUETKEMEYER 1.
According to recent reports, the CFPB has entered into more than $15 million worth of contracts with credit reporting agencies, consultants and data analysis companies for the collection and analysis of consumer data. What is the justification for spending this amount of money and obtaining this type of data?

Response
In carrying out its congressionally-mandated supervisory, enforcement, and regulatory functions, the Consumer Financial Protection Bureau (Bureau) relies on rigorous empirical analyses – grounded in data – to understand how the markets for consumer financial products and services actually work. Data analysis is also fundamental to fulfilling the Bureau's mandate to protect consumers. Analysis of data, as the law creating the Bureau contemplated, enables the Bureau not only to better protect and educate consumers, but also to coordinate with other regulators and craft tailored rules based on careful examination of costs and benefits. The Bureau's evaluation of this data also allows it to provide meaningful reports, as required by Congress, and to perform its consumer response function.

LUETKEMEYER 2.
While the CFPB claims to be data driven, two of its recent studies on payday loans and overdraft products had several pages of compelling data yet drew several conclusions that were not supported by the data in either report. Furthermore, the studies did not examine any alternatives to these products. Why did the CFPB spend time studying these products only to draw unsupported conclusions? Given the burden to business and cost to the taxpayers that are associated with the CFPB's current data collection efforts, how will the CFPB ensure that future reports are empirically based, rather than drawing unsupported conclusions?

Response
The Consumer Financial Protection Bureau's white papers on payday loans and deposit advance and overdraft programs are based on analytically rigorous and objective analysis of a robust dataset. Both studies draw conclusions that are supported by the data. In each case, the study contained a concluding section which discusses some of the potential policy implications of the empirical findings and identifies areas for future study.

LUETKEMEYER 3.
If detailed consumer information the CFPB receives is "de-identified", how does the agency ensure that the information is not "re-identified"?

Response
The Consumer Financial Protection Bureau (Bureau) is sensitive to the concept and risks of re-identification generally and has been careful to minimize that risk by purchasing data without direct or personal identifiers and by securing its credit card database account-level data without direct or personal identifier. The data the Bureau has obtained for its market-monitoring activities is maintained in discrete databases and the Bureau does not have any common identifiers that would allow data to be linked across databases. Bureau personnel are required to

complete privacy training on an annual basis, which includes how to use and protect personal information appropriately. To the extent the Bureau publishes studies analyzing consumer financial markets, it has presented the information in an aggregate form that cannot be used to identify, either directly or indirectly, any particular individual.

LUETKEMEYER 4.
The Right to Financial Privacy Act (RFPA) and Dodd-Frank require federal agencies to provide notice to consumers before obtaining information about the consumers from a "financial institution." Dodd-Frank also provides that CFPB may not obtain personally-identifiable information without first obtaining written permission from the consumer. Specifically, how has the CFPB complied with these regulations? Has the CFPB obtained written permission before obtaining this information from credit bureaus?

Response
The Consumer Financial Protection Bureau (Bureau) complies with Right to Financial Privacy Act (RFPA) and the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), which contain exceptions to their generally applicable notice provisions for the Bureau and other federal agencies in certain circumstances. Various exceptions to the RFPA, as amended, authorize the Bureau to obtain information from financial institutions about their customers without first providing notice to and obtaining the consent of such customers. Additionally, the restrictions set forth in the RFPA apply only to information that is identifiable to particular customers of financial institutions. Where the Bureau seeks information from financial institutions that excludes direct or personal identifiers, the restrictions of the statute do not apply.

LUETKEMEYER 5.
Has the Bureau complied with provisions of the Privacy Act such as obtaining public comment about the proposed creation of a "system of records"? If not, why not?

Response
When required by the Privacy Act, the Consumer Financial Protection Bureau (Bureau) publishes System of Records Notices in the Federal Register for public comment. Also as required by the Privacy Act, the Bureau forwards copies of SORNs to the House of Representatives Committee on Oversight and Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget.

LUETKEMEYER 6.
What steps has the Bureau taken to ensure the security and confidentiality of the information in the loan level database? Where will the information be maintained and by whom?

Response
The Consumer Financial Protection Bureau (Bureau) does not maintain a single loan-level database. At present, we have acquired commercially-available mortgage datasets, the credit panel from a credit reporting agency, and are developing the National Mortgage Database. In addition, we have various datasets collected under the Bureau's supervisory or enforcement authority.

The Bureau categorizes all of its datasets using Federal Information Processing Standard Publication 199, Standards for Security Categorization of Federal Information and Information Systems (FIPS 199). Based on this categorization, the Bureau implements security controls from National Institute of Standards and Technology Special Publication 800-53 Recommended Security Controls for Federal Information Systems and Organizations to secure its data. Any subsequent Bureau policies, processes, and procedures, including those related to access, are based on these standard federally-practiced controls, industry best practices, as well as other guidelines and mandates issued for government agencies.

LUETKEMEYER 7.
The Office of Inspector General for the Federal Reserve System recently reported that the CFPB needed to strengthen its security controls around its consumer response system. Given these data security concerns about the CFPB's existing data collection efforts, how does the system that holds all the consumer data differ in terms of data security?

Response
The Consumer Financial Protection Bureau (Bureau) appreciates the efforts of the Office of Inspector General (OIG) directed at improving Bureau's operations, and is pleased that the OIG's review of the Bureau's information security procedures did not identify any reportable conditions in the design or implementation of the relevant controls. Based on the Federal Information Processing Standard Publication 199, Standards for Security Categorization of Federal Information and Information Systems (FIPS 199), the consumer response system and other systems hosting data have been categorized as moderate and therefore utilize the associated recommended security controls from National Institute of Standards and Technology (NIST) Special Publication 800-53 Recommended Security Controls for Federal Information Systems and Organizations (NIST SP 800-53) to secure its systems and data appropriately. The OIG's report noted measures taken by the Bureau to secure data within the system, and the configuration and change control processes that are based on the guidance provided by NIST. The Bureau's Cybersecurity Program has been dedicated to continuous improvement, including implementing recommendations from OIG. At the time of the OIG report's publication, the Bureau had already had begun to take action on its recommendations and to finalize integral policies and procedures that address many of the issues discussed in the report.

LUETKEMEYER 8.
Consumer financial services providers have strict requirements for notifying consumers of when their personal information may have been subject to a data breach. What procedures are in place for the CFPB to notify consumers and businesses subject to its latest collection efforts in the event of a security breach? Will the CFPB plan to offer any kind of redress to financial services market participants who lose proprietary information, and therefore suffer market losses as a result from a breach in data security?

Response
The Consumer Financial Protection Bureau (Bureau) continues to rely, in part, on elements of Treasury's network and related IT infrastructure, including Treasury's directives that relate to security and privacy incidents. In anticipation of the Bureau's move to its own network infrastructure, the Bureau has developed new directives related to security and privacy incidents,

which it will issue upon network independence. In the interim, the Bureau has developed supplemental incident-reporting materials for managing the breach, loss, or compromise of personally identifiable information (PII). These materials, in conjunction with processes outlined in Treasury's privacy and security incident directives, help the Bureau meet the requirements around the suspected or confirmed breach, loss, or compromise of PII outlined in OMB-issued guidance (i.e. OMB M-07-16, Safeguarding Against and Responding to the Breach of Personally Identifiable Information, May 22, 2007). As part of its supplemental interim procedures, the Bureau would assess the risk significance (or analyze the risk of harm) posed by a breach, loss, or compromise of PII to determine if notification, outreach, or additional mitigation is warranted or necessary. This would include alerting impacted individual consumers when their PII is confirmed breached. When deemed necessary (i.e. risk of harm is deemed high), additional mitigation steps might include, for example, offering impacted individuals credit monitoring subscriptions/services.

LUETKEMEYER 9.
Dodd-Frank authorizes the Bureau to collect data that is "necessary" for it to fulfill its statutory duties. Why is it "necessary" to collect the volume of information that the Bureau plans to compile? Why would not data sampling suffice?

Response
The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) contains a number of separate grants of authority to the Consumer Financial Protection Bureau (Bureau) to collect information, as well as a general authority to enter into contracts to purchase goods and services, including data. Under section 1022(c)(4)(B)(ii) of the Dodd-Frank Act, the Bureau can require covered persons or service providers to provide reports or answers to questions by rule or order as "necessary for the Bureau to fulfill the monitoring, assessment and reporting responsibilities imposed by Congress" including the responsibility to "monitor risks to consumers in the offering or provision of consumer financial products or services" and "developments in markets for such products or services." The Bureau has used this and other information collection authorities in an appropriate fashion. For example, the Bureau's recently-issued orders requiring certain covered persons to provide standard form consumer credit agreements will assist it in completing the study mandated by section 1028(a) of the Dodd-Frank Act.

The Bureau's responses herein, including specifically the response to Capito/Duffy question 1 and 44 above, describe the Bureau's usage of data to fulfill its statutory mandates, including in areas such as supervision, enforcement, regulation, research and analysis, and consumer response. The Bureau makes every effort to ensure that its data collections are appropriate in size, frequency, and number to the regulatory functions for which they are to be used.

The Bureau recognizes the importance of minimizing burdens on the institutions it supervises. The Bureau has collected random samples of data for its consumer credit panel and the Bureau, in collaboration with the Federal Housing Finance Agency is using sampling for the national mortgage database. In certain instances, the Bureau has been able to modify its information requests and demands to reduce the burden on the institutions while still accomplishing the purposes of the examination or enforcement action. For the credit card database, credit card

issuers provide a full file of accounts to the Bureau's contractor rather than a random sample because this is the same format in which they provide data to the same contractor for benchmarking services that they purchase from the contractor pursuant to private agreements. This reduces costs and burden for the issuers supplying the data as it avoids the need to draw a random sample, to provide data with respect to those accounts on an ongoing basis, and to add to the sample each time the data is provided to assure that the sample remains representative of all accounts, including newly-originated accounts.

LUETKEMEYER 10.
The Paperwork Reduction Act requires the CFPB to obtain a "control number" from OMB for any collections of information, and to explain how the information limits the burden for businesses and individuals to the minimum necessary. Has the Bureau sought or obtained OMB clearance for these collections of information? If not, why not?

Response
The Consumer Financial Protection Bureau has sought and obtained OMB clearances consistent with the Paperwork Reduction Act.

REP. BILL POSEY (FL-8)
During my committee question time, I referenced a December 21, 2012 letter sent to the CFPB containing 19 specific questions. Two months later, on February 21, 2013, I received a three paragraph letter that did not provide to a single specific response to any of the questions from my December letter.

I therefore ask, once again, for you to answer the following 19 questions:

POSEY 1.
What is the CFPB's statutory authority to collect, each month, detailed information on every loan in certain financial institutions' portfolios?

Response
Your December 21, 2012 letter inquired about a "'loan level data' project . . . to collect information on consumer credit card accounts." The Bureau, in the exercise of its supervisory authority, is obtaining data stripped of direct or personal identifiers with respect to all credit card accounts maintained by a number of large card issuers. This data is collected and housed on behalf of the Bureau by Argus Information and Advisory Services, a company that is in the business of obtaining account-level data for credit cards and other financial services from financial services companies. The data being provided to the Bureau are the same type of data that credit card issuers regularly provide to Argus, such as the monthly balance, fees charges, interest charged, and payments received on accounts. The data the Bureau receives does not include transactions, such as purchases.

A number of provisions in the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), among them 12 U.S.C. § 5512(c), 12 U.S.C. § 5514(b), 12 U.S.C. § 5515(b), 12 U.S.C. § 5534, and 12 U.S.C. § 5562, authorize the Consumer Financial Protection Bureau to request information. Sections 1024 through 1026 of the Dodd-Frank Act, 12 U.S.C. §§ 5514-5516, authorize and regulate the Bureau's supervisory activity, including the gathering of the information collected and housed by Argus.

POSEY 2.
What provision of law specifically permits or requires the CFPB to collect loan level data?

Response
Please see the response to question 1.

POSEY 3.
How many institutions have been asked to furnish data to the Bureau for this project? How many individual consumers' records will be included in the database?

Response
Your December 21, 2012 letter inquired about a "'loan level data' project . . . to collect information on consumer credit card accounts." Please see the response to question 1 for a description of this activity. Fewer than 10 institutions have been asked to furnish credit card data to the Consumer Financial Protection Bureau (Bureau) for purposes of this project. The Bureau

is unable to determine the number of individual consumers' records covered as the records are provided on a de-identified basis so that the Bureau cannot link the data in order to determine whether multiple records represent multiple individuals or multiple accounts of a single individual.

POSEY 4.
Dodd-Frank authorizes the Bureau to collect data that is "necessary" for it to fulfill its statutory duties. Why is it "necessary" to collect the volume of information that the Bureau plans to compile? Why would not data sampling suffice?

Response
Your December 21, 2012 letter inquired about a "'loan level data' project . . . to collect information on consumer credit card accounts." Please see the response to question 1 for a description of this activity. In support of this project, credit card issuers provide a full file of accounts to the Bureau's contractor rather than a random sample because this is the same format in which they provide data to the same contractor for benchmarking services that they purchase from the contractor pursuant to private agreements. This reduces costs and burden for the issuers supplying the data as it avoids the need to draw a random sample, to provide data with respect to those accounts on an ongoing basis, and to add to the sample each time the data is provided to assure that the sample remains representative of all accounts, including newly-originated accounts.

POSEY 5.
If the data is "necessary" for consumer protection purposes, why is the Bureau obtaining it only from a small number of financial institutions?

Response
Your December 21, 2012 letter inquired about a "'loan level data' project . . . to collect information on consumer credit card accounts." Please see the response to question 1 for a description of this activity. The Consumer Financial Protection Bureau is collecting credit card data as part of its supervision program and not pursuant to Section 1022(b)(4)(B)(ii) of the Dodd-Frank Act. The issuers from whom the data is being collected are the largest credit card issuers and thus have particularly significant potential to create risks to consumers.

POSEY 6.
How will the Bureau protect consumers of institutions that are not subject to the data collection requirement?

Response
Your December 21, 2012 letter inquired about a "'loan level data' project . . . to collect information on consumer credit card accounts." Please see the response to question 1 for a description of this activity. The Consumer Financial Protection Bureau (Bureau) uses all of its available authorities to protect consumers of financial products and services. The Bureau seeks to use its limited resources in the most effective way possible, including choosing carefully the institutions on which to focus its supervisory, enforcement, and other efforts.

POSEY 7.
The Dodd-Frank provision authorizing the Bureau to obtain information for supervisory purposes refers to the "periodic" collection of information. How does an ongoing and perpetual collection of information meet the "periodic" standard?

Response
Your December 21, 2012 letter inquired about a "'loan level data' project . . . to collect information on consumer credit card accounts." Please see the response to question 1 for a description of this activity. The Consumer Financial Protection Bureau (Bureau) is authorized to gather information from institutions it supervises in order to assess compliance with the requirements of Federal consumer financial law, obtain information about the institutions' activities and compliance systems or procedures, and detect and assess risk to consumers and to consumer financial markets. Like other financial regulators, the Bureau receives, from certain institutions, loan-level data on a periodic basis relating to certain types of products. The Bureau is not receiving a real-time stream of continuous information about these products.

POSEY 8.
What are the specific purposes of collecting extensive personally-identifiable financial information about virtually everyone with a home mortgage or credit card? Why could such purpose(s) not be achieved by collecting a narrower set of data, or by the use of sampling?

Response
Your December 21, 2012 letter inquired about a "'loan level data' project . . . to collect information on consumer credit card accounts." Please see the response to question 1 for a description of this activity. The Consumer Financial Protection Bureau (Bureau) does not collect personally identifiable financial information about virtually everyone with a home mortgage or with a credit card. The national mortgage database which the Bureau and the Federal Housing Finance Agency (FHFA) are jointly creating contains a random sample of de-identified records of consumers with home mortgages drawn from the national credit reporting agency with whom the FHFA has contracted. Likewise, the Consumer Credit Panel is based on a small representative sample of the US population (approximately 2 to 4%) and contains only de-identified records. The credit card database contains records of all accounts from the issuers supplying this data for the reasons explained in response to question 4. The information in these databases is stripped of direct or personal identifiers.

POSEY 9.
What steps has the Bureau taken to ensure the security and confidentiality of the information in the loan level database? Where will the information be maintained and by whom? When and how will such information be destroyed after use?

Response
Your December 21, 2012 letter inquired about a "'loan level data' project . . . to collect information on consumer credit card accounts." Please see the response to question 1 for a description of this activity. Loan-level credit card data is being maintained for the Bureau by Argus Information & Advisory Services which performs this same service for many credit card

issuers. Please see the sections relating to security and confidentiality in the contract with Argus Information & Advisory Services produced in response to Capito/Duffy question 6.

The Bureau will manage all files in the system as permanent records until the disposition schedule for these records is approved by the National Archives and Records Administration, at which time, the Bureau will dispose of such files in accordance with the schedule.

POSEY 10.
Has the Bureau informed the financial institutions whose information is being collected of such security and confidentiality measures? If not, how can financial institutions who furnish information to the Bureau comply with their GLBA obligation to maintain the security of personally identifiable customer information?

Response
Your December 21, 2012 letter inquired about a "'loan level data' project . . . to collect information on consumer credit card accounts." Please see the response to question 1 for a description of this activity. The information that the Consumer Financial Protection Bureau receives about consumers for the purposes of this project comes directly from financial institutions, and all of this information excludes direct or personal identifiers. The Gramm-Leach-Bliley Act and its implementing regulation, Regulation P, define "personally identifiable financial information" to exclude "information that does not identify a consumer, such as aggregate information or blind data that does not contain direct or personal identifiers, such as account numbers, names, or addresses." 12 C.F.R. Section 1016.3(q)(2)(ii)(B).

Even assuming that the financial institutions were disclosing personally identifiable financial information for this project, these disclosures would be exempt under the Gramm-Leach-Bliley Act and Regulation P. The Gramm-Leach-Bliley Act and Regulation P do not restrict financial institutions from disclosing personally identifiable financial information about consumers to "government regulatory authorities having jurisdiction for examination, compliance, or other purposes as authorized by law." 15 U.S.C. 6802(e)(8) and 12 C.F.R. Section 1016.15(a)(7)(iii).

POSEY 11.
In the event of a breach of CFPB security that results in a loss to consumers and the institutions that furnished information about them, who is liable for the loss?

Response
Should the Consumer Financial Protection Bureau (Bureau) experience an incident that results in such a loss, the incident would be handled according to the Bureau's incident response procedures. These procedures are consistent with government standards and incorporate best practices from public and private sector incident handling teams. Liability for loss would typically be determined based on the factors that led to a breach.

POSEY 12.
Will the Bureau share information in the loan level database with other government agencies (e.g., OCC, FDIC, Federal Reserve, IRS, state consumer protection or tax officials?) Does the Bureau have the authority to refuse to share information with such entities?

Response
Your December 21, 2012 letter inquired about a "'loan level data' project . . . to collect information on consumer credit card accounts." Please see the response to question 1 for a description of this activity. The Consumer Financial Protection Bureau has entered into a Memorandum of Understanding with the Office of the Comptroller of the Currency (OCC) under which the loan level data in the credit card database can be shared with the OCC. This assures that the issuers will not be subject to duplicative requests for data.

POSEY 13.
Does the GLBA privacy policy notification requirement obligate financial institutions to inform their customers that information about them is being furnished to the CFPB? Do consumers have a right to "opt out" of such information sharing? The GLBA notice and opt out standards do not apply to information furnished to Federal functional regulators "to the extent specifically permitted or required under other provisions of law".

Response
Please see response to question 10.

POSEY 14.
Section 2012 of Dodd Frank requires the Bureau to enforce Federal consumer financial law "consistently" to promote markets that are "competitive." Isn't the creation of a database consisting solely of information obtained from larger institutions inconsistent with these requirements? What is the basis for collecting data only from a limited number of institutions? What has the Bureau done to evaluate the competitive implications of limiting its data collection to certain institutions?

Response
Your December 21, 2012 letter inquired about a "'loan level data' project . . . to collect information on consumer credit card accounts." Please see the response to question 1 for a description of this activity. The Consumer Financial Protection Bureau's (Bureau) credit card data collection activity is being conducted in coordination with the prudential regulators to ensure that the same data elements are being requested and that all large issuers are subject to a consistent requirement to provide account level data. The data collected represent approximately 85-90% of outstanding card balances. The issuers from whom the data is being collected are the largest credit card issuers and thus have particularly significant potential to create risks to consumers.

POSEY 15.
Has the Bureau sought or obtained OMB clearance for the establishment of the loan level database? If not, why not?

Response
Your December 21, 2012 letter inquired about a "'loan level data' project . . . to collect information on consumer credit card accounts." Please see the response to question 1 for a

description of this activity. The Consumer Financial Protection Bureau has determined that the Paperwork Reduction Act is not applicable to this collection of data.

POSEY 16.
Has the Bureau complied with provisions of the Privacy Act such as obtaining public comment about the proposed creation of a "system of records"? If not, why not?

Response
Your December 21, 2012 letter inquired about a "'loan level data' project . . . to collect information on consumer credit card accounts." Please see the response to question 1 for a description of this activity. When required by the Privacy Act, the Consumer Financial Protection Bureau publishes System of Records Notices in the Federal Register for public comment. Also as required by the Privacy Act, the Bureau forwards copies of SORNs to the House of Representatives Committee on Oversight and Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget.

POSEY 17.
Is information in the database exempt from Freedom of Information Act requests?

Response
Your December 21, 2012 letter inquired about a "'loan level data' project . . . to collect information on consumer credit card accounts." Please see the response to question 1 for a description of this activity. Loan-level data that the Consumer Financial Protection Bureau obtains pursuant to its supervisory authority is exempt from public disclosure pursuant to Exemption 8 of the Freedom of Information Act, 5 U.S.C. § 552(b)(8). To the extent that such data consists of trade secrets or confidential commercial information, it is also exempt from public disclosure pursuant to Exemption 4 of the FOIA.

POSEY 18.
How does the information collected by the Bureau differ from information collected from the same institutions by other regulators (e.g., OCC, FDIC, Federal Reserve, Office of Financial research)? To the extent it is the same, why has the Bureau decided not to obtain the information from the other regulators? Explain why the Dodd Frank Section 1025 requirement for "coordination" with prudential regulators to "minimize regulatory burden" do not apply to the loan level database.

Response
Your December 21, 2012 letter inquired about a "'loan level data' project . . . to collect information on consumer credit card accounts." Please see the response to question 1 for a description of this activity. The Consumer Financial Protection Bureau is coordinating with the prudential regulators to ensure that the same data elements are being requested from all institutions from which data is being obtained on a consistent basis, and also to ensure that no institution is being required to provide the same data to multiple regulators.

POSEY 19.
Will members of the public have access to the information maintained about them by the Bureau? Is there a mechanism for correcting errors that consumers bring to the Bureau's attention?

Response
Your December 21, 2012 letter inquired about a "'loan level data' project . . . to collect information on consumer credit card accounts." Please see the response to question 1 for a description of this activity.

In general, where the Bureau collects information that is retrieved by a personal identifier and maintained in a SORN under the Privacy Act, individuals may request access to, amend, and correct records that pertain to them by submitting a request in writing in accordance with instructions appearing in Title 12 part 1070 of the Code of Federal Regulations, "Disclosure of Records and Information." Information in the credit card database does not contain direct or personal identifiers and cannot be obtained by reference to direct or personal identifiers.

House Committee on Financial Services
Subcommittee on Financial Institutions and Consumer Credit
Examining the Consumer Financial Protection Bureau's
Collection and Use of Consumer Data
July 9, 2013 Requests for Information

Chairman Capito: Number of accounts on which the CFPB collects and monitors information.

Response
The Consumer Financial Protection Bureau (Bureau) does not monitor the accounts of particular consumers and does not track the financial habits or activities of any individual consumer. Instead, in the normal course of carrying out its statutory mandate to protect consumers, ensure regulatory compliance, and monitor the financial services and products markets for risks to consumers, the Bureau collects information about accounts from consumers who seek the Bureau's help through the consumer response function and from the institution involved in the complaint. The Bureau also collects information from covered persons who are the subject of supervisory examinations or enforcement activity, as well as from whistleblowers and third parties who may have information relevant to an enforcement action.

In addition, the Bureau performs market monitoring activities, which involve the analysis of market trends and risks to consumers based upon aggregating and analyzing account information stripped of direct or personal identifiers. Specifically, the Bureau's market monitoring activities include:

The Bureau has procured from a national credit reporting agency (CRA) credit information, stripped of direct or personal identifiers, with respect to a random and representative sample of consumers with a credit report. For the records comprising this Consumer Credit Panel (CCP), the Bureau receives the information in the CRA's database with respect to all accounts associated with the record. The CCP records cover approximately a 4% sample of credit reporting agency records. The CCP is similar to panels that the Federal Reserve Board of Governors and the Federal Reserve Bank of New York each have maintained for several years.

The Bureau is partnering with the Federal Housing Finance Agency (FHFA) to construct the National Mortgage Database (NMDB). For this database, the FHFA and Bureau have procured from a CRA credit information with respect to a random and representative sample of 5% of mortgages held by consumers. This credit information, like the data in the CCP, does not include direct or personal identifiers for individual consumers. The Bureau receives the information in the CRA's database with respect to all accounts associated with the record. The Bureau cannot directly link data in the CCP with data in the NMDB and thus does not know whether any of the records are common to the two databases. The Bureau also procures commercially-available mortgage data from CoreLogic and BlackBox Logic that, like the CCP and NMDB, does not contain personal identifying information directly linked to individual consumers.

In the exercise of its supervisory authority the Bureau is obtaining data stripped of direct or personal identifiers with respect to all credit card accounts maintained by a number of large card issuers. This data is collected and housed on behalf of the Bureau by Argus Information and Advisory Services, a company that is in the business of obtaining account-level data for credit cards and other financial services from financial services companies. The data being provided to the Bureau are the same type of data that credit card issuers regularly provide to Argus, such as the monthly balance, fees charges, interest charged, and payments received on accounts. The data the Bureau receives does not include transactions, such as purchases. Through a Memorandum of Understanding, the Bureau is also able to access data that is collected by a partner prudential regulator from an additional set of credit card issuers. The combined data represent approximately 85-90% of the outstanding card balances. None of the foregoing credit card data contain information that directly identifies individuals.

Representative Maloney: On-site visit to inspect security measures protecting consumer data.

Response
The Consumer Financial Protection Bureau's (Bureau) Office of Legislative Affairs has been in contact with Representative Maloney's office about this question.

Representative Duffy: Number of Americans who have their data collected by the CFPB.

Response
As discussed in the response to question 1, the Consumer Financial Protection Bureau (Bureau) does not monitor the accounts of particular consumers and does not track the financial habits or activities of any individual consumer. Instead, in the normal course of carrying out its statutory mandate to protect consumers, ensure regulatory compliance, and monitor the financial services and products markets for risks to consumers, the Bureau collects information about accounts from consumers who seek the Bureau's help through the consumer response function and from covered persons who are the subject of supervisory examinations or enforcement activity, as well as from whistleblowers and third parties who may have information relevant to an enforcement action. Additionally, the Bureau performs market monitoring activities that involve analysis of account information stripped of direct or personal identifiers. These activities are described in response to question 1. Without direct or personal identifiers, the Bureau cannot link these records to individual consumers. As a result, the Bureau cannot determine the number of citizens with respect to which data is being collected.

Representative Duffy: Production of information on the contracts between the CFPB and third party vendors.

Response
Attached are contract copies (and modifications). Contracts are limited to those that involve the purchase, collection, analysis, and storage of relevant data.

- Argus Information and Advisory Services LLC (5 attachments)
- Blackbox Logic LLC (7 attachments)

- Brattle Group Inc. (5 attachments)
- Clarity Services Inc. (4 attachments)
- CLC Compliance Technologies Inc. (6 attachments)
- CoreLogic Information Solutions Inc. (4 attachments)
- Deloitte Consulting LLP (1 attachment for contract number CFP-12-D-00006)
- Deloitte Consulting LLP (5 attachments for contract number TPD-CFP-12-C-0008)
- Experian (4 attachments)
- Fors Marsh Group LLC (7 attachments)
- PriceWaterhouseCoopers LLP (2 attachments)

Please be aware that the documents provided are contractual documents that may contain trade secrets and/or proprietary or confidential information of private entities. The companies should be consulted before any of this information is released publicly to avoid possible competitive harm to these private parties.

ATTACHMENT: Contract Copies

Representative Luetkemeyer: Number of agreements with other agencies regarding transferal, access, and exchange of data.

Response
The Consumer Financial Protection Bureau (Bureau) Office of Consumer Response has agreements to share consumer complaint data with 25 state and federal agencies.

In addition, the Bureau has signed MOUs with the Conference of State Bank Supervisors and other signatories from all 50 states plus Puerto Rico and the District of Columbia designed to preserve the confidentiality of any supervisory information shared between the parties or related to the operation of the Nationwide Mortgage Licensing System and the Mortgage Call Report.

The Bureau has also signed approximately 40 other MOUs with federal, state, and local governmental entities regarding the potential sharing of data and/or the treatment of shared data.

Representative Luetkemeyer: Number of agreements with foreign countries regarding transferal, access, and exchange of data.

Response
The Consumer Financial Protection Bureau does not have MOUs with any foreign governmental entities.

Representative Rothfus: Number of data fields the CFPB collects per monitored credit card account.

Response
The Consumer Financial Protection Bureau (Bureau) does not monitor the accounts of particular consumers and does not track the financial habits or activities of any individual consumer. With respect to the credit card database, the fields are listed in the Request for Proposals that the

Bureau issued and which can be accessed at https://www.fbo.gov/index?s=opportunity&mode=form&tab=core&id=61f9e255acb3ac044ffeb4ae10c6ec00.

Representative Rothfus: Production of the breakdown of the 50,000 individuals and servicemembers due refunds; specifically the number that were a result of consumer complaint vs. examination activity.

Response
The Military Installment Loans and Education Services (MILES) enforcement action arose from supervisory examinations of US Bank and Dealers' Financial Services (DFS). The target reviews were prompted, in part, by two complaints received by the Consumer Financial Protection Bureau (Bureau), both related to Army soldiers.

In determining whether or not to conduct a target review of the MILES program, the Bureau also reviewed media reports and consulted the Legal Assistance Chiefs of the JAG Corps of each of the service branches.

As a result of the examination, the Bureau identified program-wide violations related to the manner in which US Bank disclosed the $3 monthly fee imposed because servicemembers were required to pay by allotment, as well as the manner in which DFS marketed two add-on products to servicemembers. A total of approximately 50,000 servicemembers who were subjected to these practices will receive refunds totaling more than $6.5 million as a result of the consent orders.

Representative Barr: Clarification on whether PII is searchable by identifiable information in either the database of the CFPB or contractor's databases.

Response
The Consumer Financial Protection Bureau (Bureau) does not maintain a single database of consolidated information. The Bureau has published System of Records Notices (SORNs) for any data for which personally identifiable information is retrieved by direct or personal identifiers. With respect to the SORN for Market and Consumer Research Records, the Bureau proactively published a notice that described a range of potential data collections and uses, however none of the data collected by the Bureau to date for market monitoring purposes have in fact contained direct or personal identifiers. The Bureau's SORNs are available at http://www.consumerfinance.gov/privacy-office

Representative Barr: Confirmation on the existence of an internal privacy impact assessment regarding CFPB data collection; In the event PIA exists, clarification on reason for it not being public.

Response
The Consumer Financial Protection Bureau (Bureau) does not monitor individuals' financial transactions. Please see responses to questions 1 and 3 for explanation of the types of information the Bureau collects and the purposes for that collection, including supervisory and

investigatory information and information obtained from financial institutions in the resolution of consumer complaints, some of which contains personally identifiable financial information. The Bureau has published System of Records Notices (SORNs) for any data for which personally identifiable information is retrieved by direct or personal identifiers. With respect to the SORN for Market and Consumer Research Records, the Bureau proactively published a notice that described a range of potential data collections and uses, however none of the data collected by the Bureau to date for market monitoring purposes have in fact contained direct or personal identifiers. The Bureau's SORNs are available at http://www.consumerfinance.gov/privacy-office.

In general, the Bureau safeguards privacy by conducting and publishing Privacy Impact Assessments (PIAs) whenever we introduce new technologies or modify existing technologies that contain or work with personally identifiable information, pursuant to the definition established by the Office of Management and Budget in OMB Memorandum 07-16 (M 07-16) "Safeguarding Against and Responding to the Breach of Personally Identifiable Information, May 22, 2007." The Bureau has not published a PIA for any market and consumer research records because no such change has been introduced.

Rep. Westmoreland: The number of people with access to data collected during consumer complaints.

Response
Consumers send their complaints to Consumer Response for response and investigation, which is an integral part to the Consumer Financial Protection Bureau's (Bureau) work, as Congress set forth in the Dodd-Frank Wall Street Reform and Consumer Protection Act. Consumer Response hears directly from consumers about the challenges they face in the marketplace, brings their concerns to the attention of companies, and assists in addressing their complaints.

The information consumers provide supports both the complaint process as well as informs the work of other parts of the Bureau. Access to confidential consumer complaint information is provided based on a demonstrated need and only to the extent of that need.

Consumer Response has an active program to manage access and follows standard operating procedures for processing access request forms and terminating access. Currently, about 830 Bureau staff and contractors have access. The majority of the contractors with any level of access to complaint information are those who answer consumers' questions and handle consumers' complaints at the Bureau's two U.S.-based contact centers.

Representative Duffy: Verification of the terms of the CFPB's contract with Experian.

Response
The Consumer Financial Protection Bureau (Bureau) contract with Experian states that it will provide the Bureau with a ZIP+4 or other geographic identifier for each anonymous credit record in our sample. While the census block is provided in the contract as an example of the other types of geographic identifiers that might have been used, the specific task order issued to procure the data from Experian narrows the selection to either a ZIP+4 or census tract.

Consistent with the task order, the Bureau has opted to acquire census tract identifiers. Census tracts, which are created every 10 years by the Census Bureau and contain around 4,000 individuals each, are broader geographic areas than census blocks or ZIP+4. The Bureau is not collecting ZIP+4 or census block information.

Representative Barr: Clarification on consumers' right to access personal information obtained by the CFPB.

Response
The Consumer Financial Protection Bureau (Bureau) does not monitor the accounts of particular consumers and does not track the financial habits or activities of any individual consumer. In general, where the Bureau collects information that is retrieved by a direct or personal identifier and maintained in a SORN under the Privacy Act, individuals may request access to, amend, and correct records that pertain to them by submitting a request in writing in accordance with instructions appearing in Title 12 part 1070 of the Code of Federal Regulations, "Disclosure of Records and Information."

Representative Barr: Number of contractors, agents, and third parties granted access to the CFPB database.

Response
There is no single system of consolidated data maintained by the Consumer Financial Protection Bureau.

In general, contractors (including contractor employees and subcontractors) may have access to specific databases, with access limited by several control points provided by the general Cybersecurity and IT Security clauses included in Bureau contracts. These clauses operate to ensure adequate contractor IT processes and contract employee IT security awareness training; contractor compliance with relevant Federal laws, including but not limited to the Federal Information Security Management Act of 2002 (FISMA); Bureau oversight of contractor cybersecurity and pre-screening of contractor personnel; and signed contractor nondisclosure agreements (NDAs), as appropriate.

In general, access to Bureau data is controlled and access logs to Bureau systems are kept and maintained in accordance with Bureau policy based on National Institute of Standards and Technology Special Publication 800-53 Recommended Security Controls for Federal Information Systems and Organizations (NIST SP 800-53) guidelines.

Access to confidential consumer complaint information is provided based on a demonstrated need and only to the extent of that need. Consumer Response has an active program to manage access and follows standard operating procedures for processing access request forms and terminating access. Currently, about 830 Bureau staff and contractors have access. The majority of the contractors with any level of access to complaint information are those who answer consumers' questions and handle consumers' complaints at the Bureau's two U.S.-based contact centers.

Chairman Capito: Production of the categories of PI collected by the CFPB.

Response
The Consumer Financial Protection Bureau (Bureau) does not monitor the accounts of particular consumers and does not track the financial habits or activities of any individual consumer. Instead, in the normal course of carrying out its statutory mandate to protect consumers, ensure regulatory compliance, and monitor the financial services and products markets for risks to consumers, the Bureau collects information about accounts from consumers who seek the Bureau's help through the consumer response function and from the institution involved in the complaint. The Bureau also collects information from covered persons who are the subject of supervisory examinations or enforcement activity, as well as from whistleblowers and third parties who may have information relevant to an enforcement action.

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data the Bureau receives does not include transactions, such as purchases. Through a Memorandum of Understanding, the Bureau is also able to access data that is collected by a partner prudential regulator from an additional set of credit card issuers. The combined data represent approximately 85-90% of the outstanding card balances. None of the foregoing credit card data contain information that directly identifies individuals.