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THE SEMI-ANNUAL REPORT OF THE CONSUMER FINANCIAL PROTECTION BUREAU

HEARING

BEFORE THE

COMMITTEE ON FINANCIAL SERVICES
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRTEENTH CONGRESS

FIRST SESSION

SEPTEMBER 12, 2013

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THE SEMI-ANNUAL REPORT OF THE CONSUMER FINANCIAL PROTECTION BUREAU

Thursday, September 12, 2013

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

The committee met, pursuant to notice, at 9 a.m., in room 2128, Rayburn House Office Building, Hon. Jeb Hensarling [chairman of the committee] presiding.

Members present: Representatives Hensarling, Miller, Bachus, Royce, Capito, Garrett, Neugebauer, McHenry, Campbell, Pearce, Posey, Fitzpatrick, Luetkemeyer, Huizenga, Duffy, Hurt, Grimm, Stivers, Fincher, Stutzman, Mulvaney, Hultgren, Ross, Pittenger, Barr, Cotton, Rothfus; Waters, Maloney, Velazquez, Watt, Sherman, Meeks, Hinojosa, Clay, Lynch, Green, Ellison, Perlmutter, Himes, Peters, Carney, Sewell, Foster, Kildee, Murphy, Delaney, Sinema, Beatty, and Heck.

Chairman HENSARLING. The committee will come to order.

Without objection, the Chair is authorized to declare a recess of the committee at any time.

For Members who are arriving and seeing our hearing room for the first time since our last hearing, yes, it did receive a coat of paint. For those of you who were wondering when Chairman Frank's portrait would make its appearance, it is here now, and as I said to him at the unveiling ceremony of his portrait, as a conservative Republican, I have long since looked forward to the day when Barney could be seen but not heard.

[laughter]

That day has arrived. If I could say, it did seem to elicit a chuckle from our former chairman. I don't know how Chairman Frank got to my right, I don't know. That disturbs us both.

Recognizing the time constraints this morning, we are expecting first votes sometime between 10:15 and 10:30. The ranking member and I have agreed to limit opening statements to 8 minutes per side. Without objection, it is so ordered.

At this time, I will recognize myself for 5 minutes for an opening statement.

This morning, we welcome Richard Cordray, the Director of the Consumer Financial Protection Bureau (CFPB) to deliver the Bureau's latest Semi-Annual Report. Mr. Cordray, we recognize that the Bureau's latest Semi-Annual Report may be a little bit dated due to the legal controversy that previously surrounded your ap-

pointment, and thus delayed your timely appearance. Nonetheless, we welcome you today and congratulate you on your recent Senate confirmation.

The CFPB is arguably the single most powerful and least accountable Federal agency in the history of America. Thus, it is an agency that demands rigorous oversight and consequently will undoubtedly demand numerous congressional hearings and inquiries. So again, not only do we welcome the Director today, but we look forward to welcoming you to our hearing room for many further appearances before us.

As all of us know, the CFPB was designed to operate outside the usual system of checks and balances that applies to almost every other government agency.

Number one, the CFPB is effectively unaccountable to Congress; it is exempted from the congressional budgetary and appropriations process. Thus, unlike many other agencies, there is no check to ensure that the CFPB Director is spending the peoples' money effectively to promote consumer protection, much less effectively in a time of runaway debt and deficits.

Not even the agency from which the CFPB obtains its funding, the Federal Reserve, has oversight over the CFPB Director's spending.

The CFPB is unaccountable to the Executive Branch. Once appointed and confirmed, the Director can only be removed by the President for cause. Neither can the Nation's Chief Executive enforce spending discipline on the Bureau because it is not subject to the Office of Management and Budget nor does the CFPB have its own Inspector General.

I also find it fascinating, as Syria has dominated our national consciousness, that it merely takes a majority vote of Congress to launch military action or to go to war, but it takes a super majority vote to the Executive Branch Financial Stability Oversight Council to overturn a ruling of the CFPB, and then only if that ruling can be shown to threaten the safety and soundness of the entire U.S. financial system.

Next, the CFPB is uniquely unaccountable to the courts, since Section 1022 of the Dodd-Frank Act provides that where the Bureau disagrees with any other agency on the meaning of a provision of Federal consumer financial law, the reviewing court must give deference to the Bureau's view under the Chevron Doctrine.

Finally, in many respects the CFPB is uniquely unaccountable even to itself since there is fundamentally no "it," no "they," only a "he." There is no commission, only one omnipotent Director fundamentally accountable to no one.

Combined with this breathtaking lack of accountability is a grant of power under Dodd-Frank to the CFPB Director that is unilateral, unbridled, and unparalleled. The Director can unilaterally declare virtually any financial product or service as unfair or abusive at which point Americans will be denied that product or service even if they need it, understand it, and want it.

Be he our credit czar, national nanny, or benevolent financial product dictator, Mr. Richard Cordray is now empowered fundamentally to decide what types of credit cards Americans are al-

lowed to have, what types of mortgages they may have, and whether or not they can access a payday lender.

All of this does beg the question, who will protect consumers from the Consumer Financial Protection Bureau? True consumer protection requires access to competitive, transparent, and innovative markets vigorously policed for force, fraud, and deception.

True consumer protection empowers consumers and respects their economic freedom to make informed choices free from government interference and FOIA.

Consumer protection is not a zero sum game where for consumers to win, producers must lose, or where borrowers can only win when lenders lose.

And consumer protection is not having powerful government agencies "nudge" consumers to make correct choices, since they believe that consumers are incapable of making rational decisions for themselves.

When it comes to true consumer protection, and when it comes to the Consumer Financial Protection Bureau, this committee will do everything we can to demand the highest levels of accountability, transparency, and answers.

I will now recognize the ranking member for 4 minutes.

Ms. WATERS. Thank you very much, Mr. Chairman.

Director Cordray, congratulations again on your confirmation. I am so pleased that you are here today. Your presence before this committee is long overdue, particularly after the nearly 6 months of Republican obstruction that has threatened consumer protection in order to score certain political points.

As you know, the Wall Street reform law requires the Director of the Consumer Financial Protection Bureau to appear before this committee every 6 months to discuss the agency's Semi-Annual Report. The report that you are here to discuss today was released back in March. Unfortunately, at that time we were denied the benefit of your perspective.

The timing of this hearing turns out to be somewhat appropriate, however. This month, we must observe the 5-year anniversary of the Lehman bankruptcy rooted in the risky and irresponsible lending and financial practices that brought the economy to the brink of collapse, wiped out the life savings of many of our constituents, and set off a foreclosure epidemic that has left many States still struggling.

The Consumer Financial Protection Bureau was born from that crisis as one of the cornerstones of the Dodd-Frank Act. The CFPB is now on the front lines of protecting consumers from bad actors in the financial system and ensuring nothing like what happened 5 years ago ever happens again.

Mr. Director, I would like to commend you on how well you have worked with a wide array of stakeholders during your tenure, for your careful leadership of this young agency. You have consistently earned praise from both consumer advocates and industry leaders.

Those of us in Congress know that is not an easy task. Your leadership has resulted in achievements at the Bureau that cannot be understated. In just 2 short years, the CFPB's enforcement actions have resulted in $432 million being directly refunded to over

6 million consumers victimized by unscrupulous actors in the financial system.

Importantly, the CFPB has ensured for the first time that someone is monitoring a number of industries that have a history of problematic interactions with consumers. These include the hundreds of millions of consumers interacting with consumer reporting agencies, debt collectors, and payday lenders, just to name a few.

In just the past few months, we have seen the agency investigate and raise concerns about the harmful impact of a number of practices on consumers including overdraft fees, private education loans, and the cycle of debt that payday and deposit advance loans can become.

Mr. Director, your agency has also finalized several mortgage rules that help guard against the risky and irresponsible lending that brought the economy to its knees just 5 years ago.

These rules aim to protect consumers from irresponsible mortgage lending, establish strong protections for homeowners facing foreclosure, and prevent lenders from steering homebuyers into risky mortgages at a time when numerous Dodd-Frank regulations—we have seen indefinite delays, and I am very pleased with your progress.

But, Mr. Director, while your accomplishments are significant, issues such as data collection practices continue to need your attention. I believe all Federal agencies regulators—credit report bureaus, financial service providers, and others—must proceed with caution on this front, affording the highest respect to the protection of consumer privacy. The CFPB is a data-driven agency, as you know.

The Dodd-Frank Act specifically prohibits the CFPB from gathering or analyzing any information that is personally identifiable. I trust you are carefully adhering to the letter of the law and carefully balancing your Bureau's duty to monitor the market with your responsibility to protect consumer privacy.

I strongly support the important work of the CFPB and Mr. Director, I want to congratulate you for the Bureau's impressive record of accomplishments for our Nation's consumers.

I look forward to your testimony.

And I yield back the balance of my time.

Chairman HENSARLING. The Chair now recognizes the Chair of the Financial Institutions and Consumer Credit Subcommittee, the gentlelady from West Virginia, Mrs. Capito, for 3 minutes.

Mrs. CAPITO. Thank you, Mr. Chairman, and I would like to thank the chairman for having this hearing. This marks the first appearance by Mr. Cordray as full Director, and congratulations to you.

I also would like to thank you for including me in conversations. It is very important that we have a good relationship and communication, and you have certainly extended the hand of welcome to me. So, I appreciate that.

I would also like to thank you for the CFPB's reaction to the ability-to-repay rule for stay-at-home spouses that Mrs. Maloney and I worked on. I know you worked on that and reshaped the rule, so thank you so much for that.

Last month, I held a roundtable with lenders from across my district. We addressed numerous challenges, but one issue that everybody expressed great concern about is the mortgage rules that are expected to come into effect in January.

Many of the lenders I talked to are extremely concerned about their ability to have their systems in place to be fully compliant with the rules. In fact, in the PATH Act we address these concerns by pushing back the implementation by 1 year.

This extra time is especially important to community lenders, like those we have in West Virginia. It is unreasonable to expect the small community lender with one compliance officer to be able to absorb the challenges of 3,500 pages of new regulations proposed and the additional amendments that have been issued throughout the year.

Community lenders need to ensure their systems are compliant in order to properly extend credit to their consumers. I noticed in a report that you had addressed this issue with the community bankers in North Carolina most recently, and you said that you are going to be releasing a second set of amendments to its ability-to-repay rule any day now.

I wonder what kind of adjustments—you did express some flexibility here—I would be interested, if we can dig down on that in the question portion.

Another issue we learned about in a previous hearing is the inability of some institutions' charitable programs to comply with the new mortgage rules. We heard testimony about a program that has served borrowers in one county in West Virginia for nearly 50 years.

This institution's trustees work with borrowers to determine their ability to pay on a case by case basis with great success. However, the institution remains concerned that this program will not comply. These are folks who would never be able to secure a home without the help of the charitable program.

I have deep concerns that the Qualified Mortgage rule will result in less availability of credit for low- and moderate-income borrowers. Yet, these are the consumers that supporters of these rules claim to help. Are they better off if we would extend credit, if credit becomes more difficult to obtain.

I think the problem with the rules—and the chairman talked about it—really points to something that we have had discussions on in this committee, and that is the structure of the CFPB.

We still continue to, and I still continue to, believe that creating rules and having a buy-in from a committee would actually better serve the consumer and the institutions that are set up to serve the consumer.

So with that, I yield back.

Chairman HENSARLING. The Chair now recognizes the gentleman from Illinois, Mr. Foster, for 1 minute.

Mr. FOSTER. Thank you, Mr. Chairman, and Ranking Member Waters.

I would like to take a moment to congratulate Director Cordray for his long overdue confirmation, and welcome him before this committee.

Since its inception in 2011, the CFPB has been a very effective advocate for consumers and taxpayers. I would note that in just 2 years, the CFPB's enforcement actions have resulted in $432 million being directly refunded to more than 6 million consumers.

And for the first time, consumers have an advocate at some of the highest levels of government to fight on their behalf, and to help level the regulatory playing field.

Just 5 years ago, American families lost $16 trillion in wealth in less than 2 years. Our economy lost 8 million jobs and the unemployment rate jumped to over 10 percent.

Measured as a decline in the percentage of household net worth, the 2008 crisis was actually worse than the Great Depression. This was no accident; it was the result of reckless deregulatory policies that allowed certain bad actors to prey on the most vulnerable members of our communities with little or no economy.

I want to thank Mr. Cordray for the transparent and effective manner he has gone about engaging on these issues, and I look forward to his testimony. Thank you, and I yield back.

Chairman HENSARLING. The Chair now recognizes the gentleman from Michigan, Mr. Kildee, for 1 minute.

Mr. KILDEE. Thank you, Mr. Chairman, and Ranking Member Waters.

And welcome, Mr. Cordray, and congratulations to you.

You and I have both served as county treasurers at the same time in our neighboring States, and I congratulate you on that, and I particularly congratulate you on choosing Michigan State University as your college, rather than the one in closer proximity to your home.

I will tell you that I am really glad that you are in the position that you are in. For as long as I have known you, I have known you to be a careful and diligent steward of the public trust, and I am very confident that you will continue to do the great job that you have.

I do ask that you address two issues as you move forward. The first is to carefully look at ways to provide additional protection from predatory lending for our Nation's servicemembers. This is a significant issue that needs to be addressed, and I know you are aware of it.

Second, to carefully review the proposed guidance being issued on fair-lending practices to indirect auto lenders, and I know you are examining that, ensuring that the proposed guidance provides consumers access to credit.

And finally, we know now, in my State and in California, that we still do need to have significant regulation. What we have seen in energy trading is—

Chairman HENSARLING. The time—

Mr. KILDEE. I encourage you to continue—

Chairman HENSARLING. —of the gentleman has long since expired.

Mr. KILDEE. Thank you, Mr. Chairman.

Chairman HENSARLING. The Chair now recognizes the gentleman from Washington, Mr. Heck, for 1 minute.

Mr. HECK. Thank you, Mr. Chairman, and Ranking Member Waters. Director Cordray, thank you, in general, for what you do and for your presence today.

And before we get into what I would euphemistically characterize as challenging questions, a couple of which I have of my own, I wanted to say something else: Thank you.

I have the honor of representing the third largest military installation in America, with tens of thousands of servicemembers. I feel a strong sense of duty to them, as you might imagine. And I have no better ally in my efforts than your office.

In particular, the Office of Servicemember Affairs, ably led by Holly Petraeus, has been instrumental in several efforts. They helped me successfully draft language to the Defense Authorization Act that will literally help people save their homes.

On an individual casework basis, they have been not just responsive, but proactive, and I think the most important thing that we need to remember here is that this work makes a difference in people's lives, and I thank you, sir, very much.

Chairman HENSARLING. The Chair now recognizes the gentlelady from Ohio, Mrs. Beatty, for 1 minute.

Mrs. BEATTY. Thank you, Mr. Chairman, and thank you, Ranking Member Waters.

I want to extend a sincere thanks to Director Cordray for being here. I have never been prouder or more honored to serve here. I would certainly like to disclose that I have known Mr. Cordray for a number of years.

I had the proud honor, when he was the Franklin County treasurer, as well as the State of Ohio—our hometown treasurer—that we had the opportunity to work across the breadth of that State, making a difference in lives, whether it was financial literacy, home mortgages, looking at credit and protecting folks—your being here makes a difference.

Ditto to everything my other colleagues have said. Let me just say to this body here, he has a proven track record of integrity, transparency, and scholarship.

I am pleased that you are here. I look forward to working with you, and I make a commitment to support your endeavors. Job well-earned.

Chairman HENSARLING. Today, we welcome the testimony of Richard Cordray, who was confirmed by the Senate to serve as the CFPB's first Director on July 16th of this year. Prior to his service at the CFPB, Director Cordray served the people of the State of Ohio as treasurer and solicitor general.

Without objection, the Director's written statement will be made a part of the record. Again, we welcome Director Cordray, and you are now recognized for your oral statement.

STATEMENT OF THE HONORABLE RICHARD CORDRAY, DIRECTOR, THE CONSUMER FINANCIAL PROTECTION BUREAU (CFPB)

Mr. CORDRAY. Thank you, Mr. Chairman, Ranking Member Waters, and members of the committee for inviting me to testify today about the third Semi-Annual Report of the Consumer Financial Protection Bureau (CFPB).

Born out of the worst financial crisis since the Great Depression, the CFPB is the Nation's first Federal agency whose sole focus is protecting consumers in the financial marketplace. We are dedicated to improving the lives of everyday Americans, and to restoring trust in consumer financial markets.

The Semi-Annual Report we are discussing today embodies our work over the last 6 months of 2012. The Report illustrates the ways we are using the tools Congress has provided us to empower consumers—as you have said, Mr. Chairman, and I agree, it is so important to promote a fair, transparent, and competitive marketplace for consumer finance.

We have taken steps to improve the workings of markets, particularly those in which consumers cannot choose their financial service providers.

One such market is debt collection. Concerned about systemwide problems that pose risks to consumers, we gained authority at the beginning of the year to supervise debt collectors.

The debt collectors covered by our supervisory authority account for over 60 percent of the industry's annual receipts in that market. Bad actors in this market are a detriment to consumers, and to every debt collector that operates lawfully.

We also expanded our supervision program to include the larger credit reporting companies. Credit reports have a profound impact on people's lives, although people often do not realize it. Previously, these companies were not subject to any Federal supervision and consumers often struggled to get errors resolved.

In addition to our new supervision program, we began handling consumer complaints about credit reporting issues, all of which will open a clear window into the actual operations of these companies.

As a result, the Bureau can now evaluate whether Federal consumer laws are being followed throughout the process, from credit origination to debt collection. By identifying problems and rooting them out early, we are working to minimize consumer harm.

Our report also encompasses the Bureau's first enforcement actions, which were against credit card companies that deceived and misled consumers. In some cases, the companies targeted economically vulnerable consumers with low credit scores and low credit limits.

We were able to secure $425 million in relief for 6 million consumers, and we also imposed penalties on the companies to deter such activity in the future.

There is more to come in this area, and these actions will serve as a warning signal for anyone who seeks to profit by deceiving or misleading consumers.

In the second half of 2012, we also tackled issues in the market for private student loan debt, with a total of about $150 billion in outstanding student loan debt. Our studies detailed the struggle students and recent graduates are experiencing in that market, which they tell us about every day.

Together with Education Secretary Arne Duncan, we have made recommendations to policymakers and common-sense reforms to ensure that the risky underwriting practices of the past are not repeated.

The work I have discussed here today and will discuss is merely a snapshot of our efforts on behalf of consumers. We are also addressing consumer complaints on a growing number of financial products and services, totaling more than 130,000 as of the end of last year, and now exceeding 200,000.

We have adopted comprehensive new mortgage regulations, banning irresponsible lending practices which helped bring about the recent financial crisis. Our ability-to-repay rule follows the simple principle that lenders should offer consumers mortgages which they can actually afford to pay back.

We have actively conducted outreach on various issues to older Americans, students, servicemembers, and others, and what we have heard from them has guided the direction of our work.

Each day, we take another step in pursuit of our vision to create a consumer financial marketplace where customers can see crisis and risk up-front, and easily make product comparisons, in which no one can build a business model around unlawful practices, and that works well for individual consumers, for responsible businesses, and for the economy as a whole.

We will continue to persist in this work, and we appreciate your oversight. It is very meaningful to me, and to the Bureau. As always, I will be glad to answer your questions and certainly to stay as long as you like. Thank you.

[The prepared statement of Director Cordray can be found on page 74 of the appendix.]

Chairman HENSARLING. The Chair now recognizes himself for 5 minutes.

Thank you, Mr. Cordray, in particular for your last statement about your willingness to answer our questions, and my first question, or statement, frankly has to do with that. I know that the agency, and you yourself, take great pride in the commitment to transparency and accountability, and frequently speak about the number of appearances that you and your staff have had before our committee, but it is not really a question of quantity; it is a question of quality.

And frequently we have found, Mr. Director, that members of your staff can be uniquely unresponsive to our inquiries, particularly on July 9th, your number two, I believe, Steven Antonakes, appeared before our committee, dealing with what the ranking members spoke of, this very sensitive issue of data collection regarding our citizens. And here is just a snippet of what we had to deal with if we could please roll the video.

[Begin video.]

"Mr. ANTONAKES. I don't have the exact number. I would be happy to follow up with you on what the number is. I can get back to you with precise numbers.

"Voice. Will you send those to us?

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

"Voice. Thank you.

"Mr. ANTONAKES. I would have to verify that, Congressman. I can verify that for you. I would have to get back with you.

"Voice. Could you get back with us on that?

"Mr. ANTONAKES. Yes.

"Voice. We would be interested to know that.

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

"Voice. Okay.

"Mr. ANTONAKES. I would have to get back with a precise number. And we could provide that information to you.

"I would have to provide that information for you. I want to be accurate.

"I would have to get that information for you.

"I have to verify the contract to see exactly what type of information we are—

"We can seek to provide that information to you. We will do it in as timely a fashion as possible.

"Voice. Okay."

[End video.]

Chairman HENSARLING. Now, Mr. Director, that appearance was on July 9th, which was over 2 months ago. Because your number two was unable or unwilling to answer so many questions, there have been roughly 100 follow-up questions from both sides of the aisle, and we have yet to hear any response, notwithstanding the fact that Mr. Antonakes said he would get right back to us, so the question is, do you have any knowledge of when your agency plans to respond to this committee?

Mr. CORDRAY. Thank you, Mr. Chairman, and thank you for raising that set of issues.

I have reviewed the transcript of that hearing, and whenever someone else comes to testify rather than myself—and as you know, I was not invited to testify during that period—I always make it a habit to review the transcript and follow up within the Bureau on things that are raised.

My understanding of those exchanges that were edited and truncated there was that this committee is quite interested in, and I think quite appropriately concerned about the manner in which the Bureau collects information and what it is being used for.

I do think that the statute and the law contemplates that an agency should be well-informed in its work, and that as we report to you, report to Congress, write regulations, you have required—

Chairman HENSARLING. Mr. Cordray, you know our time is short. I am happy to get the background, but do you have the answers? The committee has been waiting for 2 months. Do you know when we can anticipate answers to these questions?

Mr. CORDRAY. Yes. Let me be specific about that, then. That hearing occurred on July 9th, as you indicated. There were a few questions for the record provided to the Bureau in the days thereafter, but there was a huge slug of questions that actually totaled close to 200 that came to the Bureau on August 12th, so more than a month after the hearing. It took time, obviously to prepare those and to make sure we had comprehensively addressed the issues. We have been working in the ensuing now month to prepare responses to the questions for the record, and also to gather contract documents and other information. You will have that—

Chairman HENSARLING. I understand that, Mr. Cordray. Right now, I have less than 1 minute of time. Is there an estimate?

Mr. CORDRAY. You will have that any day now.

Chairman HENSARLING. Any day now.

Mr. CORDRAY. You will. Yes. Certainly by—week.

Chairman HENSARLING. Thank you. In the limited time that I have remaining—I know a number of other Members will be asking questions regarding QM.

It is a standard that I fear may be simultaneously underinclusive and overinclusive, but I am somewhat curious, and perhaps in my limited time—you may have to answer in writing. But as I speak to a number of community financial institutions, they are very concerned about a line being drawn at 43 percent debt-to-income.

It begs the question, what if somebody has 44 percent debt-to-income, but is willing to put 20 percent down, and has a 740 FICO score, which is a great credit score, but apparently they will be denied credit under this standard, versus somebody who has a 43 percent DTI, has a 440 FICO, and puts 0 percent down.

So on the one hand, you could be restricting credit to deserving creditworthy borrowers, and on the other hand, although I know you are not a safety and soundness agency, you could be helping put the government's imprimatur on exactly the type of mortgages that helped bring about the crisis in the first place.

My time has lapsed. The Chair now recognizes the ranking member for 5 minutes.

Mr. CORDRAY. Did you want me to respond to that question, or not?

Chairman HENSARLING. I would like you to, but I am going to attempt to set a good example for the rest of the Members. Perhaps you could submit that in writing, and I will go ahead and yield to the ranking member.

Ms. WATERS. Mr. Chairman, would it be appropriate for me to yield at least a minute to Mr. Cordray so he can respond?

Mr. CORDRAY. Thank you. And—

Chairman HENSARLING. Without objection, by unanimous consent.

Ms. WATERS. Thank you.

Mr. CORDRAY. I appreciate the questions about the Qualified Mortgage rule, which I know is a focus of tremendous interest among Members here, and I was in North Carolina yesterday addressing the American Mortgage Conference, where there was tremendous interest as well.

The point that we made, and I just want to address it because it is not entirely accurate to say that every mortgage has to have a 43 percent or less debt-to-income ratio. That is one of the categories, bright-line categories that get you to a Qualified Mortgage.

There is a separate category, also a bright-line category, that the loan is eligible for purchase by any of the GSEs in conservatorship, Fannie Mae or Freddie Mac. That is a very significant band of things. It could be above a 43 DTI.

A third category that we drew in response to some of the concerns that members of this committee and community bankers across the country brought to us is that if you are a smaller creditor of under $2 billion in assets, and you make mortgages that you keep in portfolio, those also are Qualified Mortgages, regardless of the 43 DTI, so it is not one-size-fits-all. It is not a procrustean bed fitting everybody into one metric. It is an attempt to respond to dif-

ferent considerations we have heard around the country. I am happy to address that in more detail as Members wish.

Chairman HENSARLING. I think you will have that opportunity. The Chair now yields 5 minutes to the ranking member.

Ms. WATERS. Thank you very much. Mr. Cordray, I want you to know that as the chairman described the questions that were asked of your assistant, he said there were 170 from both sides of the aisle.

This side of the aisle only had one question, so I guess it was 169 from the other side, and I also would like to tell you that if you had not been blocked from coming to this committee, we would not have had to rely on other people.

You are very well-qualified to answer any questions, and I am so glad that you are confirmed and you are here now, so I would like to continue with that line so that you can, as you had started to do, so expertly explain what has happened with QM.

A lot of my friends on the opposite side of the aisle talk about wanting to help community banks, and I have been trying desperately to reach an agreement so that we could do more. I just want to know how, and perhaps you can give some assistance, some resources, to help our community banks get into compliance. So will you continue with that line of discussion on QMs?

Mr. CORDRAY. Sure. And in background, I want to say that when the Dodd-Frank Act was passed in July of 2010, there were provisions in the statute that could have simply taken effect of their own momentum, and they would have taken effect in January of 2013, governing the mortgage market.

If this Congress had not created this agency and not authorized us to write rules, that is what would have been the timeframe.

The rules that we wrote actually contoured the criteria of what was in the statute in ways that were very responsive, deliberately responsive, to the concerns that we heard from community banks, credit unions, and many others in the mortgage market who were very concerned that in this era, maybe was not true in 2006 and 2007 about access to credit, and we are very concerned about it as a result of what we have heard.

With respect to the community banks and credit unions and helping them to get into compliance, we have been working at that intentionally and purposefully, and alongside them every day of this year. We have developed plain language guides to the rules that translate them, frankly, into understandable English, because none of us, including myself, enjoys reading the Federal Register.

We have made compliance videos, how-to guides, and we have also worked with the other agencies to make the examination procedures clear. They have been finished and published well in advance of the effective date, which I think is unprecedented in past recent experience.

So we are working very hard. We are also taking questions every day and attempting to address issues. And when you mentioned some amendments to the rules, all of those amendments have been in response to industry questions and concerns about making it more operational, and making it easier for them to implement.

There has not been a single thing which has added burden. They have all been burden-relieving, and we continue to be devoted to that effort.

It is very important for us to recognize that we can write rules, and we can say to industry, "Now, it is your problem." That would not be an appropriate approach. It is a problem for all of us. We want the rules to be effective. We want them to be able to successfully implemented.

We want the lenders to be lending in the mortgage market, and the housing recovery, which is well under way, to continue. And we are working to make sure that we understand those issues and I tend to be responsive, not only to the Members here, but to those across the country who have such a stake in that market, most of all, average Americans.

Ms. WATERS. Thank you very much. On this side of the aisle, many of our Members are convening our meetings with community banks. We have been doing that all during our break, and we are very engaged with them to find out how we can perhaps get them out from under the yoke of regulations that should not apply to them. And, of course, we have been centered on QM as I have indicated.

So, I would like to know if we could have someone from your shop attend one of our meetings where we have convened the community banks? Would you make someone available so that we can make sure that they have access to the information that can help them come into compliance that many of them may not know about or easily understand?

Mr. CORDRAY. Gladly. And I make that offer to Members on both sides of the aisle, whether they are on the committee or not: Feel free to convey to your colleagues, I know there are a lot of questions and issues people are having.

We have met just this week with at least five or six State community banking organizations. I have met with several myself personally. We have a number of people out and around who can attend those meetings.

As you know, we have worked on meetings in your district before, and I am happy to do that with all the Members to make sure people understand and have their questions addressed. That is something we want to do and I appreciate any invitations we have on that score.

Ms. WATERS. Let me thank you for the attention that you have given to the community banks. It is high on our list of priorities on this side of the aisle, and I appreciate your support and assistance.

Chairman HENSARLING. The Chair now recognizes the Chair of the Financial Institutions and Consumer Credit Subcommittee, the gentlelady from West Virginia, Mrs. Capito, for 5 minutes.

Mrs. CAPITO. Thank you, Mr. Chairman.

Mr. Director, I would like to go back—I would like to stick with the QM discussion. I mentioned in my opening statement that in roundtables with institutions, this obviously has been number one, because of the pressure of the deadline coming in January.

You mentioned being in North Carolina, and mentioned some adjustments that were going to be made. Do you have full assurance

that this is going to be ready for prime time, that community institutions are going to be able to have their back office and IT and everything ready to meet the challenges if you are still changing some of the rules and provisions?

I would like to hear—we would be interested in pushing it back. Is there any thought in your mind that might be a good idea?

Mr. CORDRAY. Yes, it is a very live topic at the moment.

Let me say several things. The first thing I would say is we have been in close touch with both larger and smaller institutions and both lenders but also REALTORS® and home builders and appraisers and everybody else who has a stake in this market over the course of this year. Most of the institutions have told us that they will be in compliance, but they have had concerns about it. They have been nervous about it.

They have been looking for questions to be answered and certain relief to be given on operational issues. I think that for the most part, they have said they will be in substantial compliance by January 10th.

With the smaller institutions, we did include special provisions, and I alluded to them a moment ago, that sometimes the smaller banks and credit unions don't seem to be yet aware of, and so it is incumbent on us and I am happy to work with all of you to get that message out.

Some of them are worried about the QM rule. I had this come up in North Carolina yesterday. We had it come up with some Oklahoma bankers earlier in the week. If they are under $2 billion in assets, if they make fewer than 500 mortgages a year, it covers the vast majority of community banks and credit unions in this country. Then anything they make and keep in portfolio, which is what many of them do, which means they pay close attention to ability to repay is a Qualified Mortgage rule and has the Safe Harbor.

Many of them don't seem to fully appreciate that there actually was a further amendment and further work we did after January 10th that took effect in May and we want to make sure we get that message out.

Beyond that, there was another piece I wanted to say about that, and I can't honestly remember what it was. So, if it comes back in my mind, I will pass that along.

Mrs. CAPITO. Let me shift gears a little bit here. One of the provisions in Dodd-Frank was that you and others and the Secretary of the Treasury would be looking at old and outdated regulations. Because this is another complaint we hear. It is just a complete compounding on top of regulation upon regulation.

Mr. CORDRAY. Yes.

Mrs. CAPITO. And one of the charges of Dodd-Frank was to look at these old and outdated regulations. How much time do you really spend at the CFPB scraping out any old and outdated and irrelevant regulations, and can you name a few of those?

Mr. CORDRAY. Yes, thank you for that question. It is a concern of mine and I think it is an appropriate concern for you all because I do think it is a question in the regulatory world. Each individual rule, people focus on it, they have a rationale, they have a justification and they think it is great and needed and what they often

don't do is look at the totality of it. What is the overall burden? So, we are trying to be very accessible to institutions and invite them to raise those issues with us.

We embarked on a streamlining initiative last year, put it out for notice and comment for people to tell us what kinds of things they would like to see us streamline. There is a certain amount of streamlining we have been doing all along as we write rules. We do try to find ways to weed things out.

Mrs. CAPITO. But you could actually give me a listing of rules that have sort of been—

Mr. CORDRAY. Yes, I—

Mrs. CAPITO. —grandfathered out.

Mr. CORDRAY. I think as we write each rule, we are finding things that we peel out of what was there previously, as well as updating. But in particular, we were working on the ATM sticker issue which in the end—

Mrs. CAPITO. Right, we have—

Mr. CORDRAY. —in the end—

Mrs. CAPITO. —right.

Mr. CORDRAY. —in the end Congress addressed it.

Mrs. CAPITO. Right.

Mr. CORDRAY. We are in the process of writing a rule.

The next one that we are going to be taking on, which I think has been an issue some of you have raised, is the annual privacy notices in which we think the burden there may outweigh the benefits to consumers. We are going to be looking at that and that will be under way in the next few months.

And if there are other things that you would like us to look at, please submit them to us, because I am interested in doing that. I think it would help build our credibility to be addressing those.

Mrs. CAPITO. I think it would definitely help your credibility and I think it would help the institutions that are under your purview. If you could as a follow up, maybe we could get together and you could—

Mr. CORDRAY. That would be fine.

Mrs. CAPITO. —show me some of the proof that this is actually occurring because in the field, it doesn't seem to be as such.

I do want to register a concern because I am one of those who asked for certain data from the last hearing in July and we still don't have a follow up and I would like to have that as well.

The other question I have and I have only 8 seconds so you are not—the other issue I would like to raise maybe in another forum is when you are collecting fines, you are retaining some of the fine, you are not giving it all to the person who has been wronged, whether it is a credit card or mortgage or whatever. I would like to talk further about what you are doing with the remains of those dollars, but I am out of time.

Mr. CORDRAY. Yes, I don't think I would characterize it that way. We try to seek full compensation for victims. If there is overage in terms of fees, we can potentially offer that to uncompensated victims either in that matter or in other matters, that is something we are trying to focus on.

Chairman HENSARLING. The—

Mrs. CAPITO. I think it is important to know that is adding up to tens of millions of dollars right now.

Chairman HENSARLING. —time of the gentlelady has expired.

The Chair now recognizes the gentlelady from New York, Mrs. Maloney, for 5 minutes.

Mrs. MALONEY. Welcome, Director Cordray.

The creation of the CFPB was one of the most important victories for consumers in a generation. It is extremely important that we have one regulator whose sole focus is protecting consumers so the consumer is not an afterthought or a secondary thought, a third thought, or not thought about at all as we saw they were treated when we moved towards the financial crisis.

And in my opinion, the Bureau has done an excellent job so far in working with both consumers and the financial industry to write common-sense rules of the road.

I want to give one specific example, which was a rule that came out in April at the request of Chairwoman Capito and myself as it concerned the Credit Card Bill of Rights, the Card Act.

The interpretation from the Fed was that stay-at-home spouses could not have access to credit, and that was not Chairwoman Capito's and my intent. When we wrote that law, we appealed to every single regulator and you finally took action and had a rule that allows credit card issuers to consider income that a stay-at-home spouse applicant shares with a spouse.

That is just common sense. And I think that this rule is a concrete example of the agency working with consumers and the financial industry to allow responsible access to credit and liquidity to American families. So I want to thank you for responding to the chairwoman's and my request. You took too long, but you got it done. And so we are very grateful, and consumers across this country are, as well.

I would like to go back to the chairman's issue of focusing on data collection, and I would say that this is getting a tremendous amount of attention before Congress now throughout government, and under Dodd-Frank, we required the Bureau to collect data in order to improve your rule making, your understanding and supervisory functions.

And Dodd-Frank also included numerous safeguards to protect consumers' personal privacy and to prevent the misuse of confidential information. That was an important hearing, and after that hearing, Chairwoman Capito and I feel that it is not only important for you to give us this data, but that every financial regulator gives us this data.

So, we have appealed to the GAO for a bipartisan report on what all the financial regulators are collecting so that we can see if there is any inefficiency. Is there any overlap? Is there sharing between the agencies? And what are the specific safeguards for the personal privacy of individuals?

I would like to use my remaining time to hear from you, first of all, what data are you collecting? I know it is—it can't be exact, but you will get that to the chairman. But off the top of your head, what are you collecting? And what are the safeguards that you have put in place to protect consumers' personal information? This is very personal information and it is important to protect it.

Mr. CORDRAY. If I could, just a brief word on the credit card rule that you mentioned that both you and Congresswoman Capito pushed so hard on and effectively. When you raised that to me, I thought of my mother who passed away now 33 years ago and was a working mom and she would have felt exactly as both of you did, and that was important to me in thinking about addressing that issue.

On data collection, we welcome the GAO examination of this issue, and we have worked closely with the GAO on a number of matters. They also do an annual audit of us, which is unusual among the Federal agencies. They will deal with this, I think appropriately, and help us. Potentially, they will have suggestions for improvement, which we welcome.

Second, in terms of the data that we collect, it is information that has nothing to do with individual consumer behavior patterns; we are not interested in whether Richard Cordray went to this restaurant and spent X dollars on dinner last night. That is not what we do. That is what private financial institutions do in the private sector. They are all about that. Our issue is that we have to oversee the financial institution. We have to be able to understand the pattern of how they treat their customers in order to understand that financial consumer laws are being followed or being violated.

So we collect data in, sort of, three main buckets. One is in our consumer complaint function, where people come to us voluntarily because they have a complaint they want us to resolve. They obviously need to give us information in order for that to happen, the same as with constituents who come to your offices.

A second is the area of supervision, where our job is to supervise these financial institutions. Some of the biggest, most powerful financial institutions in the country and the world, and we have to be able to go in and gather enough information—

Chairman HENSARLING. Mr. Cordray, if you could quickly summarize the rest of your answer. The time of the gentlelady has expired.

Mr. CORDRAY. Okay.

Chairman HENSARLING. Or did that summarize your answer?

Mr. CORDRAY. There was a third bucket I could just do in 30 seconds.

Chairman HENSARLING. If you could quickly, quickly.

Mr. CORDRAY. The third is our market monitoring function, which I think is an appropriate subject of inquiry from this committee, where we are sampling data from different markets to assess.

We have a CARD Act report due to this Congress by October 1st. It wouldn't be a very good report if we didn't have information to base it on. And so, that is a big part of our work as well, and I am happy to address that more as other Members—

Chairman HENSARLING. The time of the gentlelady has expired.

The Chair now recognizes the gentleman from California, Mr. Miller, for 5 minutes.

Mr. MILLER. Thank you, Mr. Chairman. Welcome, Mr. Cordray. I enjoyed your opening statement. You talked about empowering consumers, fair, transparent, and competitive marketplaces, and dealing with bad actors, which we saw plenty of before 2007. And

you expanded your supervisory program to include larger credit reporting companies.

The one thing that is kind of glaring to me is you took title insurance and you tagged it as optional for the buyer. And that is a real concern for me because I—

Mr. CORDRAY. I'm sorry. What—

Mr. MILLER. Title insurance policies.

Mr. CORDRAY. Yes.

Mr. MILLER. You have tagged those as optional. Now, any time a buyer would look at something that says "optional" and it costs money, generally they don't do it, because most people really don't understand what "optional" means or they don't know what title insurance really means, but your bank regulators and GSEs all require title insurance before they make a loan.

But the issues they look at in title insurance are completely different than what a buyer would look at on a title insurance policy. Banks look at financial encumbrance. Does anyone know if they have free and clear titles? So, they really don't get into the back pages on title policies.

But I have been in real estate and buildings since I was in my early 20s, and often you find historic easements, right-of-way issues that will come up in the back pages of title policies that lenders really don't—they are not concerned with, they don't care about.

And if we are concerned about empowering consumers, we really should be concerned about their safety. Why would you take something that I believe is very, very important which could arise in the future and put "optional" on it?

Mr. CORDRAY. I am not sure I am following exactly what you are referring to in terms of—

Mr. MILLER. A buyer does not have to get a title insurance policy.

Mr. CORDRAY. No, I understand, but in what manner—

Mr. MILLER. Generally, they will now.

Mr. CORDRAY. Yes. In what manner have we addressed that issue in a way—

Mr. MILLER. You put it as optional for a buyer.

Mr. CORDRAY. In what?

Mr. MILLER. To be able to be required—

Mr. CORDRAY. No, in some document or some rule or what—

Mr. MILLER. Yes, on your RESPA TILA proposal, you have in there that title insurance is optional.

Mr. CORDRAY. Okay.

Mr. MILLER. And if you are going to really protect consumers, that is something I would be very concerned about, because you could have historic utility easements. You could have right-of-way easements on property, and especially many seniors are downsizing and they are not necessarily getting a loan.

They are taking and selling an expensive home and they are buying a smaller home because they just don't need the big home any longer. So, they are not even involved with a lender. They are going in and buying a piece of property and it says "optional." In many cases, they won't pull a title policy.

Mr. CORDRAY. I'm sorry. I am now up-to-speed on what you are asking. So you are talking about the TILA RESPA proposed rule which has not yet been finalized but I hope will be finalized—

Mr. MILLER. Yes. That is what I am trying to get you to consider.

Mr. CORDRAY. —sometime this fall. First of all, I take your point. Your point is obviously meritorious. Title is often in question with properties in different parts of the county more so than others. Title insurance obviously is meant to address the risks of that. I will be happy to go back and take a look at the point you are raising about how we are characterizing it on that proposed—

Mr. MILLER. I would encourage it because many times you will have a utility easement, but if there is no utility used at that point in time, but later the utility company comes in, and they can't put in a pool. They can't do things on their property that they would otherwise want to do.

I think that is an issue we really—if we are dealing with consumer safety and empowering them, I think that is something we need to encourage them to do, if anything.

But I know QM has been talked about. And I have some real concerns. You exempted Freddie and Fannie, which I think probably increased the number of loans that you would say would quality under QM with their exemption from—if you took it, CoreLogic showed 48 percent would not quality today that qualified in 2010.

And if you are looking at liquidity and stability in the marketplace, a tremendous amount of lenders I am talking to are very concerned about this issue. And if you put Fannie and Freddie back into the equation, which—they put themselves in the equation. They said they will not be exempted. You are talking about almost half of the loans that were made in 2010, which are good-performing loans, that will not be made now.

Now, don't get me wrong. There are a lot of lenders that made predatory loans and they tagged them as subprime. They should be put in jail and they never were. But we are going to have guidelines that are so stringent based on a worst-case situation that would not be applicable today using good underwriting standards. Is that not a concern for you?

Mr. CORDRAY. It is a concern for me. And I thank you for the question because there has been some confusion around the CoreLogic analysis. They at first indicated that the way we drew the rule, only half of the loans in the market would now be covered.

They have since clarified that is not correct, that in fact, the vast majority of loans will be covered now. What we tried to do, frankly, was to leave room for Congress. We know you are looking at GSE reform. That is a matter for Congress to determine.

We had to write a rule for the mortgage market that allowed some flexibility depending on what would happen with GSE reform. We tried to make sure that we were covering the market broadly as it is now, and I think everybody has recognized we are—

Mr. MILLER. I am out of time, but please would you look at that? Because that is—I am not attacking you, but I am very concerned about liquidity.

Mr. CORDRAY. We will continue to monitor this as we go. And as you all perhaps address GSE reform, we will respond and react to

that to make sure we don't freeze the mortgage market or constrain it.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentlelady from New York, Ms. Velazquez.

Ms. VELAZQUEZ. Thank you, Mr. Chairman. Director Cordray, medical debt reporting continues to be a source of consternation for many consumers. The Medical Debt Responsibility Act, which I cosponsor, will require paid or settled medical debt to be removed from credit reports within 45 days. That bill directly addressed the negative impact such information has on consumer's credit score.

With the CFPB now regulating credit bureaus, do you plan to address how medical debt is treated on credit reports?

Mr. CORDRAY. I think that question and issue is one of many things I have run across at the Bureau that is fairly complicated and not necessarily very helpful to consumers, frankly.

Many of us will go to the doctor's office and will end up potentially with a bill that is covered by insurance, maybe it is all covered. Maybe there is a copay. Maybe we have to pay something. We may not know when we leave the office exactly how it is going to be handled. And sometimes, that can end up being reported as a debt.

We may not even owe it. It may be just a battle among insurance companies, or it may be that we owe $10 or $20 but it wasn't billed to us immediately. So, there are lots of things that end up showing up on peoples' credit reports that they are unaware of, that probably are not necessarily correct, and that may or may not be justified.

So, the issue of medical debt is a particularly difficult one. Many of those amounts are very small, but they can loom large in terms of qualifying for a mortgage or something. So, I do think it is a fair point that you raise that it may be a subject for legislative attention and or action.

It is something we are looking at, at the Bureau. It is clear that medical debt is kind of a separate category that is tripping up a lot of Americans, and often in ways that they would not anticipate or understand and don't necessarily seem to be appropriate.

Ms. VELAZQUEZ. Thank you. Section 1071 of the Dodd-Frank Act requires banks and lenders to collect and report credit application data on small businesses, as well as minority- and women-owned businesses. Can you elaborate on how collecting this information will help enforce fair lending laws and enable lenders to identify opportunities for improvements in underserved communities?

Mr. CORDRAY. Yes. There are a couple of different issues there. First of all, I think the logic of what Congress did in Dodd-Frank makes a great deal of sense. My understanding is that there were some efforts to collect this data maybe by the Fed at one time. They had a survey that was discontinued at some point. This Congress obviously expressed its will that that data, which is important, and can shed light on lending patterns, needs to be developed.

It was determined to create a provision in the Act which puts some responsibility on us to take this up. We want to work with the Small Business Administration, which obviously is much more knowledgeable in that area than we are. There has also been some

talk and efforts among some other departments in terms of how to work on this. We are trying to first of all figure out what is the best way to proceed.

The second thing I want to point out is we are going to be undertaking, and we have indicated now, the HMDA data, which has been very valuable but is in need of an update. Everybody pretty much agrees.

Congress also addressed that, and we are going to be undertaking new rules to govern HMDA data. And out of that, we expect to learn a lot that relates to small business data collection, and there may be some overlap there operationally as well. So, we are under way. We are thinking about this. We understand the importance of it and why you are looking for it.

It is not necessarily in our immediate comfort zone because we deal with consumers typically, and it is about the only area where we are given any responsibility in business. So, we want to work with others to make sure that can be done properly and appropriately.

Ms. VELAZQUEZ. When can we expect the CFPB to publish rules implementing that section?

Mr. CORDRAY. I can't give you a date in terms of when we will publish rules. I can give you the assurance that as of this fall, we are under way. We are thinking about how to staff that, how to work with the other agencies, how it intersects with the HMDA update, which is extremely important and that we are under way with immediately. And there may be things there that can be jointly collected, which would obviously be efficient. So—

Ms. VELAZQUEZ. Regarding the remittance transfer providers, last year the Bureau published a rule and critics took exception with a rule for potentially increasing the cost on small banks and credit unions. What changes did the CFPB make to the final rule, and when that is supposed to take effect next month?

Mr. CORDRAY. I'm sorry. Which rule are we talking about?

Ms. VELAZQUEZ. The one that will require remittance transfer providers to provide senders with certain disclosures.

Chairman HENSARLING. I am afraid the time of the gentlelady has expired.

Mr. CORDRAY. I would be happy to follow up or—

Chairman HENSARLING. If the Director could add that to the list of answers to submit in writing, please. The Chair now recognizes the gentleman from Alabama, the chairman emeritus of the committee, Mr. Bachus, for 5 minutes.

Mr. BACHUS. Thank you, Mr. Chairman. Director Cordray, I sent you a letter on indirect lending, and you responded to that letter. In fact, 35 of my fellow members on this committee joined that letter. Your response, in my opinion, was very general.

So, I just wanted to alert you that I will be sending a follow-up letter.

Mr. CORDRAY. Okay.

Mr. BACHUS. And I would like the agency, as soon as possible, to give me a more detailed response.

Mr. CORDRAY. I will look forward to that—

Mr. BACHUS. Thank you.

Director, Section 1022 of Dodd-Frank says that, "The Bureau may not use its authorities under this paragraph," and that is to obtain records from other agencies and other individuals, "for purposes of gathering or analyzing personally identifiable financial information of consumers." You are aware of that section, are you not?

Mr. CORDRAY. I am, yes.

Mr. BACHUS. Is the agency collecting personally identifiable financial information of individual consumers?

Mr. CORDRAY. Yes. I want to address this kind of carefully and comprehensively. There are different provisions in our statute about gathering information needed to do our work that Congress expects us to do and carry out our responsibilities, so if we have no information, we can't carry out the responsibilities. That is pretty clear. Section 1022 is referring to efforts we might undertake to monitor markets in order to be able to understand patterns and—

Mr. BACHUS. And getting information from other agencies that might have personal information in it.

Mr. CORDRAY. So if we undertake to gather that information to monitor the market, we are required to proceed by either rule or order. We had not, until very recently, proceeded under Section 1022 at all. We did just now send out an order to a number of companies to provide us with template consumer credit agreements as part of our efforts on the arbitration study, but there are other areas where we are permitted to collect information, and it is obviously necessary. The consumer complaint function, again, is one where we—

Mr. BACHUS. All right, let me ask you this—

Mr. CORDRAY. Yes. Personally identifiable information.

Mr. BACHUS. You are aware that back on May 11th of last year, your agency approached the U.S. Trustees Program and asked them to make a request before the Federal District Court in Tampa, Florida, for 5 million bankruptcy files?

Mr. CORDRAY. We don't typically comment on the details of enforcement matters. I understand that other parties feel free to comment, and apparently do feel free to comment on those. We are working with a number of different agencies, including the Justice Department, to carry out our responsibilities, and we will try to do that in an appropriate—

Mr. BACHUS. You may not want to comment, but those 5 million files have all sorts of personal information in them. Let me ask you this: If you did that, hypothetically, and you were to receive personal financial or private information on U.S. citizens from the U.S. Trustees Program, that came from the files of attorneys, would that not violate the Act?

Mr. CORDRAY. First of all, no, and second, let me be—

Mr. BACHUS. No, it would not?

Mr. CORDRAY. Let me be straightforward about this, and let me give you a related example. We had enforcement actions against a number of credit card companies.

Mr. BACHUS. Now, let us just use that example.

Mr. CORDRAY. No, I am just saying we had to make restitution to millions of consumers—

Mr. BACHUS. If you used that information—let me say, Director—

Mr. CORDRAY. In order to do that—

Mr. BACHUS. If you requested that the U.S. Trustee's Office file an action, or request the files of every bankruptcy file in this country, would that not violate the Act?

Mr. CORDRAY. First of all, there is some garbling going on in the facts. Not on your part, but on those who are trying to report the facts. That was the subject of a—

Mr. BACHUS. I am just asking, would it violate the charge of the specific limitation, and you are aware that you have been walled off from obtaining, from interfering with the practice of law, or intervening in the judicial process. Let me just say this: That is a data mining and data collecting process that you request the U.S. Trustees Department to do, without the knowledge or consent of citizens of the United States. Now, is that true, or not? You can answer yes or no, or you can say you can't talk about it.

Mr. CORDRAY. No, I think it is a general principle that when we have an enforcement action, and we are trying to figure out—

Chairman HENSARLING. The gentleman can give a brief answer.

Mr. CORDRAY. —to consumers, we need to understand individual consumer harm, and we will do that. We need to do that in order to be effective.

Chairman HENSARLING. The time—

Mr. CORDRAY. The number of people around the country who are purporting to be—

Chairman HENSARLING. —of the gentleman has expired.

The Chair now recognizes the gentleman from North Carolina, Mr. Watt, for 5 minutes.

Mr. WATT. Thank you, Mr. Chairman, and welcome, Director Cordray. I just have two quick questions, and I will leave all the rest of the time for you to answer, and if that is not enough time, then maybe you can answer in writing.

There seems to be a proliferation of online payday lending, which seems to be able to evade State laws governing payday lending, and I am interested in knowing, now that the CFPB has the ability to regulate payday lending, what options you are exploring in this arena and what is your timetable for doing so?

Second, a couple of my constituents, bank constituents, have raised questions about a recent rule that requires them to issue separate statements for bank accounts and loan accounts on the theory that it requires them to duplicate mailing costs and drives up the cost of the regulation.

I am wondering whether you have the ability to go back and take a look at that or provide information to me that justifies why that requirement is necessary? Particularly, small and community banks and credit unions are concerned that the extra cost of mailing, in much the same way as the cost of mailing privacy policies, is just an onerous cost.

So if you could address those, in the 3 minutes that I have remaining. And if you need additional time, you can submit it in writing. Thank you.

Mr. CORDRAY. Thank you, Representative Watt. A number of your friends in North Carolina said hello yesterday when I was down there and wanted me to pass that on to you.

On the second point, I don't know that I am familiar with the question you are raising. It is not a concern that I recall hearing, that there is some sort of duplication in terms of bank accounts and loan accounts and extra costs of mailing, but I would be very interested to hear about it. We will follow up with you. If there are—

Mr. WATT. They have indicated to me it is a recent rule, so maybe that is the question you will want to get back to me on, preferably after we do—

Mr. CORDRAY. Maybe it is a proposal or something. We will get back to you. We certainly wouldn't want that to be the result, and I would agree with you on that.

On your first question, which is a very good question, and a very active topic right now, the issue of online payday lending, online payday lending is interesting because first of all, much brick-and-mortar payday lending is migrating to the Internet now. It is estimated that the majority of payday lending will have gone to the Internet in the next several years.

And what often happens is that can create problems in States where there is a usury cap, as you know, in North Carolina and, and in I think 13 States. So if the loan is being made into that State above the rate of interest that can be charged legally in that State, that is problematic.

If the loan is being made into that State by someone from the Internet who is not licensed to provide a loan in that State, that also can be problematic.

These are issues that obviously require us to coordinate and cooperate with different State authorities, both banking regulators and also attorneys general. I met with Attorney General Roy Cooper yesterday in North Carolina, and he is very concerned about this issue.

It also requires us to coordinate with financial regulators, and as you have seen, there has been some activity now about trying to understand some of these online lenders, and what their relationship is with banking institutions.

Typically, they can only operate if there is both a transmission mechanism and a collection mechanism with the financial entities, and that can be problematic. It is a subject of some considerable scrutiny right now, by us and by others.

So I wouldn't say more than that right now, but we are mindful of the fact. I would go back to my experience as attorney general in Ohio. Internet practices can be very difficult for law enforcement authorities at the State level because they are borderless; they go beyond jurisdictions. They go beyond the national jurisdiction as well. So—

Mr. WATT. Do you anticipate the CFPB having some rules issued at some point in this area?

Mr. CORDRAY. I think at the moment it is an issue that we see as a potential issue for enforcement and supervision. Perhaps rules, we are looking at the payday and small title lending industry. I think that is known. We have indicated that in our unified regulatory agenda.

These are things that we are looking at, because they are hard problems. I have seen them at the State level. I know their frustra-

tions. I work with the attorneys general constantly. We want to make sure that we all can be effective together.

Chairman HENSARLING. The time of the gentleman has expired. The Chair now recognizes the chairman of our Capital Markets Subcommittee, the gentleman from New Jersey, Mr. Garrett.

Mr. GARRETT. Thank you, Mr. Chairman. Mr. Director, when a senior government official comes before a hearing of Congress and fails to answer questions in a timely manner, I believe, in the minds of the American public, there is an appearance of impropriety by that individual and by his agency as well.

When that same agency is responsible for secretly looking into the private papers of an American public as well, I think that raises even to a higher level. Let me understand your testimony, then.

Your testimony is that you were well aware of these questions that were asked of your second in command at your agency back on July 9th, and yet over a month went by, all the way to, according to your testimony, August 12th, and you still had not answered any of those questions, and the excuse that you give to Congress today is that more questions came in after that fact.

Mr. CORDRAY. No. No, that is not my testimony. If you want me to restate it.

Mr. GARRETT. Can you explain why you did not answer in the first 5 weeks after July 9th?

Mr. CORDRAY. On July 9th, with the testimony, there were a few, just a few questions submitted.

Mr. GARRETT. Correct.

Mr. CORDRAY. And there were multiples of that then submitted on August 12th, so it took the committee—

Mr. GARRETT. Can you explain why you did not answer in the first 5 weeks?

Mr. CORDRAY. No. It took the committee a month to formulate the vast majority of the questions. It is a huge amount of information.

Mr. GARRETT. Can you explain why you did not answer those basic questions in the first 5 weeks?

Mr. CORDRAY. Okay. There were a few questions submitted to us. We would have had an easy time answering those. At the same time—

Mr. GARRETT. Can you explain why you did not do what you just said is easy, then?

Mr. CORDRAY. I would like to respond to your question, if you would like to give me a chance to respond. Would you like to give me a chance to respond?

Mr. GARRETT. So far, you have not answered why you did not answer the first time—

Mr. CORDRAY. There were a few questions submitted that we could have answered easily in a timeframe. As we were working on those, a vast number of almost 200 questions were further submitted—

Mr. GARRETT. How many—

Mr. CORDRAY. —that intersected with the other questions and they involved gathering contracts and other things. It took this

committee more than a month to formulate the questions. We have had less than a month now to respond to them, but we will—

Mr. GARRETT. Let me just—

Mr. CORDRAY. —have responses to you—

Mr. GARRETT. Let me just—

Mr. CORDRAY. —in a matter of days—

Mr. GARRETT. You still have not answered the basic question. We gave you a number of questions. As you said, they were easy to answer, and yet, in 5 weeks, you could not answer those questions.

Mr. CORDRAY. That is not—

Mr. GARRETT. Here is, for example—

Mr. CORDRAY. That is not my testimony. But if you want—

Mr. GARRETT. Your testimony is—

Mr. CORDRAY. [Off mike.]

Mr. GARRETT. Your testimony, a moment ago, to quote you just now, was that "some of those questions would have been easy to answer"—

Mr. CORDRAY. Had they not been followed by a vast number of questions that intersect with them and affect the answers—

Mr. GARRETT. Did you know—

Mr. CORDRAY. —and need to be responded to.

Mr. GARRETT. —in the week after July 9th, that there were subsequent questions coming?

Mr. CORDRAY. I beg your pardon?

Mr. GARRETT. Did you know on July 10th, 11th, and 12th that separate other questions were coming?

Mr. CORDRAY. Our staff has had regular contact with your staff. We are very responsive to questions for the record. We always respond.

I would add that I am supposed to be back here, as the chairman has indicated, to testify again next month. So, you will have plenty of opportunity with me on these.

My understanding is that we have received over 200 questions for the record. We have taken less time to respond than the committee took to formulate the questions, and we will have the answers in days.

Mr. GARRETT. Here is a question: "Will you commit to sending us all the contracts engaged with third party vendors?" "Yes, we are happy to provide that contract and information." It is 2 months later. You haven't provided that.

Mr. CORDRAY. They are being provided in response—

Mr. GARRETT. Another question: "Do you have agreements with any foreign countries?" "I can verify that for you, Congressman." You haven't provided that answer.

We can go through—these are what you just said were the easy questions and you said you couldn't answer them because you were waiting for the other ones. If you would like—

Mr. CORDRAY. No, we don't have any agreements with foreign countries. Mr. Antonakes testified to that at the hearing, and that is the answer. So, there is nothing—

Mr. GARRETT. I'm sorry, no, he did not. You said you read the transcript—

Mr. CORDRAY. He did, in fact—

Mr. GARRETT. I will verify that for you.

Mr. CORDRAY. That is fine, but that is the answer.

Mr. GARRETT. Okay.

Mr. CORDRAY. But look, we are going to have the answers to you in days. It is an immense amount of information, you will see. Our staff has been working incredibly hard and they have been communicating back and forth with your staff on it.

You will have a crack at me next month; I will be happy to answers your questions, at that point.

Mr. GARRETT. So, I will—

Mr. CORDRAY. I have no intention here to be unresponsive. I take the oversight responsibilities of this committee and of our Bureau very seriously, and I think that has been our track record, and we will continue to try to establish that track record.

I want to satisfy you on this point.

Mr. GARRETT. Obviously, you haven't satisfied today—

Mr. CORDRAY. I know I haven't, yet.

Mr. GARRETT. One of the other questions—I will submit my questions to you. Of course, I am not going to get into in 35—mine are basic questions, and I have your commitment, I can have some answers from you by the beginning of next week?

Mr. CORDRAY. We will take all the questions for the record that are submitted. If there are a lot, it will take us a little while to respond to them. If there are a few, it will take us—

Mr. GARRETT. How many U.S. consumer accounts is the CFPB monitoring in its data collection? Basic question.

Mr. CORDRAY. Okay. There are several pieces to that answer. And I am sorry it is a complicated answer, but it is. We have our consumer response function, where there are over 200,000 consumers who have submitted information to us, and that is one basket.

There is our supervision program, which deals with the 110 largest financial institutions in the country, who have an extensive customer base, across this country that we deal with all the time—

Mr. GARRETT. When will it—

Mr. CORDRAY. Third, is our market monitoring—

Mr. GARRETT. When can we expect answers to these questions?

Mr. CORDRAY. The QFRs that you all submitted, approximately 200, and you will see that it is pages and pages of luminous answers and documentation—

Chairman HENSARLING. The time—

Mr. CORDRAY. —will be within days.

Chairman HENSARLING. —of the gentleman has expired.

The Chair now recognizes the gentleman from New York, Mr. Meeks.

Mr. MEEKS. Thank you, Mr. Chairman.

Director Cordray, let me first thank you for your cooperation in working with this committee, and getting us information and being willing to extend your staff to come to anything that we ask and we ask you to, as you, in response to Ranking Member Waters, when she asked to have staff available to ask questions dealing with the queue and anything else, you were more than willing to say that whatever you need, not only on this side of the aisle, but both sides of the aisle, and whether or not people are on the committee.

So, I just want to thank you for your cooperation with this—and being open and transparent about it. I think that is tremendously important, and something that we need to get done.

And clearly, for the American people, I want to thank your agency again. Over 6 million consumers have received refunds since you have been in office; over 200,000 consumer complaints have been recorded, and there have been several rules and guidelines issued that affect millions of Americans and consumer protection rights, which we didn't have.

So, it is been a real service, I think, to the American people, and I want to thank you and your agency for what you are doing in that regard.

In your answer, you talked and referred, in one of the questions, to your own personal life, with your mother, when you answered the question of the gentlelady from New York.

I often do the same thing when I think about credit. I look at my family, who lived in public housing and didn't have many resources, and therefore, had to try to get banking—institutional banking, sometimes they would deny it, and try to figure out other ways in which they could make a living without going to a loan shark—

And so, to that end, again, I applaud you for showing leadership on the issue, which I think you had it released in June of final rules to establish procedures to cover—to bring and recover nonbanks, who are lending money under your supervisory authority, including those that may—payday loans, et cetera.

So, I was wondering, first, could you comment on the study that the CFPB has been undertaking to bring clearer supervisions to the industry, and have you looked at what some of the borrowing or analyzed some of the borrowing activity by the consumers that Mr. Watt was talking about, who are using online payday loans?

Because we are trying to figure out how they could have access to credit also, but not be abused, and how the CFPB could be involved there.

And lastly, and then I will just be quiet and let you answer the questions, I also have been trying—I had a conversation with some banks yesterday, asking them, why won't they compete in this market?

And they said that they would like to, and they were complimentary of you, but they said that they thought that there was some conflict at times, between your rulings and some of the jurisdiction between either the FDIC or the OCC that seems to be conflicting, and so, they are not clear, but they would like to be under, clearly, the rulings that would—dealing with consumers, under the CFPB. So, could you give me some responses in that regard?

Mr. CORDRAY. Okay. Actually, I am intrigued by your last point, because I would be glad to hear more about that. I do think that many financial institutions could make small dollar loans cheaply.

They would have very little cost in doing so. A lot of credit unions have done this, and that would be helpful to provide more of that kind of credit to people who need it, and potentially could avoid some of the higher cost cycles of indebtedness that they get into.

I want to go back a couple of comments. First, the point you made about thinking about your own family and so forth. That is something that I try to preach at the Bureau all the time.

In preparing for this hearing, I was looking at the backgrounds of the members of this committee; there are very sophisticated people here. A lot of people with real estate background, a lot of legal background, extensive legislative background, but none of us has to look very far in our lives to think about mothers and fathers, sisters and brothers, sons and daughters, who struggle with these issues. And those are the people that we are working for. I think it is important for us to keep that in mind.

And as we work for them, one of the issues is, how do we protect them against some of the predatory practices that, frankly, do unfortunately exist, in a number of these markets?

You mentioned our White Paper on payday and deposit advance lending earlier this year. There were a number of concerns we had identified in that report, and it is a great example of how, if we don't have the data or information that we need to make those judgments, we are going to be very ill-informed in our policy judgments. We are going to be pretty wild in targeting what, exactly, are the major concerns.

The better data and information we have about what is going on in these markets, the more precisely we can pinpoint what is an appropriate action and what is not, which is something you all, I think, should want and do want, and that is as to the importance of us gathering information on these issues.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the chairman of our Housing and Insurance Subcommittee, the gentleman from Texas, Mr. Neugebauer.

Mr. NEUGEBAUER. Thank you, Mr. Chairman.

Director Cordray, I have here in my hands a copy of the CFPB's supervision and examination manual, which is referenced in your Semi-Annual Report. And I assume that this is intended to give your field people some direction on their examinations, is that correct?

Mr. CORDRAY. It is that general problem—you are running an agency, you have intentions, but you need to make sure everybody in the field is doing what you intend and—

Mr. NEUGEBAUER. But it is a guidance document, is that correct?

Mr. CORDRAY. It is a guidance document, yes.

Mr. NEUGEBAUER. So, it has three sections. It talks about unfair, deceptive, and abusive acts or practices.

And when you look at the—has a statutory definition of "unfair," and it has a number of examples to it—a fairly large number—and then it has deceptive acts, and it also has a statutory definition of what deceptive acts are, and then a number of examples so that, I guess, a person in the field could know what to look for there.

And then, when we get over to abusive acts, it is a small paragraph here, and it just has a statutory definition, but it doesn't have any examples. And so, I guess the first question I have is, who is telling the examiners what abusive is, and are the examiners just making that call as they are out in the field?

In the first two examples there, you are very detailed about what to look for, but when you get to abusive acts or practices, you just give a definition. And so, are you telling them what an abusive act is, and that is what they are looking for, or are they making that decision on their own?

Mr. CORDRAY. I appreciate the question, Congressman. It has been an issue, as you know, that we have gone around the block on before a few times, both you and others. In fact, under our statute, "unfair" is a defined statutory term.

"Deceptive" is not a defined statutory term. Congress gave us no specific guidance on that, but there is a fair amount of case law we can work with in terms of what is deceiving someone, and that is a fairly straightforward concept, I suppose. "Abusive" is another term that Congress defined.

So, in terms of what our examiners are looking for, they are looking for what meets the definition Congress itself laid down. We are not making anything up. Congress imposed this term, Congress defined the term.

In terms of examples, they have been a little harder to come by. I will certainly agree with that, and we have talked about this before.

We have not been actively oppressing people with some concept of what is abusive that is not unfair and deceptive, and one of the questions in this area is there is presumably a circle of what is unfair, and there is a circle of what is deceptive, and they overlap to some degree. And, there is a circle of what is abusive, and that also overlaps to some degree.

The hard question for me is what is abusive that is not also unfair and deceptive. Many things would be both or all three at the same time.

Mr. NEUGEBAUER. So here is the question, have you brought any enforcement action or determined that practices or products were abusive up until this point?

Mr. CORDRAY. We have brought several and they have involved pretty egregious examples of outright defrauding of customers.

Mr. NEUGEBAUER. Could you furnish examples?

Mr. CORDRAY. Yes.

Mr. NEUGEBAUER. If those are examples, then why wouldn't they be in this document?

Mr. CORDRAY. Yes, so some of that we are working through as we go, as we see new situations. Those instances were subsequent to that examination guidance. We will be updating that from time to time. I am happy to have our staff provide you with more information.

Some of what we have done has been public, in terms of consent decrees, and other resolutions of cases. I'm happy to give you more.

But I would say it is still a difficult issue for us and it is one that we have tried to tread carefully on and not be wild and overly aggressive in terms of making up things that can't be easily defended.

Mr. NEUGEBAUER. Yes, I think some more transparency here is certainly warranted.

Mr. CORDRAY. Fair enough.

Mr. NEUGEBAUER. I have two other quick issues. I want to go back to the data collection issue. I think the American people are very concerned about data collection and one of the things that I hear from the people that your agency has been in to do examination is that you are requesting a huge amount of data, as a couple of things. One, it is very sensitive information; and two, it is very costly.

The examination process is generally meant to be a sampling, going in and looking at a few records and confirming if there is a pattern or practice here. As I understand it, in many cases you are requesting almost the entirety of the records of those companies. I don't think that was the intent of Congress.

We have OFR, they are collecting data. We have the IRS collecting data and I think that one of the things we need to hear from you is who has access to that data and what you are doing to secure that data.

Mr. CORDRAY. I—

Chairman HENSARLING. Brief answer, please.

Mr. CORDRAY. We typically do proceed by sampling and intend to do so. Sometimes, it is situational, for example, if we are into an enforcement situation, we may need to know all the consumers affected to make sure they are getting restitution as appropriate. I am happy to follow up with you further on that. I think I share your instinct, we should be sampling, not oppressing institutions, and that is what we are trying to do.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentleman from Texas, Mr. Hinojosa.

Mr. HINOJOSA. Thank you, Chairman Hensarling.

I also want to thank Director Cordray for his testimony and his hard work on behalf of America's consumers.

Director Cordray, I would like to congratulate you on your bipartisan confirmation in the Senate. While I hear many of my friends across the aisle in this committee bemoaning the work of Director Cordray and his Bureau, let me remind everyone that 17 Senate Republicans voted for cloture and 12 Senate Republicans voted to confirm Mr. Cordray as the Director of the CFPB.

It is possible that those Senate Republicans had heard of the impressive accomplishments of the young Bureau, including $432 million refunded to 6 million consumers because of the new Bureau's enforcement actions.

They probably also heard of the Bureau's work on behalf of college students, of older Americans, and our servicemen and servicewomen and a full commission by the AARP, two-thirds of respondents agreed that this Bureau is a needed institution and I could not agree more.

My first question to Director Cordray is as follows, can you provide highlights of the forthcoming financial literacy efforts of the Bureau including research results, pilot programs, and the recently announced financial coaching initiative?

Mr. CORDRAY. Thank you, Congressman. That is actually a subject very near to my heart. I am putting a lot of emphasis at the Bureau on financial education with an eye to, as the chairman

noted at the outset, not trying to dictate the decisions that consumers make.

They have to make their own decisions and make their own choices. We would like to feel confident that they are in a position to know more and to make more responsible choices, based on their judgment, that they can live with over the course of their lives and not regret.

So, in the financial education area, we are trying to focus on how can we deliver more information to consumers in an effective manner. It is not an easy issue. People have been working at this for decades and we do a very poor job in this country at preparing young people to go out into the world and deal with some of the fairly complicated financial decisions they are going to be asked to make in an increasingly complex financial marketplace.

We are trying to focus on schools, focus on workplaces, and focus on faith communities. I was in North Carolina to speak to the National Baptist Ministers Convention recently, and we are going to be doing more outreach of that kind. We want groups of people around this country to focus on the importance of having people be in a position to fend for themselves, to stand up for themselves, to stand up for their rights, and to see that they are making good decisions. And that is quite a bit of work that we are going to be doing on that score.

We are working with the Financial Literacy Education Commission and other Federal agencies. We are reaching out to folks at the State level including governor's offices to try to get more focus on this. Nobody seems to ever say that this is not important. They just don't always manage to prioritize it. We need to prioritize it, it has been getting second shift to everything else in this country for way too long.

Mr. HINOJOSA. I want to say that I worked very closely as cochair with Judy Biggert on the other side of the aisle to start a bipartisan caucus here in Congress 10 years ago, and that number is close to 100. I recommend that you see who those Congressmen are on both sides of the aisle because they are half and half, 50 percent Republicans and 50 percent Democrats and—

Mr. CORDRAY. It is an excellent—

Mr. HINOJOSA. —engage them because together, we cover lots and lots of people and there are over 100 partners in the JumpStart umbrella that has many banks and the U.S. Treasury and the U.S. Federal Reserve so that together we need to move it up and do what you said that we are lacking communication out there to the institutions you mentioned.

Mr. CORDRAY. Excellent suggestion. I have heard from Congressman Stivers on this point, and he is interested in working with us to figure out how we can better deliver good financial education that provides meaningful help to both young people and adults. It is something that I am very focused on and I intend for us to make headway over the next several years.

Mr. HINOJOSA. I understand that you are appointed to the President's forthcoming advisory council on financial capability for young Americans, and seeing that we have a debt of $1 trillion in college student loans, I wish you would address that and help us.

Mr. CORDRAY. Okay, thank you.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair would like to announce that there are votes on the Floor. They just began, so it is the Chair's intention to clear two more Members, the gentleman from North Carolina, Mr. McHenry, and the gentleman from Missouri, Mr. Clay.

Other Members who wish to go to the Floor now, if they would leave quietly after clearing two more Members for questions, we will declare a recess and ask for the patience and indulgence of our witness. I am told that there are two votes on the Floor, so it shouldn't take too terribly long, and then we will reconvene as soon as votes have concluded on the Floor.

So at this time, I would like to recognize the Chair of the Oversight and Investigations Subcommittee, the gentleman from North Carolina, Mr. McHenry.

Mr. MCHENRY. Mr. Cordray, thank you for being here.

You authorized, did you not, the creation of the Academic Advisory Commission or Council?

Mr. CORDRAY. I think it is called the Academic Research Council, but yes.

Mr. MCHENRY. And you authorized it?

Mr. CORDRAY. It was before I became Director, but it is something that has existed at the Bureau for some time.

Mr. MCHENRY. Okay, now does that Council report to the Assistant Director of Research, who was until recently Sendhil Mullainathan?

Mr. CORDRAY. Yes, I wouldn't say "report to," it is an advisory council that is meant to assist us in our work and give us broader perspective on many of these issues.

Mr. MCHENRY. But in the organizational chart, where would they report to?

Mr. CORDRAY. They are not with the Bureau. They are folks from outside who are willing to—

Mr. MCHENRY. Sure, okay.

Mr. CORDRAY. —spend some of their time helping us think about these issues.

Mr. MCHENRY. Okay, but this is a group that you gather in and you decided this was a good idea to have this board.

Mr. CORDRAY. Again, this existed since before I was the Director, but yes, it is a good idea.

Mr. MCHENRY. Okay.

So have you heard of the company called Ideas 42?

Mr. CORDRAY. I believe I have heard that name.

Mr. MCHENRY. Okay.

What do you know about it?

Mr. CORDRAY. Not much.

Mr. MCHENRY. Okay.

Are you aware that the CFPB awarded a research contract for $5 million to Ideas 42?

Mr. CORDRAY. I believe I knew that, I am not familiar with all the details of that.

Mr. MCHENRY. And was this a process that was a competitive bid process or was this more of a single source contract?

Mr. CORDRAY. All of our procurements at the Bureau go through the regular Federal laws and contracting guidelines and we have

been audited on that. And I don't know offhand whether that was—

Mr. MCHENRY. Single source contracting—

Mr. CORDRAY. —competitive or single source—

Mr. MCHENRY. Yes.

Mr. CORDRAY. —but it was done according to government procedures.

Mr. MCHENRY. No, I understand, but single source contracting exists. Right? And that is permissible.

Mr. CORDRAY. I believe so, yes.

Mr. MCHENRY. Okay.

So if you would let us know whether or not that was competitive bids, how many bids there were, and from what companies?

Mr. CORDRAY. Okay.

Mr. MCHENRY. And then furthermore, you know the full process for this.

Mr. CORDRAY. Okay.

Mr. MCHENRY. It is a $5 million contract and that is important.

Are you aware that Sendhil Mullainathan was a co-founder of the company, Ideas 42?

Mr. CORDRAY. I don't know if I was familiar with that or not. I don't believe so.

Mr. MCHENRY. Okay.

But he was the former head of research, right? Or assistant director for research?

Mr. CORDRAY. That is correct, he was. He is no longer employed by the Bureau, but he is a well-regarded economist, a MacArthur grant winner and well-known in the field.

Mr. MCHENRY. Yes, and the question I asked is about your policies and procedures.

Mr. CORDRAY. Yes.

Mr. MCHENRY. For a former staffer of yours to get a $5 million contract without any apparent bids, he is the co-founder of this company and—go ahead, please respond.

Mr. CORDRAY. Yes, I don't know that the details of that are all accurate. I don't believe as far as I know that Sendhil is involved in the management of that company but—

Mr. MCHENRY. No, he is the co-founder of that company.

Mr. CORDRAY. At one time, yes.

Mr. MCHENRY. And are you aware that four of your six members of the Academic Research Council have direct connections to Ideas 42?

Mr. CORDRAY. Again, I don't know what you mean by "direct connections."

Mr. MCHENRY. One is a founder and board member of Ideas 42, one is an adviser, and two are affiliates of that firm.

Mr. CORDRAY. I don't know what you mean by adviser or affiliates. And when you say "founder," are you talking about—

Mr. MCHENRY. This is, yes.

Mr. CORDRAY. Okay. I am happy to have our staff follow up with you. I am quite confident that everything done there, as has been true of all of our procurements, was done properly and in accordance with government procedures.

Mr. MCHENRY. So do these connections raise any questions about conflicts of interest? When you have an advisory board, and four of the six members have a connection to a company that gets a direct contract from the CFPB for $5 million? And furthermore, that you have a founder, who was formerly with your employ, and we are not sure of the circumstances of his leaving, but he has apparently departed in the ensuing amount of time between, in the last year, it appears.

Mr. CORDRAY. Right. That is correct.

Look, I am quite confident that everything was done properly, and that we have carefully vetted these kinds of conflicts of interest. I am happy to have my staff work with your staff to go through it in detail.

Mr. MCHENRY. We would like to have some answers on this, because it appears to us—

Mr. CORDRAY. And if there is, it will be a concern to me. So—

Mr. MCHENRY. It appears to us an enormous conflict of interest. And it raises greater concerns that we have with the policies and procedures you have to avoid conflicts of interest with your staff and former members of your staff who have enormous connections both with policymaking, without much in the way of a cooling-off period of any sort before they come back to either receive a no-bid contract, or maybe even a competitive contract. We don't know. So, I would like to have answers to these questions.

Mr. CORDRAY. That would be fine. Thank you.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentleman from Missouri, Mr. Clay.

Mr. CLAY. Thank you, Mr. Chairman, for conducting the hearing.

And thank you, Mr. Cordray, for your leadership at the CFPB.

My questions are related to mortgages. As you are aware, part of the issues concerning our economic meltdown going into 2007 was shaky mortgages, and the whole process of steering people who normally would be qualified for conventional mortgages into subprime mortgages.

I was wondering, what has been the CFPB's record of preventing those kind of abuses, especially now, since it is a little more difficult to obtain a mortgage. I was wondering, what has been your experience there in the leadership of the CFPB and how have you addressed it?

Mr. CORDRAY. Thank you for the question. That is one of the responsibilities Congress gave us, that they really highlighted as being very important to this country and gave us the responsibility to write the set of mortgage rules, and a very specific, firm deadline for doing that, both so that the mortgage market could be protected and safe, and also so that it could proceed forward and industry could have certainty. And we understood those various aspects of the problem.

What you mentioned goes directly to our ability-to-repay rules of the so-called Qualified Mortgage rule, which is intended to root out some of the practices that were inappropriate and improper. They weren't necessarily illegal in the somewhat lacking regime that we had before the crisis. And many were being offered by lenders that were not being supervised or overseen by anyone.

The other issue was the steering, as you say, of people who actually would have qualified for a prime rate mortgage and didn't know it. They assumed the person across the table was being straightforward with them, but people actually had financial incentives to steer them into a higher-cost mortgage and then they get a kickback on that.

That is totally inappropriate and that is very exploitive of consumers. And it happened to millions of Americans. There is a loan originator compensation rule that, first of all, the Federal Reserve wrote, and then we have had a further round which is meant to prevent the use of yield spread premiums, which was the mechanism by which—that is a somewhat bureaucratic term—but that is how it actually worked.

And the point is to make sure that can't happen again. We have been working hard to see that is actually happening. We are focused very much on the issue you raise.

Mr. CLAY. And have you taken any action if you have found players in the market who have steered people into these high-cost, high-risk mortgages?

Mr. CORDRAY. We have. I typically am not in a position to talk about—first of all, the regulation is important because going forward, that is not going to be possible. We are supervising around that issue every day. Second, we recently filed an action against a lender that we found was still engaged in that process as a sort of routine business model, which is inappropriate and violates the law. And we will proceed whenever we see that.

Mr. CLAY. Thank you for that response.

Home mortgages and student loan debt are the two largest categories of outstanding consumer debt in America. We are still feeling the effects of the subprime mortgage crisis and are only beginning to understand the threat that excessive student debt possesses to the economy.

What steps are being taken at the CFPB to promote transparency of student loans and other financial products?

Mr. CORDRAY. It has been a big issue for us. We have a great ombudsman, a student ombudsman that was created by Congress in the law. It was an excellent insight and it is an important position for us.

We have worked on a "know before you owe" effort around student loans, because for many people, it is new to them. They are engaging in it for the first time as their son or daughter is thinking of going off to college or getting any kind of further education, whether training school or vocational school or community college.

We have also developed the financial aid shopping sheet so you can actually compare and contrast institutions, and created more uniformity in the disclosures there. And all of this has been folded into a suite of tools on our Web site that we want people to use and we are working to get out to guidance counselors, teachers, and parents called "paying for college."

It is an excellent, excellent Web site. I recommend to all Members that you should be promoting it to your constituents who are all going to potentially be in this position of having to deal with paying for school. And there is great advice and expert information that will benefit them.

Mr. CLAY. Thank you for your responses.

Chairman HENSARLING. The time of the gentleman has expired.

Pending the termination of votes on the Floor, the committee stands in recess.

[recess]

Chairman HENSARLING. The hearing will come to order.

The Chair now recognizes the gentleman from California, the Chair of our Monetary Policy and Trade Subcommittee, Mr. Campbell, for 5 minutes.

Mr. CAMPBELL. Thank you, Mr. Chairman, and good morning, and welcome back, Director Cordray.

For a number of the things that the CFPB is looking into, like home mortgages and so forth, there are some pretty obvious reasons as to why you are doing that. They contributed substantially to the 2008 financial meltdown, or there is a significant number of consumer complaints, or whatever.

Now, we may disagree on whether the solutions are helping or hurting the problem, but the need to wade into some of those areas and to look into some of those areas is pretty evident.

The question I have for you is about car loans. This is an area of lending which clearly did not contribute to the financial crisis. No one makes any assertions to that regard. There has been, even through the 2008–2009 period, a relatively slow delinquency rate, certainly relative to other forms of lending.

There are a lot of them, over 10 million a year, new and used car loans. It is extremely competitive. Virtually every financial service provider in the United States—bank, credit union, nonbank—makes car loans, most of them aggressively, with an extremely low number of consumer complaints.

Like a point zero zero zero-type, very low number of consumer complaints. So, as the old adage goes, "If it ain't broke, don't fix it," and it would seem to me that is an area that is not broke.

But yet, the CFPB has waded in, in a couple of areas, one of which was recently—on a car loan application, there is no indication of race or ethnicity, so there is no way, even if a financial provider wants to discriminate that they can, because they don't know to whom they are lending. But yet, you, at one point, the agency considered introducing race and ethnicity, I guess so you could discriminate on that basis into it. And I just want to ask you broadly, what are you doing in the area of car loans and why?

Mr. CORDRAY. Thank you, Representative Campbell, for asking about this subject. And I would agree with much of what you said.

First, I am from Ohio and we make cars in Ohio, and I would agree with you that for a number of years in the middle of the last decade, we were not selling enough cars in the United States as shown by the average life of the car on the road is now higher than ever, I think 11 years. That is even older than my car, which is already fairly old. Second—

Mr. CAMPBELL. I believe it is 12 years.

Mr. CORDRAY. I am appreciative to see the recovery in the auto market, and it has been pronounced and it has been significant, and it is actually one of the things very much contributing to economic recovery, and I think it will continue to do so. In terms of

what we are doing, we did release a bulletin for what you are referring to back in the spring.

Congress was very specific about how they divided up jurisdiction in this market. Auto dealers are not subject to the jurisdiction of the CFPB, but auto lenders are subject to our jurisdiction. We both have to be careful not to exceed our jurisdiction with respect to auto dealers, and to exercise our jurisdiction appropriately with auto lenders.

The purpose of the bulletin was to remind auto lenders that if you have a lending program, it is important for you to recognize that just because you are also working with third parties, whether they are dealers or someone else, you still are responsible for your program and how it is carried out.

That was essentially the gist of that bulletin. There has been no indication in the wake of that—a number of months ago—that any of that has affected the auto sales market, which continues to be very robust. August was one of the best months we have had in some time.

We are mindful of the need for access to credit. We are mindful of the number of different players in the market. We are concerned. There are a fair number of complaints that do occur about potential discrimination in this area, as was also true in mortgage lending. Nobody should have access to credit denied or put at a higher price because of their ethnic background. I think we all appreciate that and recognize that, and we are trying to do careful work to sort of gauge whether there are issues or concerns of that kind in this market.

But I will be happy to continue to be in touch with you and your staff about—

Mr. CAMPBELL. Okay, just in my last 6 seconds, the only thing I would say is if you don't know—you can't discriminate on the basis of something you don't know, and so if we keep it that way, that is the best way to not discriminate. I believe my time has expired.

Chairman HENSARLING. The time of the gentleman has indeed expired.

The Chair recognizes the gentleman from California, Mr. Sherman.

Mr. SHERMAN. I am happy to yield to a Democrat who would like 5 minutes of time.

Mr. CARNEY. I will be happy to go, Mr. Chairman.

Chairman HENSARLING. Okay, apparently the gentleman from Delaware is recognized for 5 minutes.

Mr. CARNEY. I would like to thank my colleagues on this side for allowing me to go, and I want to thank the gentleman from Delaware. I used to be down there when you first came in. I am up here now.

Mr. CORDRAY. I wasn't sure who was going to end up asking the question.

Mr. CARNEY. I want to thank you for coming in and for your great work. I have a number of questions, some of which you and I have spoken about before.

Mr. CORDRAY. Yes.

Mr. CARNEY. But I would like to talk just about a couple, and maybe follow up with your staff on the others. You and I have talked before you were confirmed about non-bank lending, and the focus there, particularly on payday lending, subprime lending, that kind of thing. Could you just highlight a couple of things that you think we need to continue to do that you are not satisfied with yet, with respect to those lenders—those non-bank lenders?

Mr. CORDRAY. When you say "we," do you mean what I think Congress needs to do?

Mr. CARNEY. No, I mean you.

Mr. CORDRAY. We need to continue—

Mr. CARNEY. You at the CFPB.

Mr. CORDRAY. Yes. So, I think there are, as there are throughout the mortgage market, and all the lending markets, competing considerations. One is, we need to make sure that some of the abuses that did occur, no question about it, and they were part of what helped to create problems, both for the mortgage market and the economy, occurred in the subprime market, that those don't recur again.

Our ability-to-repay rule is designed to root out some of those practices. The yield spread premium provision, and the mortgage loan originator rule that we discussed a little bit ago, are also designed to address those. It is important for us to monitor as we go, and hear from the market and make sure that we are actually addressing this problem appropriately.

At the same time, there is an access to credit issue, and it is an access to credit issue for low and moderate-income Americans, much of which falls in the subprime market that we need to be mindful of as well. So, it is something of a delicate balance.

We try to address that by being very accessible and hearing from lots of different points of view, and also having access to the kind of data we have talked about today, but it is critically important, if we are going to do—

Mr. CARNEY. —and it would be more so as we try to reform our housing finance system and to keep credit available for folks who have difficulty getting it—

Mr. CORDRAY. I agree.

Mr. CARNEY. So I appreciate your attention to that. In a related issue, mortgage foreclosure prevention, there was a piece on public radio this morning that you may have heard, that talked about people who get themselves underwater, if you will, not getting access to the Federal programs to help them. Have you looked at that problem? I know it is something that has been on your radar.

Mr. CORDRAY. Yes, definitely, the underwater mortgage issue, which of course is more of an issue in some parts of the country than others, and more pronounced in some parts of the country than others has been a major problem with economic recovery.

First of all, the problem is easing a bit, month by month, as the housing market has recovered. There are millions of Americans who had been underwater, who have come out and gotten their heads back above water, but there are still millions who are not yet.

Mr. CARNEY. What about this access to some of the Federal programs? The idea was that the servicers or the banks were fore-

closing before they had an opportunity to avail themselves maybe of something that would help.

Mr. CORDRAY. Yes, yes. There have been ongoing changes being made in both the HAMP program, and the HARP program, which we don't have direct jurisdiction over, we have jurisdiction over the mortgage servicers, so there is an intersection there, changes being made in FHA programs and others to try to address the underwater mortgage problem.

It is a difficult problem. There is no easy fix, by any means. But there is continuing attention to it. We are paying attention to it. I don't really have more to say, other than that we are all working toward the day where we have addressed that problem sufficiently and the market has recovered to the point where it is more manageable, and it is not—

Mr. CARNEY. One of the issues that I have been trying to work on, particularly over the last several months, is college affordability. And I notice that you have done some reports on student loans and private lenders in that regard. Is there something there that jumps to mind?

One of your reports was more generic in terms of the effect that it is having on the ability of those young adults to purchase in the economy. What else in terms of the structure of the loans?

I have heard from a lot of students and families, frankly, that they didn't really know what they were getting into. I think part of it was maybe they weren't paying attention to the fine print or what have you. What have you found there, if anything?

Mr. CORDRAY. There are a variety of problems there. First of all, it is a more than $1 trillion issue in this country now. It is very significant. It is something we need to—

Mr. CARNEY. It is killing our young people, just—

Mr. CORDRAY. And it is killing them. It is driven in part by losing control over tuition costs, which is an issue that goes well beyond the CFPB.

Mr. CARNEY. And the bigger problem, in my view, that is the bigger problem. But I just—

Mr. CORDRAY. Yes. But in terms of us, we have been noting, and increasing numbers of Federal policymakers are noting, the domino effect of this, that the student loan albatross around young people's necks is keeping them out of the housing market, and it is keeping them out of starting businesses or starting a family.

Mr. CARNEY. My time is up, but this is something that hopefully I can follow up on with you and your staff.

Mr. CORDRAY. Absolutely.

Mr. CARNEY. I appreciate it. Thanks very much for your good work.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentleman from Missouri, Mr. Luetkemeyer, for 5 minutes.

Mr. LUETKEMEYER. Thank you, Mr. Chairman.

And, Mr. Cordray, I appreciate your comments earlier, your testimony with regards to the ATM bill, which I was a lead sponsor on last year, that managed to get through. And now, we have the privacy bill that is sitting in the Senate.

So if you are anxious to help in that regard, we sure wouldn't oppose a phone call or a letter or some sort of something to get the Senate on the ball there, to help us along with that.

Mr. CORDRAY. Okay. And I will say, I do find the things we tend to focus on most immediately are also things that Congress is focused on most immediately. And if Congress addresses an issue, we are always happy to see that. If it needs to be us who addresses it, we are happy to do that and work with you, either way.

Mr. LUETKEMEYER. Thank you very much.

I would like to follow up on a couple of things that have been discussed a little bit with regards to online lenders. It is come to my attention, with the number of banks that have called, as well as a number of online lenders that have called our office, that the FDIC is really coming down on the banks who have online lenders who have accounts and clearing their third-party payments through them.

In the Wall Street Journal the other day, there was a comment made by a Department of Justice spokesman who said, "they intend to choke online lenders off from the very air they need to survive."

Are you aware of this activity going on by the Department of Justice and the FDIC to choke online lenders off from the very air they need to breathe, to survive?

Mr. CORDRAY. I don't know about that characterization. I am aware, and there is work going on to try to understand the relationship between online lending, which, as I indicated before, is a very difficult law enforcement problem, because it tends to be borderless, and how that relates to the involvement and responsibilities of financial institutions.

Mr. LUETKEMEYER. Mr. Cordray, your agency, if I am not mistaken, is primary over all these nonbank lenders. From the regulatory side?

Mr. CORDRAY. I don't know if we are primary. We have jurisdiction over non-bank lenders, yes.

Mr. LUETKEMEYER. You are the primary regulator—

Mr. CORDRAY. —also has some involvement. The State attorneys general have involvement. State banking regulators, and—

Mr. LUETKEMEYER. But you are the primary Federal regulator.

Mr. CORDRAY. Yes, with the FTC.

Mr. LUETKEMEYER. Are the FDIC and the DOJ coordinating with you with regards to these efforts that they are undertaking to force online lenders out of banks?

Mr. CORDRAY. We pretty much coordinate with the FDIC, the OCC, and the Fed on—

Mr. LUETKEMEYER. So they are coordinating with you, then, on these efforts?

Mr. CORDRAY. There is work going on, and we are trying to work with a broad range of partners, some of—

Mr. LUETKEMEYER. So you are aware, and you are working with them to get the online lenders out of the banks. Is that correct?

Mr. CORDRAY. Again, trying to characterize the objective is one thing. We are working to try to understand how the online lenders work—

Mr. LUETKEMEYER. It is pretty simple. They just have a business model, like every other business that is online, where they use the banks as a clearinghouse for their transactions.

Mr. CORDRAY. That is right, but if they are making loans that are illegal, or if they are making loans where they are not licensed to make loans, then that is a business model that we don't want to endorse.

Mr. LUETKEMEYER. From the banks I have talked to and the online lenders I have talked to, that is not the problem. I am not here to support the bad actors. What we have is a problem where there is this blanket policy, as the DOJ spokesman has indicated, as the FDIC, with the way they are carrying out their activities, they are out there to just get rid of them, period.

And to me, I guess my question would be, what is your stance on online lending? Are you here to get rid of all these online lenders as well?

Mr. CORDRAY. My stance on online lending, as with all lending, is that it should be done legally; it should be done by folks who are licensed and qualified to do it. It should be done in compliance with Federal and State law.

Mr. LUETKEMEYER. So your stance would be, then, if they are licensed and they are behaving according to the laws, then you should have no problem with them being in business.

Mr. CORDRAY. Anybody who is behaving according to the law, is behaving according to the law. And our job is to make sure that is happening.

Look, I know you get this. You were both a bank official and also a bank regulator. So, you have been on both sides of the table.

That is our job, to make sure they are complying with the law. But we have to investigate and understand the—

Mr. LUETKEMEYER. Mr. Cordray, I appreciate the fact you did your homework. The problem here is you also have a—also don't need to be punitive in the way that you take action against these people if they are behaving in a business-like manner, according to the law, we don't need to be punitive about this and drive them out of business. That is my concern.

One of the things that we are discussing with these online lenders is a national charter that would give you the ability, and then whoever, wherever we land with this charter, the ability then to enforce it on a national basis.

Would you support something like that?

Mr. CORDRAY. You are talking about a national charter for—

Mr. LUETKEMEYER. For online lenders.

Mr. CORDRAY. For online lenders?

Mr. LUETKEMEYER. Yes. That way, you don't have to, that would alleviate the State-by-State-by-State situation, where you—

Mr. CORDRAY. Yes.

Mr. LUETKEMEYER. —making it, according to this law, that rule, this rate or whatever.

Mr. CORDRAY. You know, I—

Mr. LUETKEMEYER. —support something like that?

Mr. CORDRAY. I don't know what to say about that. The online problem, unfortunately, is a bigger problem, because some of the

online lending is coming now from outside the borders of the United States.

Mr. LUETKEMEYER. The question, then—this is a way to solve the problem. I just asked a simple question, do you support it or do you not?

Mr. CORDRAY. I would have to look at that and think about it. I don't have a position for you today.

Mr. LUETKEMEYER. Okay.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentleman from California, Mr. Sherman.

Mr. SHERMAN. Thank you, Mr. Chairman.

I want to pick up on Mr. Luetkemeyer's comments. And, again, he and I have carried this bill to eliminate unnecessary privacy notifications.

Mr. Cordray, is there any way that you could, in effect, implement, that bill without legislation, through regulation, or do we have to rely upon the House of Lords—I mean, the United States Senate—to move on that?

Mr. CORDRAY. We have been working on this issue and looking at it. And it has risen to the top of our list of streamlining things that we hear a lot about from community banks and others, and we tend to agree, as is often the case in the consumer space, there is often more disclosure than the consumer benefits from, but it is burdensome.

So our sense is that there is quite a bit we could do by regulation. It may or may not be everything that Congress wants. Congress can always do whatever they want within the Constitution.

I would be happy to have more conversations with you. But I think we think we could make considerable headway—

Mr. SHERMAN. I will ask you to do all you can to deal with this through regulation, and do all you can to get the Senate to move on the bill.

Mr. CORDRAY. Let me say two things—

Mr. SHERMAN. We in the House have passed it through this committee and through the Floor 3 times.

Mr. CORDRAY. Let me say two things. We would be happy to work with you and have you understand our thinking about what we can do by regulation, and see if that falls short of what you are trying to do by legislation.

We are also happy to work with you if you are working on legislation to think about how to craft that and whether there are particular technical issues or so forth with which we could help you.

Mr. SHERMAN. I know the gentleman from Missouri and I look forward to working with you on this.

Mr. CORDRAY. Either way. Yes.

Mr. SHERMAN. The next issue is that some credit rating agencies are tagging homeowners as if they went through a foreclosure simply because they did a short sale.

Now, a short sale is not an A-plus, smiley face, financial institution thing on your record. But it is not a foreclosure.

What can you do to make sure that the credit rating agencies say a foreclosure is a foreclosure, and just because you began the fore-

closure process and went into a short sale does not mean that you have a foreclosure on your record?

Mr. CORDRAY. Thank you for the question. As you know, we worked on this quite a bit this summer. It is a complicated issue. It involves lots of different actors.

We could have walked away from it and said, "Well, we can't solve it ourselves," but we thought it was important to address it. It is wrong for people who are not foreclosed on—when we are actually encouraging short sales and public policy is encouraging short sales—to then be tagged with a foreclosure in their credit records.

We worked very closely on this issue. It has been a success story for us with Fannie Mae, and with the credit reporting agencies, to get processes changed and fixed so that this will no longer be a problem. It was a very complicated undertaking, and I am happy to report that we were able to push and pressure for progress, working significantly with Senator Nelson and others.

And I am pleased with the work our staff did, which was great work, hard work, and important work.

Mr. SHERMAN. You are pleased that the hard workers—is this problem solved, or you are just moving in that direction?

Mr. CORDRAY. No, the problem is being solved. It involves changes in the computer processes of Fannie Mae and one of the credit reporting agencies, and they are making those changes, and they have committed to making those changes. And we are monitoring to make sure the changes are made correctly.

Mr. SHERMAN. My final issue is remittances, which are important in my district. A number of banks and credit unions have looked at the new regulations and decided to just get out of the remittance business.

What can you do to keep a high level of competition and at the same time protect consumers?

Mr. CORDRAY. Several things. First of all, there is a high level of competition in the remittance area. And it is an area where technology is changing it dramatically. Prepaid cards are now a method of remitting money. Phones may be a method of remitting money in some areas. Online and PayPal and other things are methods of remitting. So there is a lot of competition in this space, and it is hard to separate out all the cause and effect.

We did go back after—we had finalized that rule at a time when we were reluctant to think of further changes. Industry came to us, and they said they had three significant problems.

They had a problem of being responsible for errors when they didn't do anything wrong. They had a problem with trying to understand what fees were being imposed in some other country that they didn't control. And they had a problem with having to be able to understand and report taxes that might be imposed at several different levels in other countries and were not transparent to them.

We went back and reopened the rule and made changes specifically to address all three of those concerns. And we have heard very little further anxiety around anything that we can do operationally to make the rules work.

I know there will be some unease since this is now an area that has consumer protections, and it didn't before so, that imposes some costs and there will be some change in the market but we are open to hearing more from people if they have specific concerns.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentleman from Michigan, Mr. Huizenga.

Mr. HUIZENGA. I appreciate that, Mr. Chairman.

And Mr. Director, thank you for your time.

I have a couple of things; I think I am going to save them for the end about college tuition and about the online loan situation that my friend Mr. Luetkemeyer was talking about.

But I want to touch a little bit on QM rules. As you know, current QM rules have included affiliated title insurance and that 3 percent points and fees trigger. Unaffiliated title insurance is not included in that, however, and since title insurance rates are filed by underwriters and approved at the State level, is there really any reason to differentiate between affiliated versus unaffiliated title insurance?

Mr. CORDRAY. Thank you for the question. It has been raised to me by a number of folks and raised to our staff by a number of folks, including the folks at Quicken Loans who are affected by this. They have told us—

Mr. HUIZENGA. If I can make the—I am from Michigan, by the way—

Mr. CORDRAY. Yes.

Mr. HUIZENGA. —we can get into a little debate about Michigan and Ohio, the auto building and cars, from your earlier answer, but yes, Michigan is home to Quicken, it is home to Flagstar, it is also home to my former real estate firm that I was affiliated with, Woodland-Schmidt, which has its own title insurance, Fivestar and Lighthouse Insurance, so it is big, but it is also small. And they are all being pinched by this.

Mr. CORDRAY. Yes.

So the 3 percent points and fees was imposed by Congress in the law. We had to try to figure out how to apply it, which we did. There is a—

Mr. HUIZENGA. Would you support changing it?

Mr. CORDRAY. —pretty strong statement in the law. There are two sides to this, right? There are affiliates where there was some abuse of steering people and potential payments being made and so forth and then there are other affiliates where it is very much an efficiency and a synergy that creates.

So we did our best to sort of write the rule within an understanding of those polar opposite views of affiliates both of which have some validity. We are happy to think further about these things in response to that request. I have begun talking to our staff about whether title insurance is different because it is regulated.

Mr. HUIZENGA. It certainly seems to me that it would be, and I fail to see the true benefit to the consumer if title insurance is purchased through an affiliated or unaffiliated, and my colleague from New York, Mr. Meeks, and I are sort of leading that charge with House Bill 1077 which was included within the Path Act as well.

Mr. CORDRAY. We would be happy to work with you to provide technical assistance if you are looking at—

Mr. HUIZENGA. I would like your support, frankly. If this is something on which we need a determination, and we need to figure out why if something is regulated by the State and has a cost attached to it, we are actually penalizing people who can deliver it more efficiently, in my view. So, I appreciate your looking further at that.

Mr. CORDRAY. I understand the question, yes, and the issue.

Mr. HUIZENGA. Okay, I look forward to that.

The other element that I had, and I was glad to hear you say—I think I wrote down this quote accurately—that in response to some of the discussion about student loans, losing control of tuition costs which is beyond the CFPB, so I am glad, Mr. Chairman, we have found an area that is beyond the control of the CFPB.

Mr. CORDRAY. We are not as powerful as people seem to think.

Mr. HUIZENGA. You are still pretty darn powerful, because I am concerned about that as well. We have to have parents and students, and as a father of a couple of high schoolers and with more following, I am keenly aware of that, and I just want to make sure that we are not going in and shooting the messenger.

As parents are making decisions and the students are making decisions, they need to have their eyes wide open, there should not be anything hidden from them, but at the same time, the system shouldn't be penalized for providing opportunities for them to go after college educations that they are looking for whether they really truly believe that they need to be going to the Ivy League versus maybe the community college, that is another thing.

And then I do have lastly in my last little bit here, as Blaine Luetkemeyer was talking about, I am a bit concerned about an uneven playing field being created if 50 percent of all online lending occurs offshore and we are going to start putting in regulations that are really going to be hampering ours but I am curious specifically, do you count the Native American reservation-based companies that are doing this as well as "offshore?"

Mr. CORDRAY. What do you mean, "count?"

Mr. HUIZENGA. Would you categorize them as offshore or beyond your control?

Mr. CORDRAY. No, they are not beyond our control. I think it is well-established in Federal law that the Federal Government can regulate tribal business activities affiliated with Tribes.

There is some question whether States can do so and so it has been a somewhat difficult area. But that is different from outside of the United States which is a particular jurisdictional problem, which mirrors the one I described as Ohio attorney general when people would lend from other States and would not necessarily be licensed in our State, that is the problem.

Chairman HENSARLING. The time of the gentleman has expired.

Mr. HUIZENGA. Thank you, Mr. Chairman.

Chairman HENSARLING. The Chair recognizes the gentleman from Texas, Mr. Green.

Mr. GREEN. Thank you, Mr. Chairman.

I thank the ranking member, as well.

And I thank you, Mr. Cordray, for appearing today.

I want to compliment you on your fine job that you are doing, and I look forward to working with you. I do have a couple of concerns that I would like to call to your attention. As the ranking member indicated, over our district work period—and I do emphasize "work period," not "break;" there seems to be a misunderstanding about that we do. Over the district work—

Mr. CORDRAY. I don't misunderstand it. I know how hard you work.

Mr. GREEN. Thank you.

Mr. CORDRAY. Yes.

Mr. GREEN. Over the district work period, as she indicated, many of us decided that we would visit some of the community banks, smaller banks. I visited at least three of them, and upon visiting with them, I was amazed at some of the things that were presented to me.

To be very honest with you, the term "paperwork" is a nebulous term until you have an opportunity to see what "paperwork" actually looks like from the point of view of a smaller bank, an institution which has one person, possibly multitasking, doing more than one thing within the bank, all proper of course.

But after having this opportunity to visit with the smaller banks, many of whom keep loans on their portfolios, I am absolutely convinced, Mr. Cordray, that they need some help. And I am going to work with the ranking member to do all that I can to provide them some assistance.

But I just want to add my voice to her voice in letting you know that I believe that there sincerely, really is a problem that needs our attention for the smaller community banks. So in the weeks and months to come, perhaps we will talk to you more about it.

I did ask that they provide proposed solutions, so at some point I will start to get these proposed solutions in. I will visit with the ranking member before passing them on, but I hope that we will be able to help you at least with some thoughts as to how we might provide some degree of help for them.

Now moving to several things that have been called to my attention, the second appraisal for the smaller lenders, loans that are maintained on portfolios under $250,000, how are you proposing to address this concern that has been raised?

Mr. CORDRAY. First of all, Congressman, I very much hear your point of view about the smaller institutions, community banks and credit unions. I have said time and again, they really were not at all causes of the financial crisis and we should not be oppressive in our responses in how they may affect their operations.

So we did draw special provisions, that I mentioned earlier to the chairman, for the Qualified Mortgage rule. Smaller creditors who make loans and keep them in portfolio, the kind you just described, are deemed to be Qualified Mortgages regardless of the other aspects of that rule and have a safe harbor from litigation which is designed to help them feel confident in continuing to make the kinds of loans they make that work very well and support our communities. So, that is essentially how we are trying to address that.

I am always interested to hear more from the smaller institutions, that is why we have a Credit Union Advisory Council, and that is why we have a Community Bank Advisory Council, so that

we can know how we are affecting them, which otherwise we don't know, because we don't examine them directly. Anything you want to pass on to us or any way we can hear from you about what you are hearing, we are probably hearing it already, but just in case, we would like to have you share it—

Mr. GREEN. Thank you.

Let me move forward to sophisticated borrowers and the homeownership counseling. Many of these persons have net worths that are fairly substantial if you are a sophisticated borrower, has there been any thought given to how you will address these persons and their homeownership counseling requirements?

Mr. CORDRAY. Are you talking about unsophisticated borrowers or—

Mr. GREEN. I actually I am talking about those who happen to be high net worth.

Mr. CORDRAY. Oh, I see.

Mr. GREEN. Yes.

Mr. CORDRAY. High net worth borrowers?

Mr. GREEN. Yes, sir.

Mr. CORDRAY. That doesn't generally seem to me to be an area of great concern at the Bureau. What we saw recently is the jumbo loans being made to higher net worth borrowers are actually being offered now at an interest rate in the market surprisingly and historically below that for other borrowers.

So high net worth borrowers generally take care of themselves very well and institutions serve them. We have no problem with any of that of which I am aware.

Mr. GREEN. Is there a requirement of counseling for a high net worth borrower?

Mr. CORDRAY. I am not familiar with that, but I would be happy to get back to you.

Mr. GREEN. Thank you.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentleman from Wisconsin, Mr. Duffy.

Mr. DUFFY. Thank you, Mr. Chairman.

And Director Cordray, welcome to the committee room and the hearing.

I want to focus on data. We have touched on that a little bit today. I want to go back to that conversation and give you an opportunity to tell the committee how many Americans you are collecting their financial debt on—how many Americans do we have that you collect on?

Mr. CORDRAY. So again, and I have tried to give this answer several different times.

Mr. DUFFY. I am looking for a number, how many Americans?

Mr. CORDRAY. Okay.

It is not the way the question can be answered.

Mr. DUFFY. Let me—

Mr. CORDRAY. Do you want me to try to answer it?

Mr. DUFFY. Do you have a number?

Mr. CORDRAY. Okay.

Mr. DUFFY. Do you have a number?

Mr. CORDRAY. Three different buckets of pieces—

Mr. DUFFY. All right.

Mr. CORDRAY. —there is consumer complaint data, a couple hundred thousand—

Mr. DUFFY. So some are bringing it directly to the supervisory capacity. How many Americans do you collect from here?

Mr. CORDRAY. Okay, we don't collect directly from any Americans in a supervisory capacity—

Mr. DUFFY. So—

Mr. CORDRAY. We go to institutions and we work with the institutions to understand how they are affecting their customers.

Mr. DUFFY. How many institutions collect from Americans—how many Americans are collected for you through these third-parties?

Mr. CORDRAY. Okay.

So, we oversee approximately 110 large banks and a few credit unions with assets of $10 billion or more. They have significant customer base—

Mr. DUFFY. Mr. Cordray, how many Americans? That is my question for you. Give me an answer.

Mr. CORDRAY. That is not the way the work is done, sir. It is like asking me, what color is this song. That is just not quite the same thing. So—

Mr. DUFFY. Let us go to credit cards. How many actual credit cards are you collecting on Americans—credit card data, credit card information?

Mr. CORDRAY. So, three different ways. One would be they may come to us with a consumer complaint. That would—

Mr. DUFFY. Mr Cordray, listen, I think America wants to know a number of how many you are collecting. And you are giving me a lot of explanation, but I want an answer of how many credit cards does the CFPB collect data on?

Mr. CORDRAY. Okay. We don't collect any data from individuals about their credit card accounts, other than those who come to our consumer response functions. What we do is we go to credit card issuers who we are required to oversee and make sure they are complying with the law. And we need to look at their institutions and their practices to see if they are complying with the law.

And by the way, some of them have not—and we have gotten back—

Mr. DUFFY. Do you monitor credit card accounts? Do you monitor credit cards through your agency or through any of your third party contractors any credit card accounts?

Mr. CORDRAY. And that is the third bucket, okay? So, consumer complaint, supervision, and then market monitoring. On the market monitoring, as we have indicated before, and—has indicated to you, we are gathering sample data on the credit card market.

Mr. DUFFY. I am going to reclaim my time for a second. Mr. Antonakes was asked these questions. You were asked these questions by the Senate Banking Committee. And you came today ill-prepared to give us numbers on the number of Americans who have their financial transactions and data collected by the CFPB.

Mr. CORDRAY. So, what I am fully prepared to do is to give you explanations of how these programs work—

Mr. DUFFY. And what I think America deserves is the transparency that you promised.

Mr. CORDRAY. Okay. So again—

Mr. DUFFY. And you are not giving us that transparency.

Mr. CORDRAY. Again, what we are delivering for consumers on credit cards is enforcement actions—

Mr. DUFFY. I am asking the questions, so would you give me the names of the banks, the financial institutions for which you—

Chairman HENSARLING. The time belongs to the gentleman from Wisconsin.

Mr. DUFFY. You are not going to give me a direct number. I am fine with that.

Mr. CORDRAY. Okay.

Mr. DUFFY. Stonewall me.

Let us talk about financial institutions. Will you give me the names of the financial institutions for which you collect financial data on Americans? Will you give me those names?

Mr. CORDRAY. Okay.

Mr. DUFFY. Yes or no?

Mr. CORDRAY. What we are collecting is—your question, I just need to correct the premise of the question.

Mr. DUFFY. Will you give me the information on—

Mr. CORDRAY. We are collecting data on how those institutions comply with the law. And they haven't always complied with the law.

Mr. DUFFY. Would you give me the names of those banks?

Mr. CORDRAY. All right. There are 110 large institutions—

Mr. DUFFY. Reclaiming my time, do you want to answer my question?

The claim for transparency, Mr. Director, isn't being met. So let me say this, I am going to ask you this. The American people don't know what the CFPB is doing. And if you look at another agency, it is called the NSA. And they collect information about Americans' phone records.

America has said, "My phone company has information about my phone records. But, man, am I outraged when the Federal Government takes that information from me."

You are here to protect consumers, and you are taking this financial data that they have said it is okay for the financial institution to have, and you are taking it and you are not giving them any transparency about the information you are taking, how much you are taking, or from whom you are taking it.

And that is incredibly frustrating. Why don't you just level with us? We have asked you these questions over and over again. And you come in and you stonewall. You try to explain. But never do we get answers. Never does America get answers.

Mr. CORDRAY. Look, I understand that you want to make a speech and I appreciate that, but there is no comparison between the NSA and the CFPB.

Mr. DUFFY. Oh, there is.

Mr. CORDRAY. It is a false comparison.

Mr. DUFFY. Oh, no—

Mr. CORDRAY. We are doing work to protect the consumers—

Mr. DUFFY. Do you have numbers for me?

Mr. CORDRAY. Six million consumers have benefited—

Mr. DUFFY. Do you have numbers for me?

Mr. CORDRAY. —and many more will benefit.

Mr. DUFFY. Do you have names of banks or numbers of consumers who had their data collected—do you have those numbers or those names?

Mr. CORDRAY. There are 110 banks, okay? I can name a number of them. We are looking at credit card matters at Morgan Chase. We are looking at credit card matters at Bank of America. We are looking at credit card matters at Capitol One. We are looking at credit card matters at Discover, American Express, all of the biggest—

Mr. DUFFY. Now, America knows that those are the greatest—

Mr. CORDRAY. And we are going to make sure that they are complying with the law—

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentleman from Minnesota, Mr. Ellison.

Mr. ELLISON. Thank you, Director Cordray. And congratulations on your confirmation.

Mr. CORDRAY. Thank you.

Mr. ELLISON. And thank you also on behalf of so many Americans who have benefited from the good work of your agency. I believe there is a total of $432 million being directly refunded to more than 6 million consumers because of your work.

You have had to endure criticism regarding data and I think questions that people want answered, but I think the 6 million people whom you helped get refunds are pretty happy about the work you are doing. So many proclamations made in the name of Americans, but those 6 million are Americans, too.

For example, the members of the United States military who were refunded about $6. 5 million due to deceptive car loans. They are Americans and they are glad that they got their money back.

I happen to have a very close relative who is an 18-year-old enlisted member of the Army. And every time he walks outside that base, he sees those low terms. I don't want him to get financially caught up. And because of your work, he won't be or is less likely to be.

Also, Capital One paid about $210 million because they engaged in deceptive credit card practices. What is in your wallet? The CFPB has a little bit more left in Americans' wallets than would have been if you guys hadn't had acted. And also, the CFPB has fined 4 private mortgage insurance companies for more than $15 million for alleged kickbacks.

So, I don't begrudge my colleagues at all for asking questions of concern to themselves or their colleagues. That is fine. That is what Congress is all about. But I just don't want it to be lost that literally millions of Americans and millions of dollars have been refunded because of your good work. In fact, I don't claim that the CFPB couldn't work better. Maybe it could. But I do believe that you guys are off to an awesome start and you are operating as we contemplated.

And I could tell you this, there is no such thing as a Republican or Democrat consumer fraud. They happen in everybody's district, all over this country, all the time. And no matter how you voted in the last election and no matter how you plan to vote, if you are

getting full measure for your dollar, then the CFPB is well-justified. And I thank you for the work that you are doing.

I just also want to note that there are issues that we want to inquire about. And before my time runs out, I do want to just get to one of them. One of the things that I am concerned about is the credit-invisible. These are folks who aren't banked at all.

But what we have learned, and what has come to my attention is that if cell phone records and utility bills were able to be counted, then maybe some of these people could get a score and might be credit-visible.

And therefore, that could improve their lives, reduce the cost of purchases, and even employment, which might hinge upon a good credit score. People might be able to acquire that. Could you talk a little bit about how you see this issue? And if anything, what the CFPB is doing about it or might do about it?

Mr. CORDRAY. Thank you, Congressman. It is an important area, an interesting area. There are a lot of people who make a lot of payments in their lives, and they don't seem to get much credit for it when it comes to positives showing up in their credit report or boosting their credit score.

It is an issue we are very interested in. We have been studying the impact of remittances, which is one of the kinds of payments some people make very steadily and very persistently, how that could affect credit scores. The same, as you say, with utility payments, rent payments, and the like.

There are some interesting pilots and models out there to try to figure out how we can do this better. Because, frankly, up to now, the credit reports tend to reflect only certain kinds of credit that tend not to be as common among low- and moderate-income Americans. And so, it is something of a skewed picture of the market.

So, it is a good line of inquiry and one that we are interested in and happy to work with your staff on.

Mr. ELLISON. Yes, me and Democrats and Republicans, the bipartisan bill that we have, we would love to get your technical assistance on it, because we would like to help people improve their financial outlook.

Mr. CORDRAY. Yes.

Mr. ELLISON. And again, I do want to encourage you to go after that student loan thing. This is a big, big deal. You mentioned the overhang on individual students and families. What about the macroeconomy? We are expecting those kids to go out and buy refrigerators one day.

Mr. CORDRAY. Yes.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentleman from Ohio, Mr. Stivers.

Mr. STIVERS. Thank you, Mr. Chairman.

Director Cordray, I want to congratulate you on your appointment. My questions are around three areas that are all around the theme of transparency. You were congratulated for your transparency, and I want to talk to you about three things on transparency. One is the Inspector General, and then some information on advisory panels, and then activities.

First, with regard to your Inspector General—and if you can give me brief answers to the first two questions. They are kind of yes-or-no questions.

Mr. CORDRAY. Sure. Okay.

Mr. STIVERS. Is your Inspector General solely dedicated to the CFPB? Yes or no?

Mr. CORDRAY. We share an Inspector General with the Federal Reserve.

Mr. STIVERS. With the Federal Reserve.

Mr. CORDRAY. We are within that system.

Mr. STIVERS. And is your Inspector General Senate-confirmed?

Mr. CORDRAY. I actually don't know, offhand, the answer.

Mr. STIVERS. The answer is no, and I didn't mean to answer your question for you. But—

Mr. CORDRAY. Okay. Fair enough—

Mr. STIVERS. I guess given what Representative McHenry, the chairman of our Oversight Subcommittee, talked about earlier with regard to Ideas42, some stuff that has been in the paper with—data. I don't want you to comment on either of those particular possible conflicts. But I believe an independent, Senate-confirmed Inspector General is important because of the challenges of accountability of this agency with regard to having a budget that is not part of the normal appropriations process, and then not having a board. Boards normally preserve the rights of the minority view and then give a voice for that.

And so, given those things, I think it is really important that you have a separate Inspector General who is focused on you, who is Senate-confirmed. And if you can give me brief comments on that. I don't want to get you sideways with your current Inspector General or anything.

Mr. CORDRAY. I would just say two things on the Inspector General. We have an Inspector General. We share with the Fed, but a very strong I.G., strong staff, and they have been working to improve our operations and are doing so in a number of respects.

Whatever Congress provides is what we will carry out. And it is true of all of our oversight provisions, the numerous audits we're subject to; the mandatory testimonies both here and in Senate Banking and FSOC veto and other things.

Mr. STIVERS. Great.

Mr. CORDRAY. You know—

Mr. STIVERS. Thank you.

So, the other thing I want to focus on is advisory panels. And you mentioned earlier that the CFPB doesn't know a lot yet about payday lending, doesn't completely understand it. You have done some White Papers on it.

But you got a letter signed by 30-some members of the committee here. Then, I know you got a letter from at least one Democrat who is very prominent, and holds a position outside the Congress, saying you should consider having an advisory panel.

And I know Section 1014 of the Dodd-Frank Act actually requires you to have this consumer advisory board or—and you have set up one for credit unions. You have set up one for community banks. That is great.

But because you are, essentially, the sole Federal regulator or the primary sole—Federal regulator for non-bank financial institutions, and because you can potentially regulate them out of business as was referred to earlier, it would be great if you would try to set up some type of advisory panel. And even if you set up one that had diverse interests—because I know you talk about—

Mr. CORDRAY. Yes.

Mr. STIVERS. When you and I talked, you talked about—you have credit bureaus. You have student loans.

Mr. CORDRAY. Yes, that is right.

Mr. STIVERS. You have other financing agencies. But if you set up one as a voice for non-bank financial institutions, even though there would be disparate interests at the table, it would be great for you to have that input and feedback.

So I guess that is more of an urging than anything. I would ask you to consider that. If you want to make a brief statement, I have one more thing I want to talk about really quickly.

Mr. CORDRAY. Yes, that is fine. Look, I have responded to the letter. It is a—we have the Credit Union and Community Bank Advisory Councils because they fill a hole. We don't examine them. We don't see them day to day. We are constantly dealing with the non-bank focus.

We do have examination authority. So we are working with them day to day. That is what felt different to me. I am happy to talk with you further and—

Mr. STIVERS. Maybe we can talk offline a little bit about it. The last thing is more of an activities warning. It has come from multiple sources. Mr. Campbell talked about it. Mr. Luetkemeyer talked about it.

Sometimes, the activities you do target financial activities that you might not like, whether it is specific types of car loans or online lending, they can actually—if they are products that consumers demand, your activity can actually result in credit allocation that hurts borrowers. And I am really concerned about that.

And I want to focus on one piece of it. Do you think it is appropriate to have non-written guidance that, basically, tries to force people, force businesses to not have a banking relationship without any due process? Because I think that is what is happening with online lending.

Mr. CORDRAY. I am not understanding. Forcing—

Mr. STIVERS. Okay, so—

Mr. STIVERS. It is not you. It is the FDIC—

Mr. CORDRAY. Yes.

Mr. STIVERS. —that is twisting some banks' arms saying, "Don't bank these particular types of companies." And if they are following State laws; should that happen? Shouldn't we make sure that—and you stated it earlier—

Chairman HENSARLING. Very brief answer, since the time of the gentleman has expired.

Mr. CORDRAY. If people are following all the laws, then there is not a problem. If they are not following all the laws, I understand that is what people are looking into. And there may be, obviously, a distinction between the financial institutions following the law, whether the online lender is following the law, and what they know

about each other. Those are the complexities we are all trying to work through.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentlelady from Ohio, Mrs. Beatty.

Mrs. BEATTY. Thank you, Mr. Chairman, and Ranking Member Waters.

Again, thank you, Mr. Cordray, for being here. And let me join others in congratulating you on your confirmation and also receiving the bipartisan accolades prior to your confirmation on your credentials and character.

I have three questions also. Certainly, as you are aware, the Attorney General in Ohio has taken an extremely aggressive approach to scrutinizing the consumer credit reporting companies for failing to investigate and correct. And, certainly, we all know how important credit reports are.

He went so as much to go on record and drew attention not only from national media, but "60 Minutes," in saying he thought they were breaking the law. And there is an article, Mr. Chairman, I need to enter into the record.

Chairman HENSARLING. Without objection, it is so ordered.

Mrs. BEATTY. That happened in August, around the last week of August. Let me just say how much I appreciated your immediate response to that, coming out with your release in strong words of holding them accountable. So I wanted to thank you for that.

I also, before I ask my two questions to allow you enough time to answer, wanted to say I really appreciate your deliberate detail in somewhat lessly, but historical answers. Because there are at least a dozen of us who were not here July 21st of 2011 when your agency went into effect from Dodd-Frank.

And as we move forward, especially since a lot of my colleagues on the other side of the aisle have wanted us to move the needle, it is very much appreciated that you help educate us on where we were.

Secondly, had you had the opportunity to be here before when we were going through some of those questions and issues, I think we would have been served. Unfortunately, you were not invited and not here. And I appreciate your bipartisan responses to some of the questions.

Let me move forward. For many, financial literacy—as you know, we made many changes in Ohio through your leadership. I would like to go on record in bipartisan support to say that I would like to join Mr. Stivers in working with you on financial literacy. Because I think as we look at our young folks, they are the economic engines of the future for financial growth.

My question that I would like an answer to from you is on the Office of Minority and Women Inclusion (OMWI). As you have heard repeatedly on this side of the aisle, our ranking member, Congresswoman Maxine Waters, defined break for us, i.e., work. So, we have had the opportunity to work through that break.

Mr. CORDRAY. Yes.

Mrs. BEATTY. And even most recently, had the opportunity to have a mini town hall meeting with those new Directors of OMWI. So having a big interest in what happens with small businesses as a small business owner, can you help us when we talk about

women and minorities and Federal contracts of how you propose to help us increase those numbers and make a difference?

Mr. CORDRAY. Yes, so thank you for that question. Thank you for all your comments.

On the Office of Minority and Women Inclusion (OMWI), which is what OMWI represents, first of all, I am very pleased and have developed a deep respect for the OMWI at the CFPB, whom you met the other day, maybe met before, former commissioner of the EEOC and really very thoughtful about the work that we are doing in this area.

There are three areas of work. The first is hiring practices at the different Federal agencies. The second is contracting practices at the different Federal agencies. We have been very mindful of that, and we have made some changes in our own human capital and procurement processes to reflect some of that input.

And the third is the issue of diversity in the financial services industry itself, which is a broader issue. There are not any compulsory tools that have been given to the agencies to effect that. And it feels to me that is going to be a cooperative effort back and forth between the agencies and the industry on that front.

We are just working to—I think we are finalizing a memorandum of understanding with standards within the next month or two, maybe one month. And we will move forward from there. But we are very mindful of our obligations here. We take them seriously, and I think it is going to be interesting and important work.

Mrs. BEATTY. Thank you.

And, Mr. Chairman, I actually yield back my time.

[laughter]

Chairman HENSARLING. The gentlelady from Ohio is setting a fine standard for this committee.

[laughter]

The Chair now recognizes the gentleman from Pennsylvania, Mr. Rothfus.

Mr. ROTHFUS. Thank you, Mr. Chairman.

And congratulations, Director Cordray, on your confirmation.

A recent survey from the Independent Community Bankers of America (ICBA) reveals that more than 10 percent of the community banks are indicating that they are going to get out of the mortgage lending business due to the QM rule. How does the fact that these banks will be exiting this market help increase access to credit?

Mr. CORDRAY. First of all, I am not familiar with this survey, although I will now look for it. You say it is an ICBA survey?

Mr. ROTHFUS. Yes.

Mr. CORDRAY. Okay. It would be unfortunate, in my mind, if community bankers who had been making loans, typically, according to a very responsible underwriting model that is safe and sound and often performed extremely well, even during the worst economic crisis of our lifetimes, were to stop making mortgages because they have some anxiety around the rules that I think is not justified.

The smaller banks, as I said, we have a special provision to cover them so that they make loans and keep them in portfolio. They are Qualified Mortgages with a safe harbor from litigation. It would be

a bad business decision if they were to leave that money on the table and not make those loans.

Mr. ROTHFUS. Yes, I think it is important that you reach out to the—

Mr. CORDRAY. I know. They need to know. Some of them don't seem to know that yet.

Mr. ROTHFUS. If I could just talk a little bit about some transparency issues. We are coming up on a very sad anniversary in this country in November—

Mr. CORDRAY. Yes.

Mr. ROTHFUS. —with the death of President Kennedy. And one of the things I have always heard about his Administration was the call to public service. Indeed, you look at some of his words, "Let the public service be a proud and lively career. And let every man and woman who works in any area of our national government in any branch at any level be able to say with pride and with honor in future years, 'I served the U.S. Government in that hour of our Nation's need.'"

And, of course, we all remember, "Ask not what your country can do for you. Ask what you can do for your country." President Kennedy also told the American people to ask of those in public service the same, to hold them to the same high standards of strength and sacrifice that we ask of the American people.

There was an ad on the American Bankers Web site from the CFPB, advertising employment. "Not satisfied with your day to day? Why not give public service a try? Take your private sector skills and put them to good use at the CFPB. Make a difference without compromising premium salary and benefits. Now hiring: all levels of our supervisory team."

There are 741 staffers at the CFPB: 61 percent make a six-figure salary; 111 staffers make more than $179,000; 56 employees make more than $199,000; and 14 make more than $227,000, which is how much the Vice President of the United States gets paid.

Does the CFPB pay bonuses in addition to these salaries?

Mr. CORDRAY. So, first of all—

Mr. ROTHFUS. Does the CFPB pay these people who are making the six-figure and higher salaries bonuses? Yes or no?

Mr. CORDRAY. We have had limited supplemental pay adjustments—

Mr. ROTHFUS. Okay, so would that be a bonus?

Mr. CORDRAY. I don't consider it a bonus.

Mr. ROTHFUS. Okay, do you know what the top enforcement attorneys make at the Department of Justice?

Mr. CORDRAY. I know that they are on a different pay schedule than the independent Federal agencies, but I don't know what they make.

Mr. ROTHFUS. And do you know that the people who have those top enforcement jobs at the Department of Justice could be making a lot more money on the outside?

Mr. CORDRAY. And I believe many of our people could be making a lot more money on the outside as well.

Mr. ROTHFUS. But they are making more than the attorneys at the Department of Justice, is that correct?

Mr. CORDRAY. Different people make different amounts at different levels that have—

Mr. ROTHFUS. Do you know what the top salaries are for the people at the Consumer Product Safety Commission?

Mr. CORDRAY. Again, the Federal banking agencies are on a different pay scale than the GS scale. One of the things that I want to note, it is very important here. Our statute requires us, it requires us, this is the law of the land that we are bound to follow that we are to have a pay scale comparable to that of the Federal Reserve. Last I checked on our statistics, we were 1 percent lower in average salary than the Federal Reserve, so we are complying with the law—

Mr. ROTHFUS. But who sets your salary, Director?

Mr. CORDRAY. I beg your pardon?

Mr. ROTHFUS. Who sets your salary?

Mr. CORDRAY. Congress.

Mr. ROTHFUS. Congress sets the salary.

Mr. CORDRAY. And it is lower than many of the people at the agency, but I am willing to do that to—

Mr. ROTHFUS. Would you support legislation that sets guidelines for what salaries at the CFPB should be?

Mr. CORDRAY. Congress has set those guidelines so they specifically provided in our statute, that, like the other Federal banking agencies, we would be on a pay scale, and that wouldn't—

Mr. ROTHFUS. Would you oppose legislation that would make the pay scale be comparable to the enforcement people at the Department of Justice?

Mr. CORDRAY. Again, I don't know what level you are talking about, apples-to-apples comparison. I am happy to have our staff talk to your staff about pay if that is an issue for you. But we are just following the law. We are trying carefully to follow the law.

Mr. ROTHFUS. Thank you.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentleman from Washington, Mr. Heck.

Mr. HECK. Thank you, Mr. Chairman, and Ranking Member Waters. Director Cordray, I want to pick up on the line of inquiries made by Congressman Green and others, namely the relative layer of regulatory burden on small institutions. I actually don't think this is rocket science. I think it is axiomatic. Small institutions run on people. Big institutions run on processes. And fairly understandably, the CFPB's regulatory approach is geared to processes.

So given what you had said earlier about there being a lack of culpability on the part of smaller banks and credit unions to contribute to the economic crater we experienced, is there anything else that you can do that would ease that regulatory burden to enable them to continue to be a part of the rich fabric, the financial institutions that offer services to consumers?

Indeed, is there anything you can even say that would help, I think virtually everyone on this committee, feel better that you really get this? Indeed, Director Cordray, if you want to take today to announce a new initiative in this regard and make news, please feel free.

Mr. CORDRAY. So thank you, Congressman, and I think there are things that I can say that are important. First of all, I have never worked at a big financial institution. That is not my background. It is of some, and it is an important experience that some bring to the Bureau and bring to this Congress.

I am from a small town in Ohio. I grew up there. I commute from there now which gives me an appreciation for all of you who commute from all over the country and you go 3 time zones as I understand. That is above and beyond. And we did that because we want to serve this country, and we take pride in having a role in helping lead this country.

In terms of the smaller banks, they are the backbone of the economy in many parts of America. We have a unique small banking system in this country that is not replicated in Europe. It is not replicated in most countries around the world.

A banker told me recently that he had been in China and they were very curious about, "How could they set up a bank, a system of 7,000 or 10,000 small banks?" It is not easily done. It required decades and decades of work.

It is important for us to preserve that system, because I know in many small towns, if the local bank or local credit union is not providing that credit, bigger banks aren't going to come in and do it. I was taken by your initial comment, which I think is exactly right. Larger institutions tend to work on processes, and smaller institutions on persons, who often exercise a lot of discretion and judgment.

The way they have exercised that discretion and judgment historically has been sound and responsible and deserves our respect and our admiration. It is a model that performed well through the worst financial crisis of our lifetimes, and continues to perform well.

We are trying to figure out where we can make special exemptions and special provisions to recognize that model and encourage it and not oppress it with a slew of rules that they don't necessarily need to meet because they were not part of the problem.

We will continue to do that and I meet regularly with them, to hear from them, both the State institutions, State-to-State association level, individual institution-level, the ICBA, credit union groups, and also our advisory council.

It is something that I mean for this agency to be able to point to as a success and not as a failure, and I appreciate your input to help us accomplish that.

Mr. HECK. Please hear us, it is universal.

Mr. CORDRAY. Yes.

Mr. HECK. Maybe quickly, on the QM, I have the sense that you had gone back and done a retrospective analysis of how many loans made in the last few years would have been enabled or allowed under the QM.

But I am actually more curious, especially given the decision on QRM as to whether or not you have gone back and done any analysis retrospectively on how many loans would not have been allowed in the years of a run up to the crater, and whether or not you think that it would have helped us, materially helped us avoid

bursting that bubble by having fewer people placed in loans for which they probably shouldn't have been?

Mr. CORDRAY. Yes, two points. First, your question is, how can we continue to monitor how the mortgage market may be affected by our rules, and make sure that we are not having undue effects of the kinds the chairman has referenced that we don't want to have.

We have to have data and information in order to do that. There is no substitute for it. If you cut us off from having information about the markets, we won't do a very good job, and you will justly criticize us for that. In terms of this issue in particular, the QRM is a rule that we are not involved in writing.

There seems to be a growing proposal by the other agencies now to conform that significantly to the Qualified Mortgage rule, which I assume is a complement to that rule. We will continue to work with the other agencies to help them get that right in their judgment. It is not our rule, it is their rule, but we are happy to continue to work with them on it.

Chairman HENSARLING. The time of the gentleman has now expired. The Chair recognizes the gentleman from South Carolina, Mr. Mulvaney.

Mr. MULVANEY. Thank you. Mr. Cordray, in looking over the reports, something jumped out at me, which was the section regarding the amount of money you had requested from the Federal Reserve for the first quarter of this year.

It said that as of December 31st, you had requested—Federal Reserve filling $136.2 million to fund your operations. But later on in the same document, it says that you only spent $85.9 million. What did you do with the extra $50-odd-million?

Mr. CORDRAY. We make quarterly requests to the Federal Reserve.

Mr. MULVANEY. I know what you do, and again, I am not trying to cut you off. I really just want to have a conversation.

Mr. CORDRAY. I know.

Mr. MULVANEY. I am not going to give speeches. What did you do with the extra $50 million?

Mr. CORDRAY. I know how it works. Yes, what I am saying is, you need to look at it over time. Some quarters we are asking for more because we spent more before. Some, we are asking for less because we spent less before. It is an ongoing thing, and it is a reasonable answer—

Mr. MULVANEY. —and that is why I went back to look at 2011 and 2012.

Mr. CORDRAY. Yes.

Mr. MULVANEY. In leading up to your question for 2013—in 2011, you asked for $161 million and spent $123 million.

Mr. CORDRAY. Yes.

Mr. MULVANEY. In fiscal 2012, you asked for $343 million and only spent $299 million before you asked for $136 million versus only spending $85 million in the first quarter of 2013. So by my calculations, going back to the beginning of your existence, you have asked for roughly $135 million more than you have spent. I want to know where the money is going?

Mr. CORDRAY. Let me say a couple of things. First of all, I hope you understand, there is a challenge to creating a new agency out of nothing. We had no agency, no personnel, no structures, anything in July of 2010. We are about 3 years old now.

We have had something of a pattern in the early phases of the Bureau as we have been building up, of underspending. In part, because we had anticipated a hiring trajectory that has been slower than we intended—

Mr. MULVANEY. How long do you expect it to be before your quarterly requests start to line up more closely with your quarterly expenditures?

Mr. CORDRAY. I think they are beginning to line up more closely now. The other piece I want to mention is—

Mr. MULVANEY. I don't have the second or third quarter numbers in 2013, but how closely did they line up, say for your most recent request?

Mr. CORDRAY. Okay. So the other piece that I wanted to get out on the table is, we are leasing a building that is apparently in need of substantial renovation—

Mr. MULVANEY. I understand all that.

Mr. CORDRAY. And we have had timing issues where we have requested funds for that, and then the renovation wasn't able to proceed yet, so some of those numbers have looked larger than they have turned out to be. That is the other piece.

Mr. MULVANEY. Your authority to ask the Federal Reserve for money seems to come from Section 1017 which gives you the right to, "an amount determined by the Director to be reasonably necessary to carry out the authorities, et cetera." Okay, that is the statutory authority for your ability to go request money from the Federal Reserve. If anybody thought that your request was unreasonable, who could make that challenge?

Mr. CORDRAY. I think we are subject to oversight by the Congress right here. You are the only—

Mr. MULVANEY. No, the only oversight we have on your spending is the caps that are set every single year as a percentage of the expenses of the Federal Reserve, so I am asking you, has your Inspector General ever asked you about the relationship between the size of your requests and the size of your expenditures?

Mr. CORDRAY. We are subject to a GAO audit every year. We are subject to an additional outside audit every year. This is all the law of the land. We are subject to Inspector General—

Mr. MULVANEY. I don't care about that. Has anybody ever asked you that question?

Mr. CORDRAY. I think that question has been asked several times, actually in these hearings, it has been asked before, because people want to make sure, just as you are legitimately, and very validly, as far as I am concerned, asking now. How is our spending matching up with our budget—

Mr. MULVANEY. And the reason I ask, Mr. Cordray, is because the money comes directly from the Fed, and because the Fed remits its extra earnings back to the Treasury, this is money that comes straight off of the bottom line. This is money that would go to reduce the deficit that you all are sitting on. Again, my calculations, roughly $135 million plus interest.

Mr. CORDRAY. Yes. Again, there has been some underspending issues around the hiring trajectory and also the timing of building renovations that will smooth over time. As for us, we are like every other banking agency, but we have a hard cap on our budget which the others do not have.

Mr. MULVANEY. Are you operating under a specific plan to run up the amount in that account?

Mr. MULVANEY. How large do you expect that amount to be?

Mr. CORDRAY. I expect that as soon as the building renovations get under way, I am sorry to say, because I would rather spend $0 on it, much of that will be—

Mr. MULVANEY. Good, because that will happen some time.

I want to follow up very briefly now on something that Mr. Green and Mr. Heck both asked about the smaller financial institutions. My understanding is that you have some primary authority over the larger, and then some secondary authority over some of the smaller institutions of less than $10 billion.

Tell me, sir, how you handle your rule-making, your oversight authority differently for the small institutions versus the large ones, and the specific example I am interested in, there is the prohibition on financing credit insurance premiums which I understand rules now apply the same for the large institutions versus the small. So tell me how you treat those two institutions differently in that particular circumstance.

Mr. CORDRAY. The institutions are treated differently in part under the law because we don't have any authority to examine any institutions with assets of $10 billion or less. So we have no examination teams that go in, we are just not part of that. It is a very significant difference and its one that I understand people lobbied hard for in the Dodd-Frank Act.

In terms of how we write our rules, as I indicated in several respects, we have tried to take account very carefully of the smaller creditors and their particular needs and the fact that a few employees can't bear the same compliance burden as a 200,000 employee institution, as some of the larger ones are or even larger.

In terms of the things, it is something that we are trying to be careful about all the time and that is why we have Credit Union and Community Bank Advisory Councils to help with that.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentleman from Colorado, Mr. Perlmutter.

Mr. PERLMUTTER. Thanks, Mr. Chairman.

Mr. Cordray, equanimity and perseverance are the two words that come to mind watching you today. I appreciate the fact that you have been very mellow under certain cross-examination and also for being here as long as you have been.

I have three points I want to make.

The first involves the title insurance question that you received from Mr. Miller using the word "optional," title insurance being optional.

I just suggest that you remain—that the document be silent that we in the Federal Government are not mandating title insurance but in virtually every real estate transaction, if you have a lender and a borrower, title insurance is going to be required, and if you

are fortunate enough not to need a lender, you certainly don't want some hazardous waste pipeline going across your property that you don't know about. So, I would just suggest you get rid of the word optional.

Mr. CORDRAY. Okay.

Mr. PERLMUTTER. Secondly, on Qualified Mortgages, I think that the Bureau is in kind of a dilemma here with its 43 percent debt to income ratio and the potential that those loans remain either with the credit union or with the small bank or with the original mortgage lender because they cannot now be sold in the secondary market which will then really reduce their liquidity, and what I fear is that lower-income borrowers are going to be, in effect, redlined out of borrowing.

And so, there is a potential for discrimination at the same time, trying to have legitimate underwriting criteria in place, and I would just ask that your Bureau really look at that closely because I have had a number of complaints now from small banks, credit unions, and other lenders that they feel like they are in an impossible position.

Mr. CORDRAY. Yes.

Look, I would just say that I think it is going to be very important to us, and we made a commitment to monitor the effects of these mortgage rules as we go and as the market continues to evolve. And if there is GSE reform or other significant changes in the market, we are all going to have to think about how those affect the application of some of these rules.

That is again, I just want to stress this again, that is why having the information and data about what is actually going on in the mortgage market is so critical to us being able to do that successfully and making sure that things aren't going off the rails. We are also going to be required to review these rules within 5 years, that is in the law and consider updating or changing them as appropriate once we have more experience with them. Again, we won't be able to do that if we don't have the information necessary to have a—

Mr. PERLMUTTER. I, for one, want you to have the data, you need the data to be able to do this right.

Mr. CORDRAY. Yes.

Mr. PERLMUTTER. But I think this one, you better watch it closely from the get-go because—

Mr. CORDRAY. Fair enough.

Mr. PERLMUTTER. —I think it is going to be a problem.

Mr. CORDRAY. Fair enough.

Mr. PERLMUTTER. The third thing, and it is a subject that has not come up yet today, is marijuana and banking. And the reason I bring it up is that in your position at the CFPB, and then you also sit on the FDIC Board or one of the other financial boards, we now have two States that allow for adult use of marijuana, being Washington and Colorado, and 20 States that have medical marijuana, so 22 States out of the 50 where there is some use of marijuana and under the banking regulations whether it is credit unions, banks, the ability to provide financial services has been questioned by some.

And if that is a consequence, everything goes to cash. And when it is cash, you have public safety problems. I think you were Attorney General in your role, you could see that. People are going to be more subject to robbery, obviously fraud, you can't follow the money. From a tax point of view or from any kind of audit trail kind of a point of view.

So, this matter came up before the Senate Judiciary Committee a couple of days ago, the Attorney General and their office has said, look, we understand that there is a banking issue here. We have sent, Denny Heck and I have sent you a letter on this subject and we would like for you to really be on it because we think this is a public safety issue. We now have 22 States, something that has to be addressed.

And with that, I yield the balance of my time to the ranking member.

Mr. CORDRAY. Do you want me to make a brief statement on that, because when you first raised the issue of marijuana and banking, I was a little surprised, and then I recalled the letter which I did see, and that there are some legitimate law enforcement and financial issues here that we will be glad to take a look at. I am from Ohio, and we are not one of those States, so it is not as front and center in my mind as maybe it is elsewhere.

Mr. PERLMUTTER. But the law enforcement piece would be.

Mr. CORDRAY. Yes.

Mr. PERLMUTTER. I now yield to the ranking member.

Ms. WATERS. Thank you.

I was hoping I would have a little bit more time because I think you have been so rudely interrupted on any number of issues that you really didn't have time to respond. I don't have any time to really give you so we will get with you to make sure that we get that information from you.

Mr. CORDRAY. Look, I just wanted to say, I understand this is oversight. I take it very seriously. It is important to me. I understand Members feel strongly about certain issues and sometimes it is not easy for me to give a simple answer to a question about a complicated matter.

I hope people can understand and respect that and I know that can be frustrating. That is not my intention, not my purpose, and I am happy to continue to work with you to see that you have the oversight that you want and need.

Chairman HENSARLING. The time of the gentleman from Colorado has expired.

The Chair now recognizes the gentleman from New Mexico, Mr. Pearce.

Mr. PEARCE. Thank you. Mr. Cordray, congratulations and condolences on your confirmation.

I represent New Mexico, and 50 percent of the loans in New Mexico for housing are for trailer houses, so when your agency excluded balloon loans, it made it very difficult to loan money on houses that are—if they are misused, they actually deteriorate, fall down in 4 or 5 years, so the balloons were common practice and you have made that very difficult. Any prospects of changing that?

Mr. CORDRAY. Thank you, Congressman, and this was an issue that we worked hard on to try to give more latitude in the rural

or underserved areas. I come from an area of Ohio that I consider rural. There is a farm across the road but I have come to understand that in western States, rural really means something quite different from my experience.

Mr. PEARCE. That would bring up then the second point—

Mr. CORDRAY. Yes and so—

Mr. PEARCE. —I will show you a map.

Mr. CORDRAY. That is right.

Mr. PEARCE. Yes, so this is New Mexico.

Mr. CORDRAY. That is right.

Mr. PEARCE. We have 2 million people in the same size geographically as the northeast where 55 million people live in that same size area. Now if you look over here in this corner here, that is Luna County. It is about 2,500 square miles, which makes it larger than Rhode Island and Delaware, and it has 25,000 people, which means that we have 8 people per square mile. In New York, for instance, you have 27,000 people per square mile, and they are being treated the same here.

There is one road north and south, one road east and west, and the one town sits right in the middle and they are being treated—so this definition of rural and underserved somehow doesn't play out—Cibola County right here goes over to the Arizona border, it is 6 people per square mile and they are not declared rural in your definition.

Mr. CORDRAY. Yes, let me just—because I think I can lance the boil on this.

I have seen a similar map for Ohio, and as soon as I saw the map, I realized we didn't get that right. What we did then was we put in a 2-year moratorium on that. We have given everybody comfort and security for 2 years that this will not be a problem for anybody in any of those counties for the next 2 years and it—

Mr. PEARCE. How many home loans fall in the 2-year—0- to 2-year category, sir?

Mr. CORDRAY. No, no, no for 2 years, this does not take effect. That is what we have done. We have pulled that back—

Mr. PEARCE. So they could make 100,000 loans, and for 15 years and they wouldn't have to reconsider those loans. Anything done here—

Mr. CORDRAY. No, no, no, no. For 2 years, we have completely solved this problem. No lender has to worry about this for anything they are doing for the next—

Mr. PEARCE. I am asking about the loans that are made during this 2-year period that extend beyond the 2-year period.

Mr. CORDRAY. Oh that; any loans they make in the next 2 years, this is not a problem.

Mr. PEARCE. That is—

Mr. CORDRAY. We have pulled it back.

Mr. PEARCE. —my question.

Mr. CORDRAY. And during those 2 years, we are going to reconsider this and redo that definition in a way that is more aligned, and we are happy to talk to you and your staff as we go. That is back off the table and is going to be reconsidered. It is not a problem for people in part because of the input we got from people that you are talking about.

Mr. PEARCE. The general prevailing direction—we had Ms. Kelley here in this committee room on May 21st, and then she came in on July 10th to visit personally with us. We still haven't heard any answers. I know you haven't had quite enough time to answer some of the things that have come in August, but this is now dating back to May and July and still no answers on these things.

Mr. CORDRAY. But—

Mr. PEARCE. I understand that when you declare that banks are going to be okay, they don't have to follow QM if they hold things in their portfolio, understand that the portfolio of the average bank in New Mexico is 70 days.

That means we can lend money for trailer houses for 70 days, then we have to wait until those pay off. So when you treat these areas of the west the same way that you treat Wall Street, understand that you have a war on the poor that is going on.

That is who suffers access to credit and access to being able to borrow money just to get into some used trailer house. And so, the one-size-fits-all has been disadvantageous to us there in the poor rural areas.

Some of the counties in New Mexico got $14,000 per capita income. So as you make your rules, and again, it would have been nice to get answers from Ms. Cochran before now. We had a good dialogue on this very thing.

You gave high praise to community banks, but understand it is the community banks who are telling me that they are probably just going to shut down and go out of business because of the CFPB. That is what I am hearing across the State.

And so with your high praise for them, understand that your rules are the ones that are probably going to choke off the banks, and no one from Wall Street is ever going to come to New Mexico and lend money for a trailer house.

Mr. CORDRAY. We will make it a point—I know we have spoken before—to reach out to New Mexico community bankers associations and get the word to them. I don't think that smaller lenders should be making a decision to get out of this market.

I think it is a bad business decision. But I want to make sure that they understand that some of these anxieties are not, in fact, accurate and that we are working to continue to address—like that rule thing was not done correctly by us. We pulled it back. We are going to rethink it.

And we are avoiding creating that problem. If there are other things you bring to our attention, we will listen to those, as well. I do realize, as you say, the West is different in—

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentleman from Illinois, Mr. Hultgren.

Mr. HULTGREN. Thank you, Mr. Chairman.

And thank you, Director. I appreciate you being here.

I had a question about—and I know it is a challenge in government to have good staff and to keep good staff. I read recently in—I guess it was a little while ago, back in June—the American Banker said though some turnover was expected, the sheer number of senior officials leaving worries bankers. They wonder who will fill

these vacancies and how the new management will treat the industry.

I think there is a real concern about the number of people leaving your organization, the CFPB, but also real concern over who is taking these positions. The other thing that I am very concerned about is the expertise and uncertainty of people who are serving in these positions of not really knowing details of the industry and not having a background in the industry.

I also know there was, back in 2012, a questionnaire that asked, "How satisfied are you with the training you receive from your present job?" At the CFPB, only 38.8 percent of CFPB employees agreed that the training they received was sufficient.

I have talked to my bankers. I have talked to some small or medium-sized banks around the country. And what I have heard is a frustration. They have been in this industry for their entire lifetime. They want predictable, understandable regulation and regulators who understand.

One of the quotes I heard from one of the bankers was, "It is very frustrating when I have been in this business for decades, and someone who was playing Hacky Sack on the quad 2 years ago is now regulating my bank."

I have some questions.

Mr. CORDRAY. Somebody who what?

Mr. HULTGREN. "Was playing Hacky Sack on the quad 2 years ago now is a regulator over my bank." That is a concern I have heard over and over again. So I wondered if you could respond to that, the exodus of senior management, and then also the apparent lack of training and having qualified people to serve in these important roles.

Mr. CORDRAY. Sure. First of all, and there has just been some reporting on this that has been off-base. The notion that there is some massive exodus of senior officials at the CFPB is just wrong. We have turnover at the CFPB, as every organization does, but our retention level has been quite high. The turnover level is quite low.

There are people who come and go from time to time. And when they go, they are replaced. And we are finding that the people we are replacing them with are of equal quality, as good or better. We get hundreds of resumes for every opening. And we have actually been able to recruit quite effectively.

Mr. HULTGREN. Let me just jump in there. What I am hearing is that is not the case, at least that is not the perception of the people who are being regulated. Let me switch gears here because I have another question. I know you are working on one more major mortgage rulemaking, the merging of RESPA and TILA mortgage disclosures into one document.

And the proposed rule was over 1,000 pages and will affect everyone involved in a home purchase: home-buyers; lenders; and REALTORS®.

As I understand it, given how much technical work must go into getting every system updated and ready, I would like to think it would be impossible to have this rule implemented before January 15th. Is that true? Why or why not?

Mr. CORDRAY. It was a special mortgage rule in the sense that Congress required us to do it, but didn't give us a deadline, which

told us that Congress wanted it done, but not quite on the same priority maybe as some of the other rules.

We will now finalize that rule later this year. We will give an implementation period for that I think will be sufficient for industry. And we are talking and listening closely to what they have to say about that. We recognize that is going to require a fair amount of systems and process changes. And that will lag behind the changes that they are making for January—

Mr. HULTGREN. So there will be a delay in implementation requirements—

Mr. CORDRAY. It is not even finalized yet, that one, unlike all the others. And when it is finalized, there will be a period of time to recognize they need to finish implementing this rule and then have ample time to bring that into effect.

Mr. HULTGREN. Getting very specific on this, I know one of the requirements the Bureau's RESPA–TILA proposal is to require all disclosure forms to be in machine-readable record format. I wonder if you could tell me what that means, what is the purpose of machine-readable forms? While I understand and appreciate that this will help the Bureau in examination, convergence to these systems, as you can imagine, will be incredibly costly for small lenders, escrow agents, and title companies.

I wonder what efforts you are taking to help minimize the cost burdens on this rule on small businesses?

Mr. CORDRAY. Yes, thank you for the question. Just as you are hearing about that, we are also hearing about it. We are trying to think about exactly what purpose that serves and to what extent those benefits are worth the burdens.

Obviously, the point I know is to create some uniformity so that there can be more comparison, more analysis, and more understanding of the market. Whether that is all appropriate or needs to be done now is something that we are looking at.

Mr. HULTGREN. My time is just about done. I hope you will look at cost-benefit analysis. That doesn't happen enough in this. And it absolutely is having an impact on small businesses.

Thank you, Mr. Chairman. I yield back.

Chairman HENSARLING. Okay, the time of the gentleman has expired.

The Chair now recognizes the gentleman from Florida, Mr. Ross.

Mr. ROSS. Thank you, Mr. Chairman.

Director Cordray, I want to talk to you about payday loans or advanced products, deferred presentment providers. How do you feel about those particular products?

Mr. CORDRAY. About payday loans?

Mr. ROSS. Yes.

Mr. CORDRAY. So, as with all small-dollar loans—and there are different ways of providing it: car title loans; pawn brokers; and others—they are a mechanism for credit that some people find absolutely necessary to meet particular situations. They are often a very high-cost loan. We did a White Paper that we published in the spring that analyzed this market pretty carefully. I think some—

Mr. ROSS. Let me ask you about that White Paper, the April 24th White Paper of this year.

Mr. CORDRAY. Yes.

Mr. ROSS. The detail of the data that you utilized for that, have you released any of that yet?

Mr. CORDRAY. We did publish the paper.

Mr. ROSS. But the data upon which the paper relies, and the data that you collected to write the paper, have you released any of that?

Mr. CORDRAY. I am not certain that we can. There is a certain amount of—

Mr. ROSS. Why can't you? There is not a privacy act out there to prevent you. What privilege would you assert—

Mr. CORDRAY. What we are talking about is business information. There may be proprietary and trade secret issues there. There may be—it was provided to us in confidence on the understanding it wouldn't be published, could affect the competitive position of the companies. There is just some concern—

Mr. ROSS. But did it take into consideration just a one-time user of a payday loan as opposed to a frequent or repetitive user of a payday loan?

Mr. CORDRAY. We did, in fact.

Mr. ROSS. But did it take into consideration all States and their programs that they have here?

Mr. CORDRAY. We did, in fact, yes.

Mr. ROSS. The Web site that you have on payday loans has a particular graphic that says, "Would you pay—would you take a taxi across—cross-country trip?" And it discusses the median loan, payday loan of $350. The medium number of transactions per year is 10. The data—the conclusions here are based on the data from your White Paper? Is that—

Mr. CORDRAY. I believe so, yes.

Mr. ROSS. Don't you think that the integrity of your report, the White Paper itself is going to be somewhat tarnished as a result of not disclosing the data?

Mr. CORDRAY. Look, we can't always disclose the data. What we can do is analyze it and provide the conclusions.

Mr. ROSS. So is it my understanding that you are going to refuse to disclose the data?

Mr. CORDRAY. Actually, I will have my staff get back to you on that.

Mr. ROSS. Thank you.

Mr. CORDRAY. But—

Mr. ROSS. I appreciate that.

Mr. CORDRAY. —there are proprietary trade secrets—

Mr. ROSS. I understand that.

Mr. CORDRAY. —issues, competitive issues—

Mr. ROSS. That is being—

Mr. CORDRAY. —be harmed by disclosing that data, you would not want that, I would not want that.

Mr. ROSS. I agree with you. But you would also agree though that there is a market out there for payday loans that is not being met by traditional bank or lending institutions.

Mr. CORDRAY. There is a market for payday loans—

Mr. ROSS. And—

Mr. CORDRAY. —it is a multibillion dollar market—

Mr. ROSS. Yes. And if we—

Mr. CORDRAY. —there are other ways to meet that demand too.

Mr. ROSS. —overregulate the good players to where they get out of the market, where is the demand going to go? Most likely, it will go offshore. Most likely, it will go on the Internet. You are not going to eliminate the demand just because you eliminate the supply.

Mr. CORDRAY. There is actually data on that because there are 13 States that basically bar payday loans because they don't allow lending above a 36 percent rate of interest, which is a pretty healthy rate of interest.

Mr. ROSS. Good point, and I want to talk to you about rate States—

Mr. CORDRAY. Okay.

Mr. ROSS. —that deals with payday loans because when I was in the legislature in Florida, we addressed this. We have by far the best regulatory scheme. We address every issue and I would ask you to please take a look at how we addressed Florida and if I might just share with you—

Mr. CORDRAY. Actually, I could help you on that. Drew Breakspear is your current superintendent of banking and he provided us with their steps after we did our White Paper, they took the data and analyzed it for Florida in particular and provided us with that so we could see how those provisions you are talking about are unique in Florida.

Mr. ROSS. And how did that turn out, do you recall?

Mr. CORDRAY. It was similar results to what we had in our report, maybe slightly better numbers in some respects because of some of the rollover and other types of constraints in Florida, but it was an interesting analysis and it was a good example of how they could use our approach, analyze their own data, provide it to us and then we could have a comparison. It was very helpful.

Mr. ROSS. For example, in your warning here that you say that the median fees paid for more than $457, repeat borrowing often results in a cycle of debt, typical APR on a $350 loan is over 300 percent based on your report.

Now if you look at Florida, Florida limits their borrowing to $500 per loan. They may have only one outstanding at a time, the maximum fee, the interest rate is 10 percent plus a $5 verification fee. I wish that was as good on my credit cards.

They even have to wait 24 hours after they pay off the loan before they can go get another loan. The minimum loan is 7 days, the maximum is 31 days. All I am suggesting to you is that there is a system that works.

It works effectively, it meets the market demand, and I would only ask that you please take a look at that and use that as your model as you go into the payday loans.

Mr. CORDRAY. I thank you, and actually the Florida data was very helpful in making a comparison and helping us make judgments about what may work or not work around the country, and I just want to emphasize this point again, that without the data, we can't have any idea what to do about this product. We have to have that data and Florida provided it, we have our own, and it is very, very helpful to getting this right.

Mr. ROSS. Thank you.

Mr. CORDRAY. Thank you.

Chairman HENSARLING. All Members have been heard.

I would like to thank Director Cordray for his testimony today.

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

Mr. CORDRAY. And before those 5 days pass, we will have those QFRs everybody has been asking about from the last time—

Chairman HENSARLING. The committee will be most appreciative.

This hearing stands adjourned.

[Whereupon, at 12:49 p.m., the hearing was adjourned.]

A P P E N D I X

September 12, 2013

Written Testimony of Richard Cordray
Director, Consumer Financial Protection Bureau
Before the House Committee on Financial Services

September 12, 2013

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

Born out of the worst financial crisis since the Great Depression, the Consumer Financial Protection Bureau is the nation's first federal agency whose sole focus is protecting consumers in the financial marketplace. We are dedicated to improving the lives of everyday Americans and to restoring trust in consumer financial markets. The Semi-Annual Report we are discussing today embodies our work over the last six months of 2012.

The report illustrates the ways we are using the tools Congress has provided us to empower consumers and promote a fair, transparent, and competitive marketplace for consumer finance. We have taken steps to improve the workings of markets – particularly those in which consumers cannot choose their financial service providers.

One such market is debt collection. Concerned about system-wide problems that pose risks to consumers, we gained authority at the beginning of the year to supervise debt collectors. The debt collectors covered by our supervisory authority account for over 60 percent of the industry's annual receipts in that market. Bad actors in this market are a detriment to consumers and to every debt collector that operates lawfully.

We also expanded our supervision program to include the larger credit reporting companies. Credit reports have a profound impact on people's lives. Previously, these companies were not subject to any federal supervision, and consumers often struggled to get errors resolved. In addition to our new supervision program, we began handling consumer complaints about credit reporting issues, all of which will open a clear window into the actual operations of these companies. As a result, the Bureau can now evaluate whether federal consumer laws are being followed throughout the process, from credit origination through debt collection. By identifying problems and rooting them out early, we are working to minimize consumer harm.

Our report also encompasses the Bureau's first enforcement actions, which were against credit card companies that deceived and misled consumers. In some cases, the companies targeted economically vulnerable consumers with low credit scores and low credit limits. We were able to secure $425 million in relief for 6 million consumers, and we also imposed penalties on the companies to deter such activity in the future. These actions will serve as a warning signal for anyone who seeks to profit by deceiving or misleading consumers.

In the second half of 2012, we also tackled issues in the market for private student loan debt, which totaled about $150 billion outstanding. Our studies detailed the struggles students and recent graduates are experiencing in that market. Together with Education Secretary Arne Duncan, we made recommendations to policymakers on common-sense reforms to ensure that the risky underwriting practices of the past are not repeated.

The work I have briefly discussed here today is merely a snapshot of our efforts on behalf of consumers. We also are addressing consumer complaints - totaling more than 130,000 as of the end of last year - on a growing number of financial products and services. We have adopted comprehensive new mortgage regulations banning irresponsible lending practices that helped bring about the recent financial crisis. Our Ability-to-Repay rule follows the simple principle that lenders should offer consumers mortgages they can afford to pay back. We have actively conducted outreach on various issues to older Americans, students, service members, and others, and what we heard from them has guided the direction of our work.

Each day, we take another step in pursuit of our vision to create a consumer financial marketplace where customers can see prices and risks up front and easily make product comparisons; in which no one can build a business model around unlawful practices; and that works well for individual consumers, responsible businesses, and the economy as a whole. We will continue to persist in this work and we appreciate your oversight. As always, I will be glad to answer your questions.

Thank you.

September 12, 2013

New Mortgage Rules Jeopardize Access to Credit

On behalf of the 7,000 community banks represented by the Independent Community Bankers of America (ICBA), as you convene a hearing on "The Semi-Annual Report of the Consumer Financial Protection Bureau," we appreciate the opportunity to submit this statement for the record setting forth our views on the impact of recent CFPB rules related to mortgage lending.

Reform of CFPB mortgage lending rules is a key plank of ICBA's Plan for Prosperity: A Regulatory Relief Agenda to Empower Local Communities (the "PFP"). The PFP reforms, which are designed to keep community banks in the business of mortgage lending, include:

- "Qualified mortgage" safe harbor status for loans originated and held in portfolio for the life of the loan by banks with less than $10 billion in assets, including balloon mortgages in rural and non-rural areas, without regard to their pricing.
- The "risk retention/qualified residential mortgage (QRM)" should provide that any "qualified mortgage" under the CFPB's "ability to repay" rule is also a QRM and thereby exempt from the new risk retention requirement. In this regard, ICBA strongly supports the CFPB's re-proposed rule. No down payment should be required for QRM status.
- Exempting banks with assets below $10 billion from escrow requirements for loans held in portfolio.
- Increasing the "small servicer" exemption threshold to 20,000 loans (up from 5,000).
- Making critical changes to the CFPB's draft rules under the Truth in Lending Act (TILA) and Real Estate Settlement Procedures Act (RESPA).

While ICBA supports the CFPB's May 29 amendments to the QM rule which make accommodations for community banks, they do not go far enough to preserve access to credit for community bank customers.

Balloon Mortgages Play Essential Role in Rural Communities

Community banks are responsible mortgage lenders that did not participate in the abuses that contributed to the financial crisis. Community banks help borrowers in rural communities where non-traditional loans such as balloon mortgages are prevalent due to the unique nature of rural properties. These loans are not eligible to be sold into the secondary market and are kept in portfolio, which gives community banks a vested interest in the quality of these loans and allows them to work out a solution directly with the borrower if repayment problems arise.

QM Rule Does Not Adequately Protect Community Bank Balloon Mortgages

While the CFPB's QM rule allows balloon loans made by small creditors that operate predominantly in rural or underserved areas to be qualified mortgages, the Bureau's definition of

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"rural" is far too narrow and designates entire counties as either rural or non-rural, which is inherently inaccurate. As a result, too many communities are denied rural status and unnecessarily cut off from access to credit. When a balloon loan does not receive QM safe harbor protection, the lender is exposed to undue litigation risk. Many community banks are not willing to assume that risk and will exit the mortgage lending business particularly in rural markets. The CFPB's recent amendment to the QM rule provides a two-year transition period during which balloon loans made by "non-rural" lenders can obtain QM status as the CFPB studies whether the definition of "rural" or "underserved" needs to be changed, as strongly advocated by ICBA.

Attached to this statement is a state-by-state map of rural county designations. Members of this committee may be surprised at the rural county designations within their own states and concerned that many areas of the state are not covered. Also attached is ICBA's recent Community Bank Qualified Mortgage Survey, which underscores the significance of balloon loans to community bank customers and the failure of the CFPB's definition of "rural" to protect these loans.

A Clean Fix is Needed

ICBA's Plan for Prosperity solution to this new regulatory threat is simple, straightforward, and will preserve the community bank lending model: Safe harbor QM status for community bank loans held in portfolio, including balloon loans in rural and non-rural areas and without regard to their pricing. When a community bank holds a loan in portfolio it holds 100 percent of the credit risk and has every incentive to ensure it understands the borrower's financial condition and to work with the borrower to structure the loan properly and make sure it is affordable. Withholding safe harbor status for loans held in portfolio, and exposing the lender to litigation risk, will not make the loans safer, nor will it make underwriting more conservative. It will merely deter community banks from making such loans in the many counties that do not meet the definition of rural.

By the same token, community bank loans held in portfolio should be exempt from new escrow requirements for higher priced mortgages. Again, portfolio lenders have every incentive to protect their collateral by ensuring the borrower can make tax and insurance payments. For low volume lenders in particular, an escrow requirement is expensive and impractical and, again, will only deter lending to borrowers who have no other options.

To preserve the role of community banks in mortgage servicing, where consolidation has clearly harmed borrowers, the Plan for Prosperity would raise the CFPB's small servicer exemption threshold from 5,000 loans to 20,000. Community banks above the 5,000 loan threshold have a proven record of strong, personalized servicing and no record of abusive practices. To put the 20,000 threshold in perspective, consider that the five largest servicers service an average

portfolio of 6.8 million loans and employ as many as 10,000 people each in servicing alone.

With regard to the CFPB's RESPA-TILA rules, ICBA recommends the following changes:

- **CFPB should drop the property address as a required item in the initial loan estimate for purchase transactions.** HUD intended the current Good Faith Estimate (GFE) to be used as a tool for borrowers to shop and compare mortgage loan offers between lenders. This works relatively well for refinance loans, however, it does not work for purchase transactions. In order to issue a GFE, the lender must have the address of the property to be financed. We recommend that "property address" become an optional application item for the initial Loan Estimate for ***purchase*** transactions. This would enable the borrower to shop for a mortgage loan, compare costs and make an informed decision based on a Loan Estimate that is regulated.

- **CFPB should maintain the current 10 percent tolerance for changes in required third party settlement costs.** The CFPB is considering eliminating the current 10 percent tolerance for certain required settlement services that the borrower cannot shop for or where the bank selects the service provider. The elimination of the 10 percent tolerance will cause prices for services to increase from the outset, in order to compensate for unforeseen developments that may occur during the processing of the loan. The current 10 percent tolerance works well, and unless the CFPB has documented evidence of abuse, ICBA believes changing the tolerance is unnecessary and would result in higher settlement costs overall.

Introduced Legislation

ICBA is very pleased that the relief discussed above (with the exception of RESPA-TILA) has been included in four bills introduced by members of this committee:

- The Protecting American Taxpayers and Homeowners Act (H.R. 2767), introduced by Chairman Jeb Hensarling and Representative Scott Garrett, would (i) delay implementation of the CFPB's ability-to-repay rules for one additional year and provide QM status to any mortgage originated and held in portfolio; (ii) exempt from any escrow requirements any mortgage held in portfolio by the originator; (iii) exempt servicers that service 20,000 or fewer mortgages from certain new servicing rules; and (iv) repeal the risk retention/QRM requirement.
- The CLEAR Relief Act (H.R. 1750), introduced by Representative Blaine Luetkemeyer, a former community banker, would (i) accord QM status to mortgages originated and held in portfolio for at least three years by a lender with less than $10 billion in assets; (ii) exempt from any escrow requirements any first lien mortgage held by a lender with less than $10 billion in assets; and (iii) exempt servicers that service 20,000 or fewer mortgages from certain new servicing rules.
- The Portfolio Lending and Mortgage Access Act of 2013 (H.R. 2673), sponsored by Rep. Andy Barr (R-KY), would accord QM status to any residential mortgage loan held in the

originator's portfolio.

- The CFPB Rural Designation Petition and Correction Act (H.R. 2672), also sponsored by Rep. Barr, would create a process in which individuals could petition the CFPB in order to have the rural status of a county reassessed. This process would help to more accurately identify rural counties and to ensure individuals in those communities have their mortgage needs met.

We are grateful to the sponsors of the above bills.

Thank you again for the opportunity to submit this statement for the record. ICBA looks forward to working with this committee to reform CFPB mortgage rules in order to preserve community bank mortgage lending.

Attachments

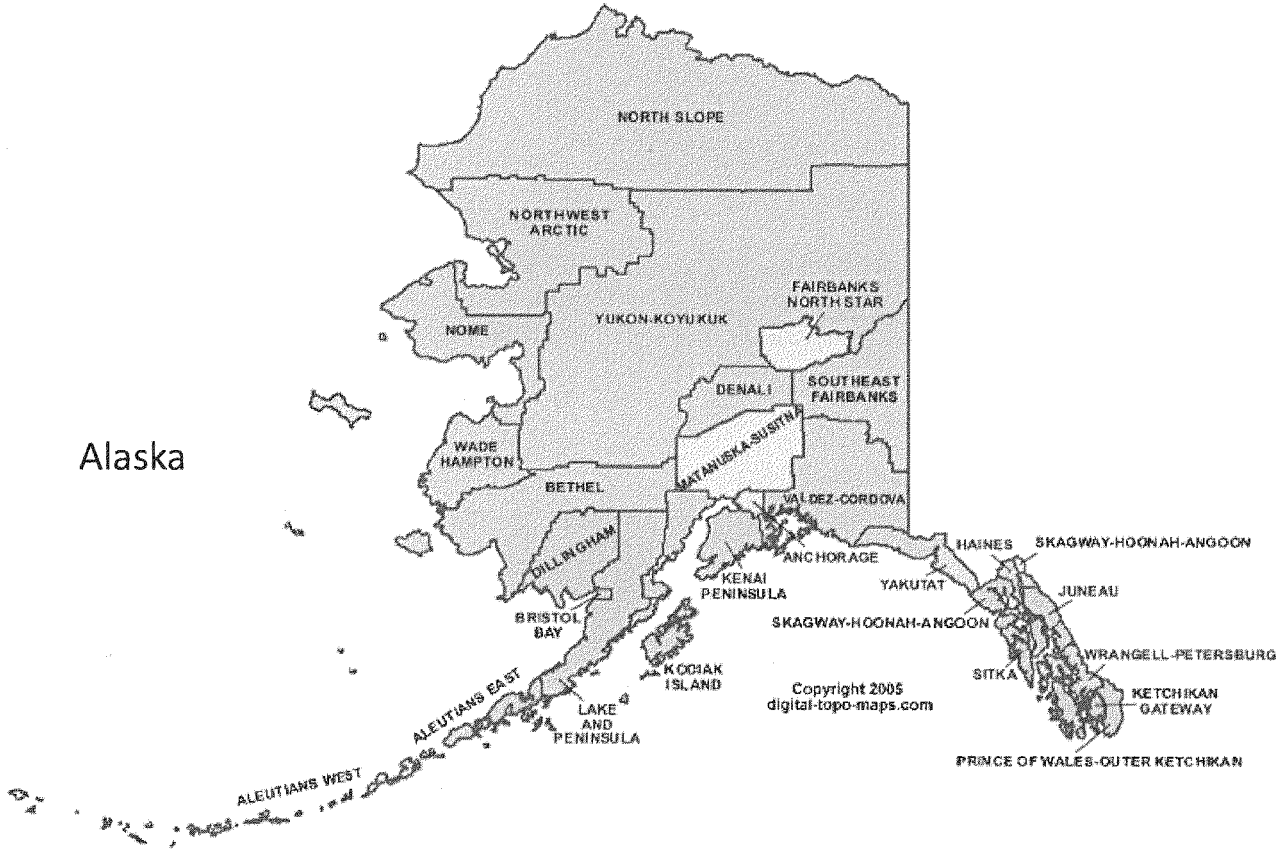
- **State-By-State Rural County Designation Maps** (blue counties are rural; yellow are non-rural)

State-by-State Impact of CFPB "Rural" Definition

Rural (blue) and Non-Rural (yellow) Counties Under the Consumer Financial Protection Bureau's Final "Ability to Repay" Rule

Alabama

Alaska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NOME
YUKON-KOYUKUK
FAIRBANKS NORTH STAR
DENALI
SOUTHEAST FAIRBANKS
MATANUSKA-SUSITNA
WADE HAMPTON
BETHEL
VALDEZ-CORDOVA
DILLINGHAM
ANCHORAGE
KENAI PENINSULA
BRISTOL BAY
KODIAK ISLAND
LAKE AND PENINSULA
ALEUTIANS EAST
ALEUTIANS WEST
HAINES
SKAGWAY-HOONAH-ANGOON
YAKUTAT
JUNEAU
SKAGWAY-HOONAH-ANGOON
WRANGELL-PETERSBURG
SITKA
KETCHIKAN GATEWAY
PRINCE OF WALES-OUTER KETCHIKAN
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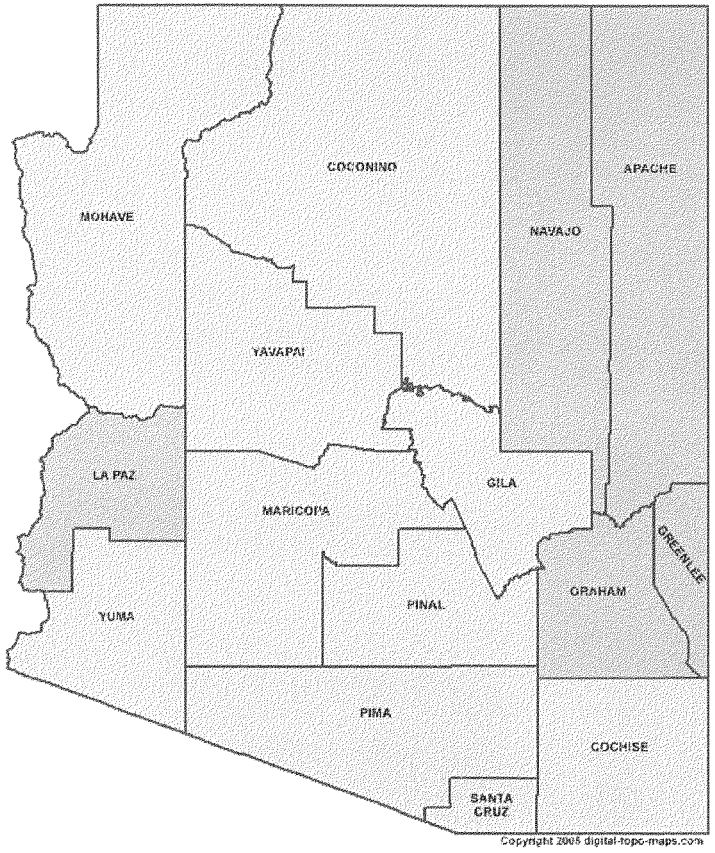
Arizona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MOHAVE
NAVAJO
YAVAPAI
LA PAZ
GILA
MARICOPA
GREENLEE
GRAHAM
PINAL
YUMA
PIMA
COCHISE
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Arkansas

BENTON
CARROLL
BOONE
BAXTER
FULTON
RANDOLPH
CLAY
MARION
IZARD
SHARP
LAWRENCE
GREENE
WASHINGTON
MADISON
NEWTON
SEARCY
STONE
INDEPENDENCE
CRAIGHEAD
MISSISSIPPI
CRAWFORD
FRANKLIN
JOHNSON
VAN BUREN
CLEBURNE
POINSETT
POPE
JACKSON
CONWAY
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LOGAN
WHITE
SEBASTIAN
WOODRUFF
YELL
FAULKNER
ST. FRANCIS
PERRY
FRAIRIE
SCOTT
PULASKI
LONOKE
LEE
SALINE
MONTGOMERY
GARLAND
MONROE
POLK
PHILLIPS
HOT SPRING
GRANT
JEFFERSON
ARKANSAS
HOWARD
PIKE
CLARK
SEVIER
DALLAS
CLEVELAND
LINCOLN
DESHA
LITTLE RIVER
HEMPSTEAD
NEVADA
OUACHITA
DREW
CALHOUN
MILLER
LAFAYETTE
BRADLEY
COLUMBIA
UNION
ASHLEY
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California

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MODOC
HUMBOLDT
TRINITY
SHASTA
LASSEN
TEHAMA
PLUMAS
MENDOCINO
GLENN
BUTTE
SIERRA
NEVADA
LAKE
COLUSA
SUTTER
YUBA
PLACER
YOLO
EL DORADO
SONOMA
NAPA
SOLANO
SACRAMENTO
ALPINE
AMADOR
CALAVERAS
MARIN
CONTRA COSTA
SAN JOAQUIN
TUOLUMNE
MONO
ALAMEDA
STANISLAUS
MARIPOSA
SAN FRANCISCO
SANTA CLARA
MERCED
SAN MATEO
MADERA
SANTA CRUZ
SAN BENITO
FRESNO
INYO
MONTEREY
TULARE
KINGS
SAN LUIS OBISPO
KERN
SAN BERNARDINO
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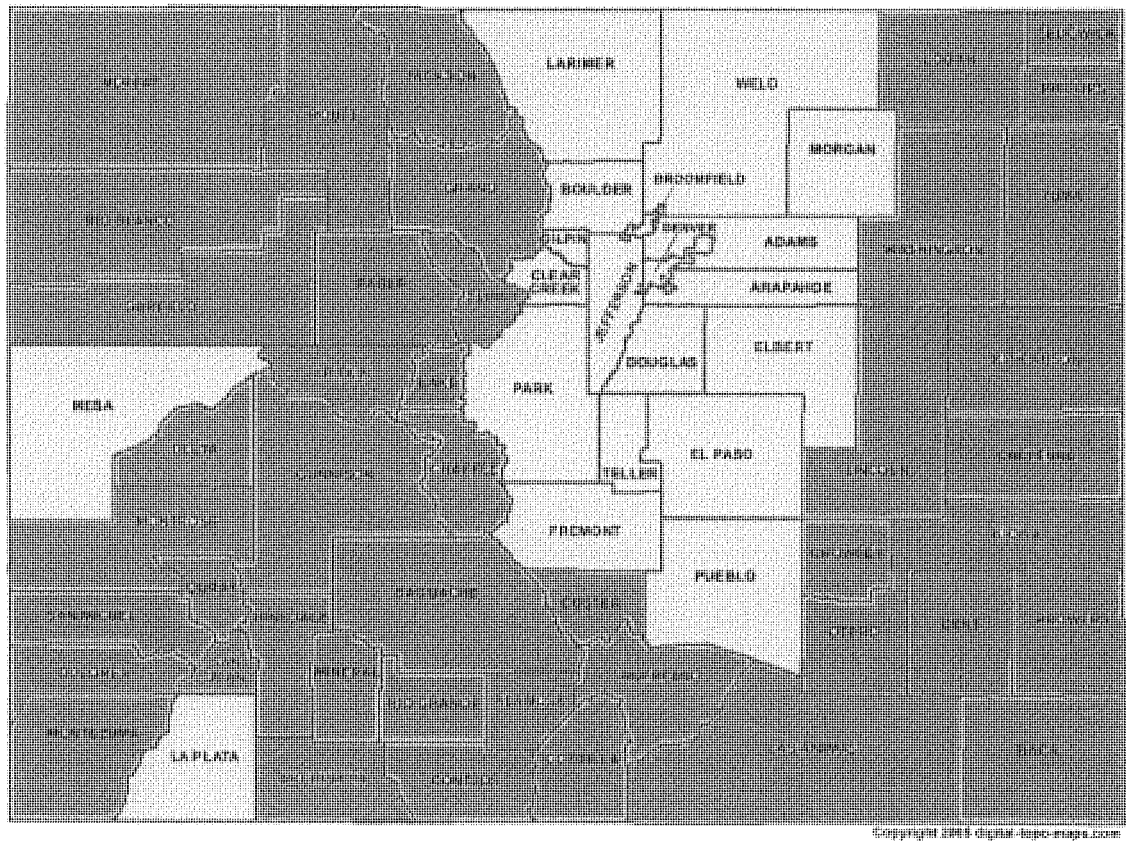
Colorado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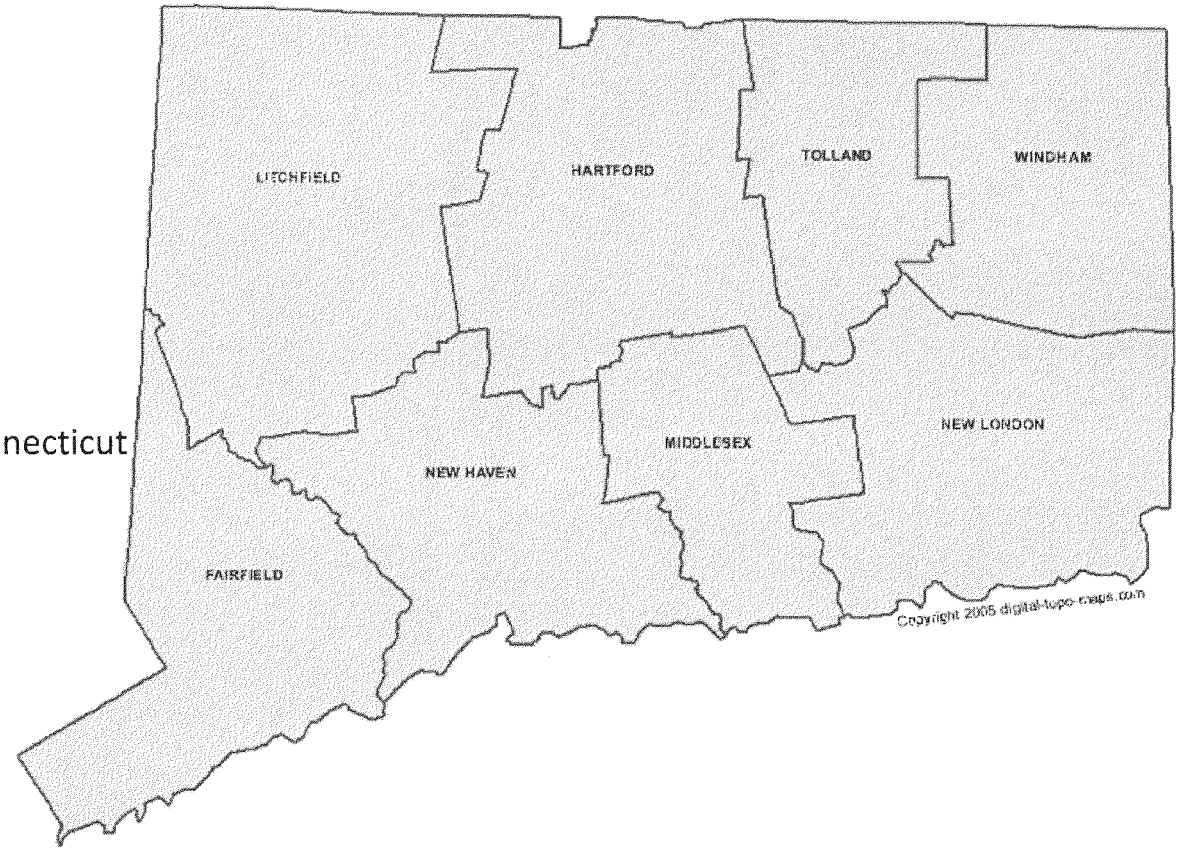

NEW CASTLE
KENT
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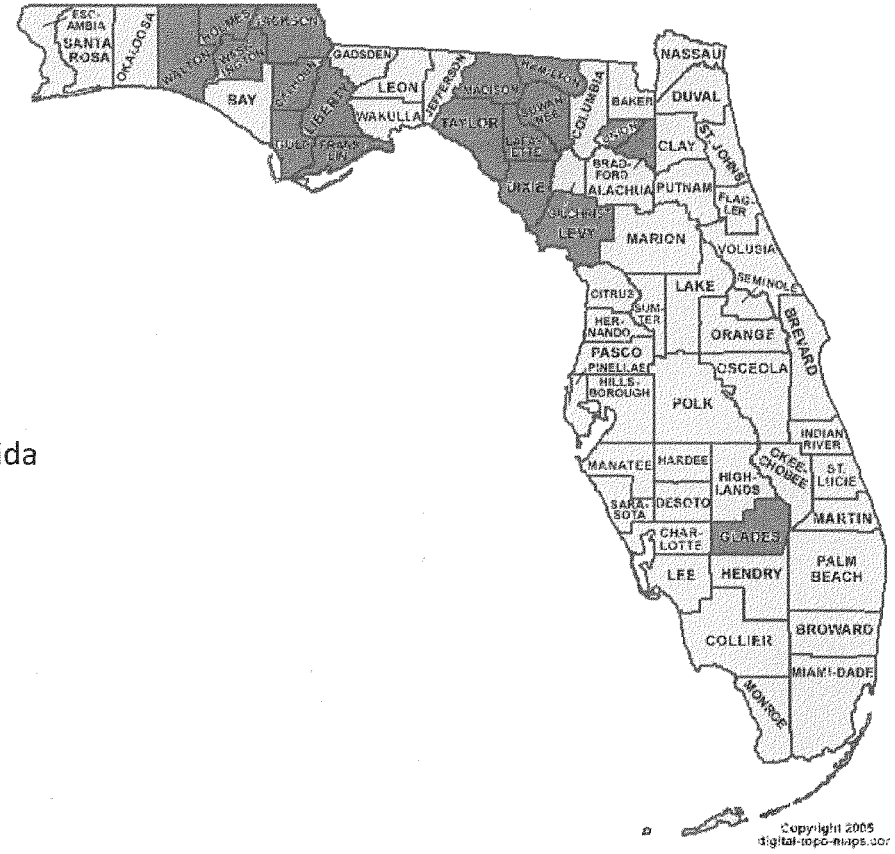
Delaware

Florida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BRADFORD
ALACHUA
PUTNAM
FLAGLER
DIXIE
GILCHRIST
LEVY
MARION
VOLUSIA
SEMINOLE
LAKE
CITRUS
SUMTER
HERNANDO
ORANGE
BREVARD
PASCO
PINELLAS
HILLSBOROUGH
OSCEOLA
POLK
INDIAN RIVER
MANATEE
HARDEE
OKEECHOBEE
HIGHLANDS
ST. LUCIE
SARASOTA
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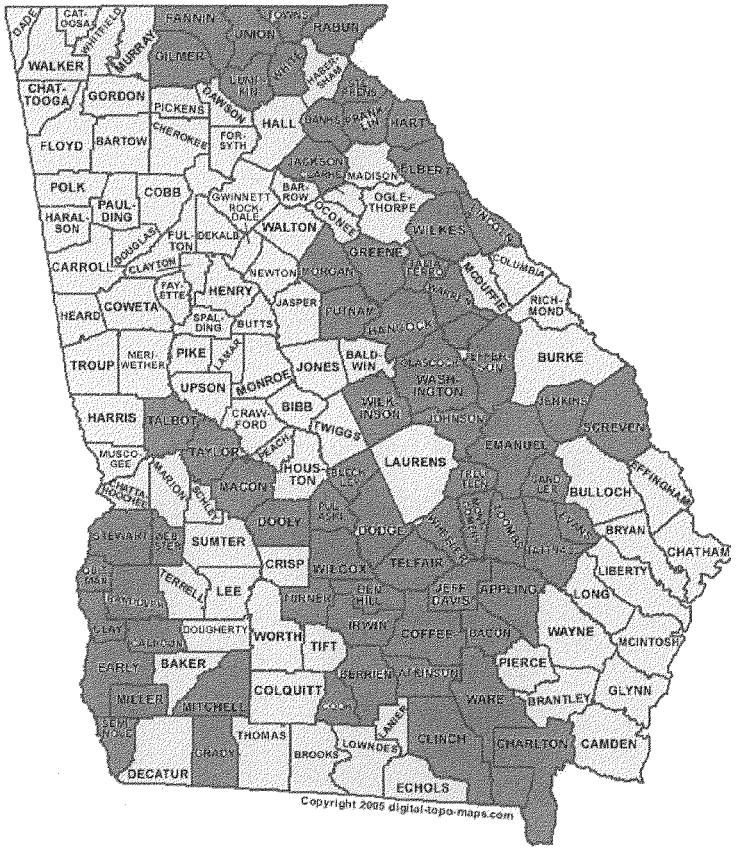
Georgia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PAUL-DING
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TROUP
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LAMAR
JONES
BALD-WIN
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CHATTA-HOOCHEE
CRISP
MACON
DOOLY
DODGE
BRYAN
STEWART
SUMTER
CHATHAM
LIBERTY
TERRELL
LEE
WILCOX
TELFAIR
APPLING
LONG
DOUGHERTY
WORTH
TIFT
IRWIN
COFFEE
BACON
WAYNE
MCINTOSH
EARLY
BAKER
BERRIEN
ATKINSON
PIERCE
COLQUITT
WARE
BRANTLEY
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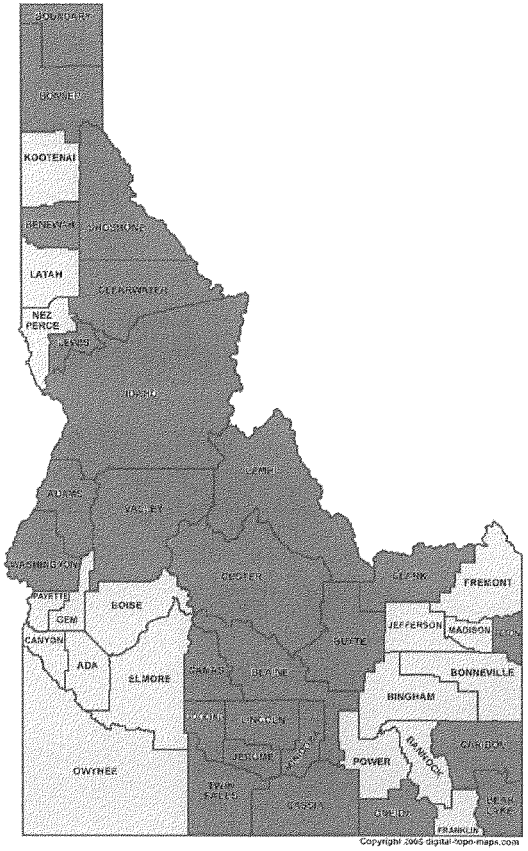
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LEE
COOK
KENDALL
WILL
ROCK ISLAND
HENRY
BUREAU
LA SALLE
GRUNDY
MERCER
PUTNAM
KANKAKEE
STARK
MARSHALL
KNOX
LIVINGSTON
PEORIA
WOODFORD
IROQUOIS
HENDERSON
WARREN
FULTON
TAZEWELL
MCLEAN
FORD
HANCOCK
McDONOUGH
MASON
LOGAN
DE WITT
CHAMPAIGN
VERMILION
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BROWN
CASS
MENARD
PIATT
MORGAN
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MACON
DOUGLAS
PIKE
SCOTT
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EDGAR
COLES
GREENE
MACOUPIN
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MONTGOMERY
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HARDIN
ALEXANDER
PULASKI
MASSAC
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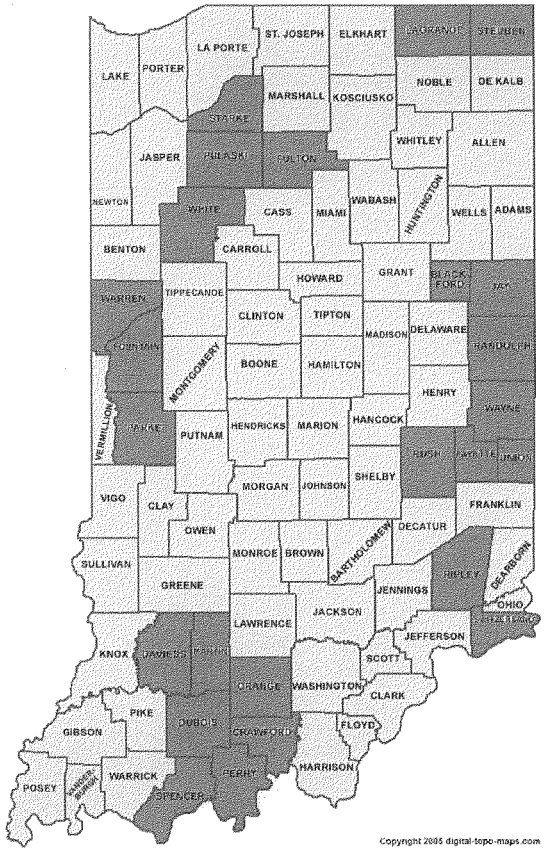
Indiana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WHITLEY
ALLEN
JASPER
PULASKI
FULTON
NEWTON
WHITE
CASS
MIAMI
WABASH
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CARROLL
HOWARD
GRANT
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JAY
WARREN
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MADISON
DELAWARE
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FOUNTAIN
MONTGOMERY
BOONE
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PUTNAM
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UNION
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OWEN
DECATUR
MONROE
BROWN
BARTHOLOMEW
SULLIVAN
RIPLEY
DEARBORN
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CLARK
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DUBOIS
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HARRISON
POSEY
VANDER-BURGH
SPENCER
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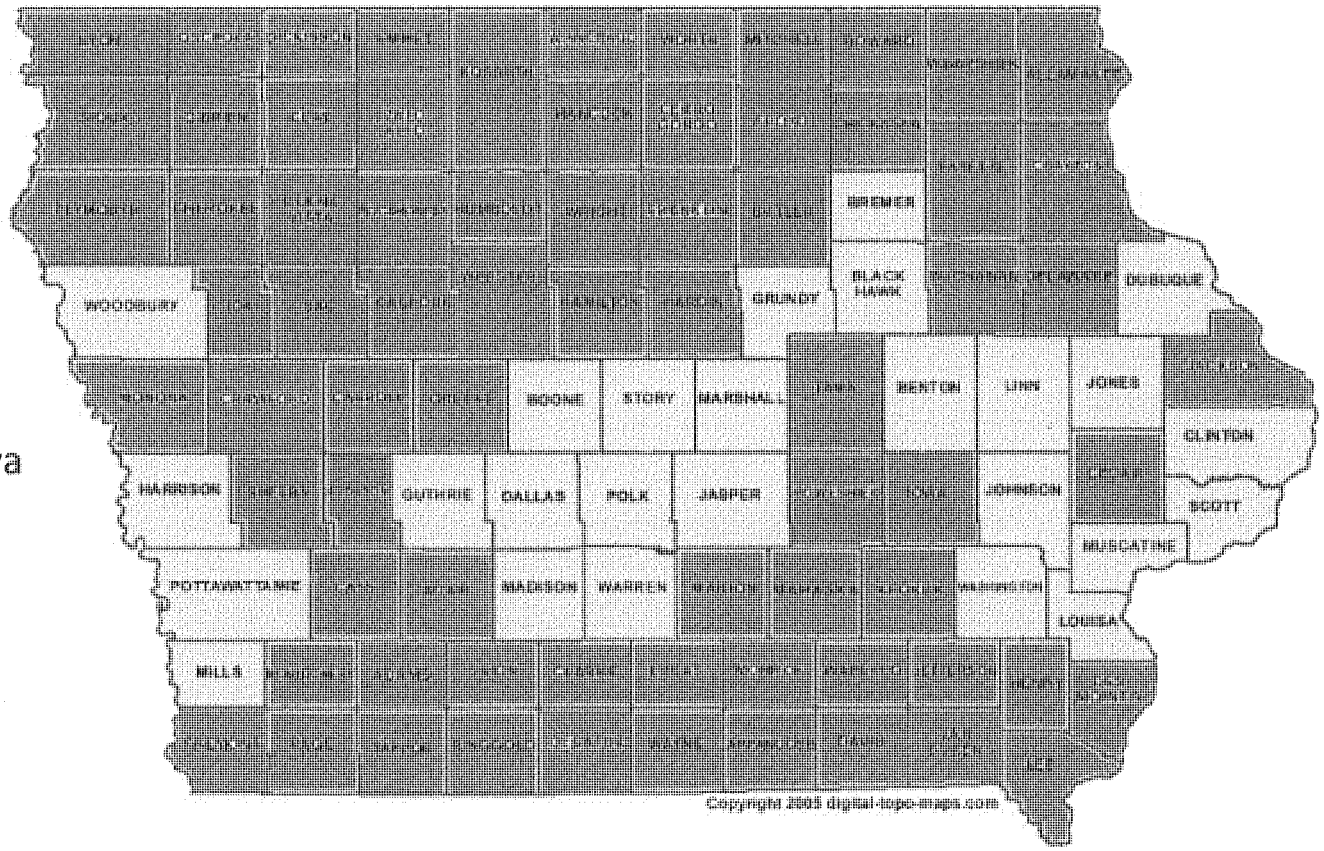
Iowa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GUTHRIE
DALLAS
POLK
JASPER
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WARREN
LOUISA
MILLS
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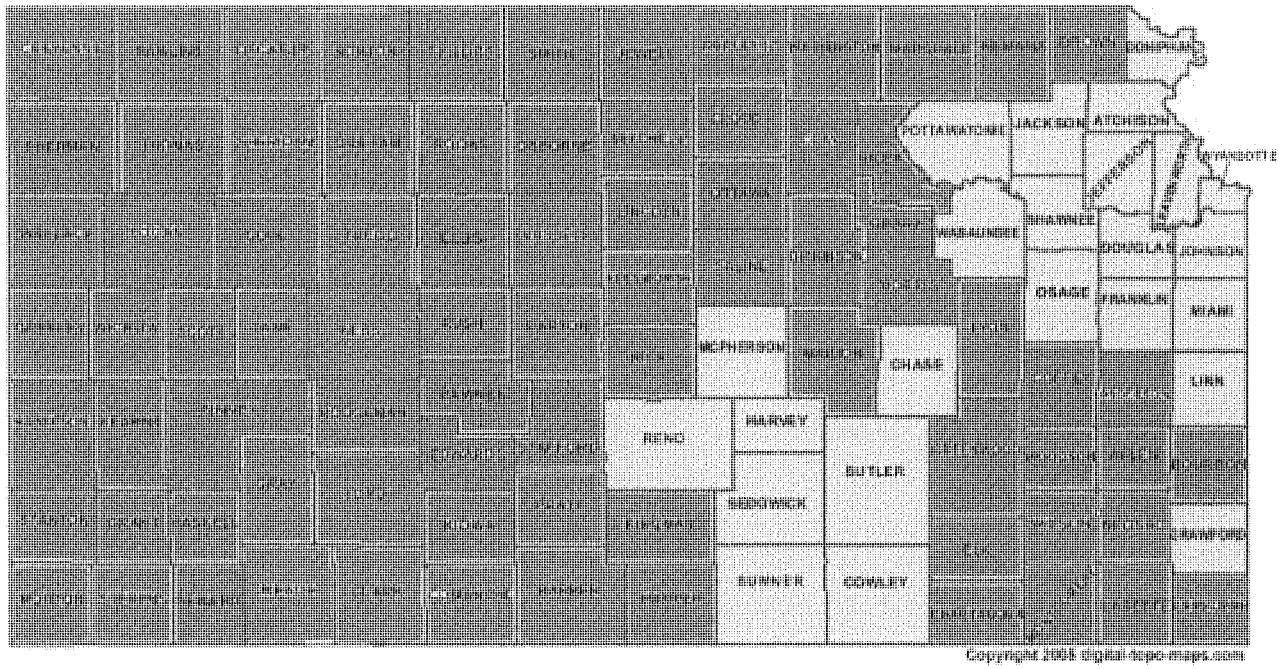
Kansas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SEDGWICK
SUMNER
COWLEY
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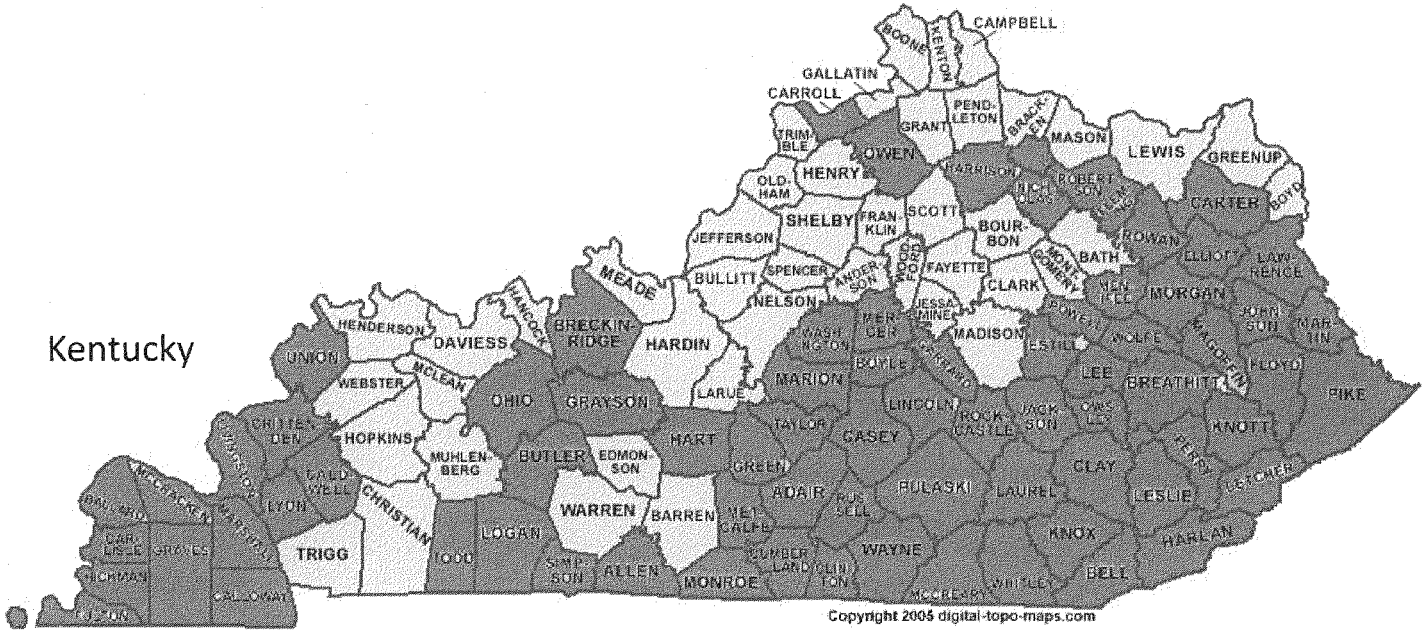
Kentucky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OWEN
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OLD-HAM
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MORGAN
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CRITTE-DEN
HOPKINS
LINCOLN
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KNOTT
TAYLOR
CASEY
HART
MUHLEN-BERG
BUTLER
EDMON-SON
GREEN
CLAY
PERRY
LETCHER
CALD-WELL
CHRISTIAN
ADAIR
PULASKI
LAUREL
LESLIE
LYON
WARREN
BARREN
MET-CALFE
RUS-SELL
LOGAN
KNOX
HARLAN
TRIGG
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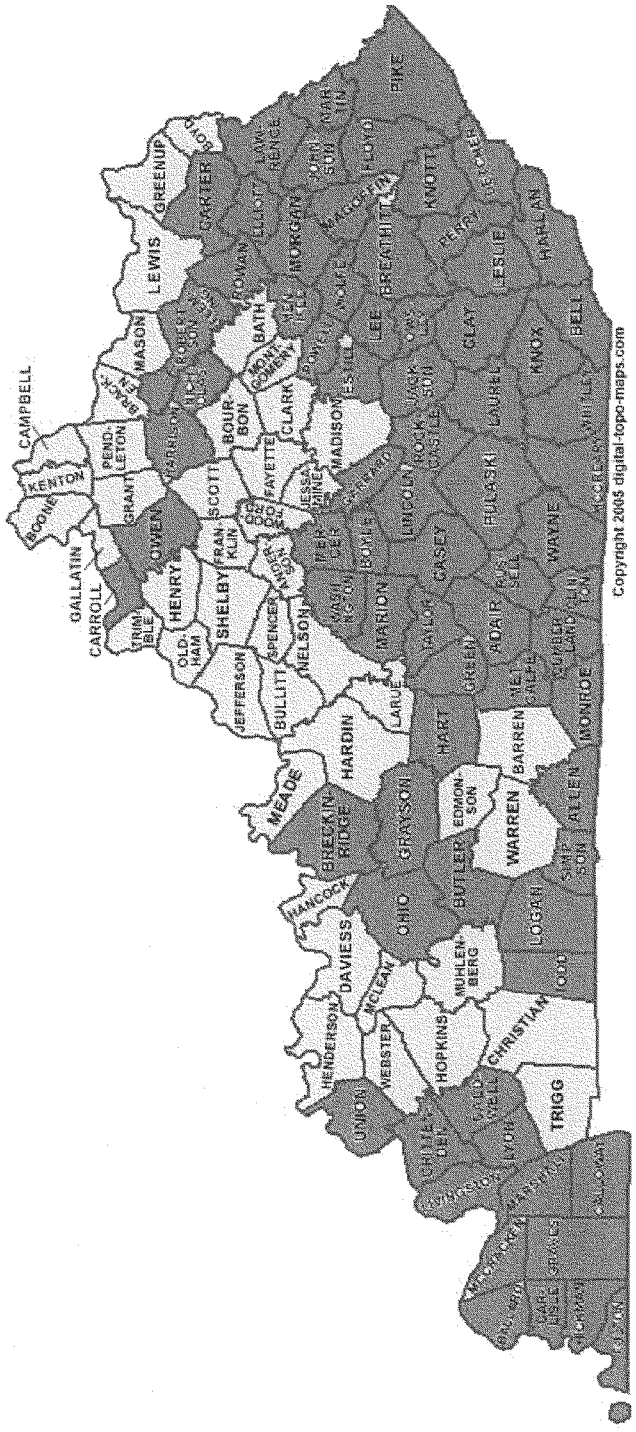
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WEBSTER
HOPKINS
CHRISTIAN
UNION
TRIGG
LYON
CALDWELL
CRITTEN
MARSHALL
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Louisiana

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CADDO
BIENVILLE
JACKSON
DE SOTO
RED RIVER
WINN
TENSAS
NATCHITOCHES
GRANT
LA SALLE
SABINE
RAPIDES
VERNON
AVOYELLES
WEST FELICIANA
EAST FELICIANA
ST. HELENA
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ALLEN
EVANGELINE
ST. LANDRY
POINTE COUPEE
EAST BATON ROUGE
LIVINGSTON
TANGIPAHOA
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IBERVILLE
WEST BATON ROUGE
ASCENSION
ST. JOHN THE BAPTIST
ORLEANS
CAMERON
LAFAYETTE
IBERIA
ST. JAMES
ASSUMPTION
ST. CHARLES
ST. BERNARD
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JEFFERSON
TERREBONNE
PLAQUEMINES
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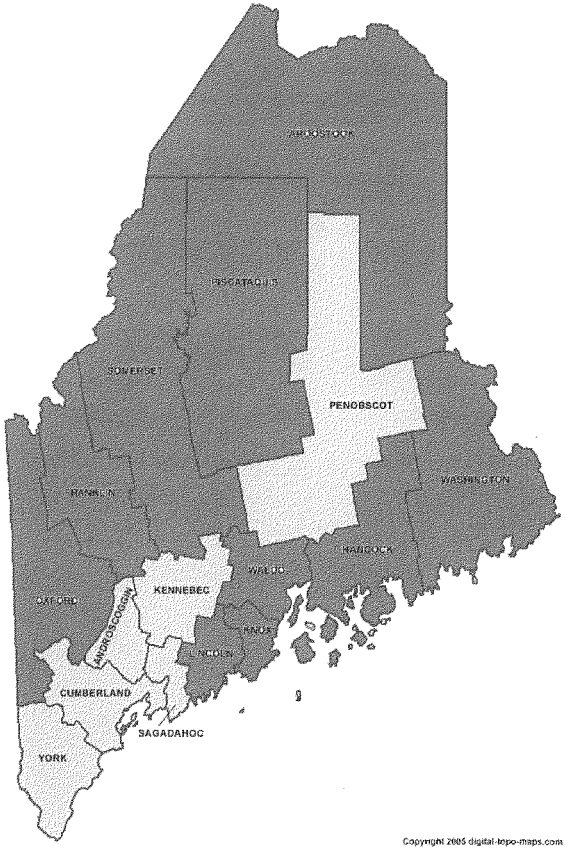
Maine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SAGADAHOC
YORK
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Maryland

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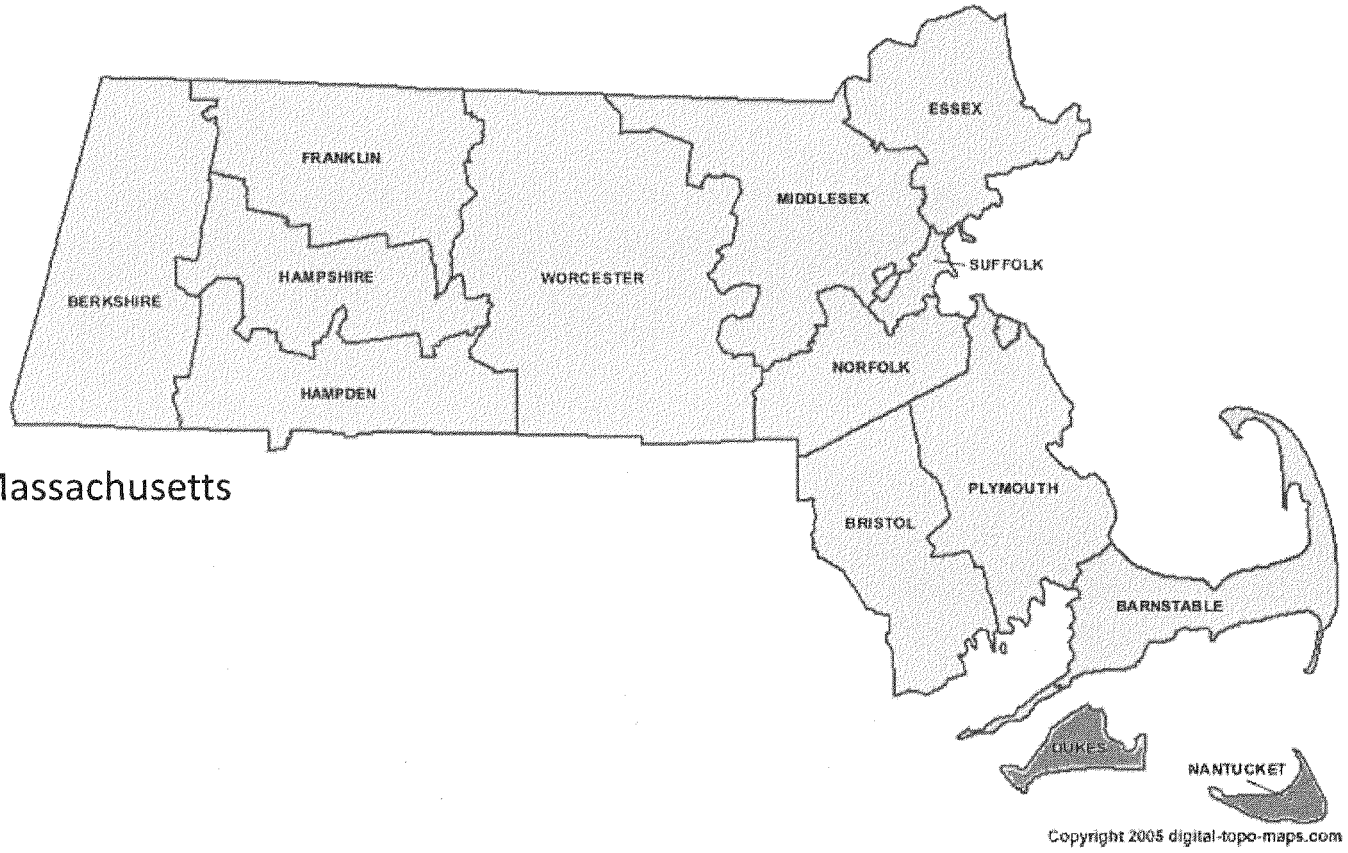

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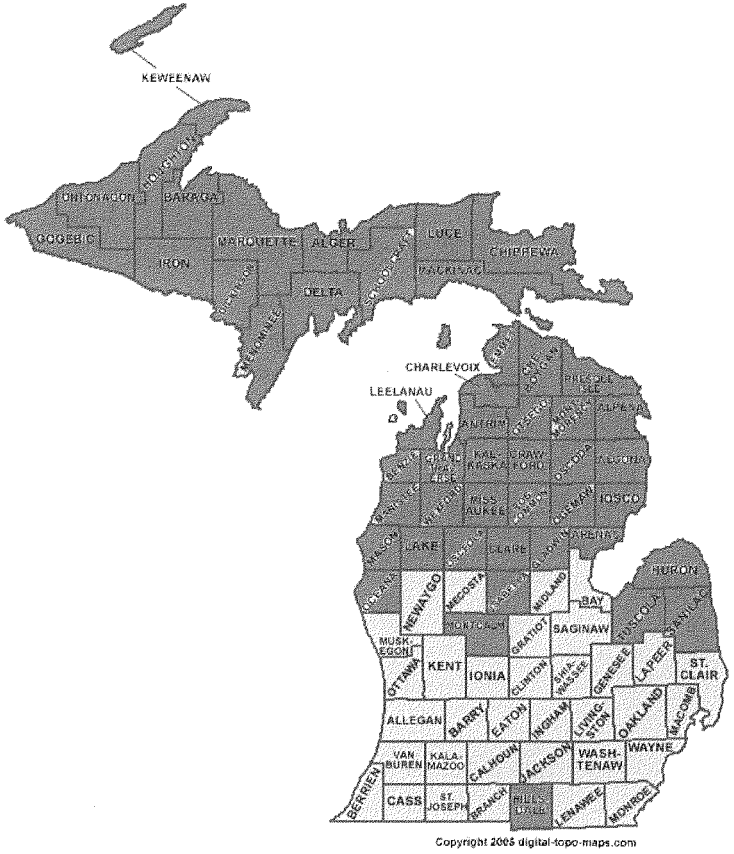
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CHARLEVOIX
LEELANAU
ALPENA
ALCONA
OSCODA
IOSCO
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CLARE
HURON
NEWAYGO
MIDLAND
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SAGINAW
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OAKLAND
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JACKSON
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LENAWEE
MONROE
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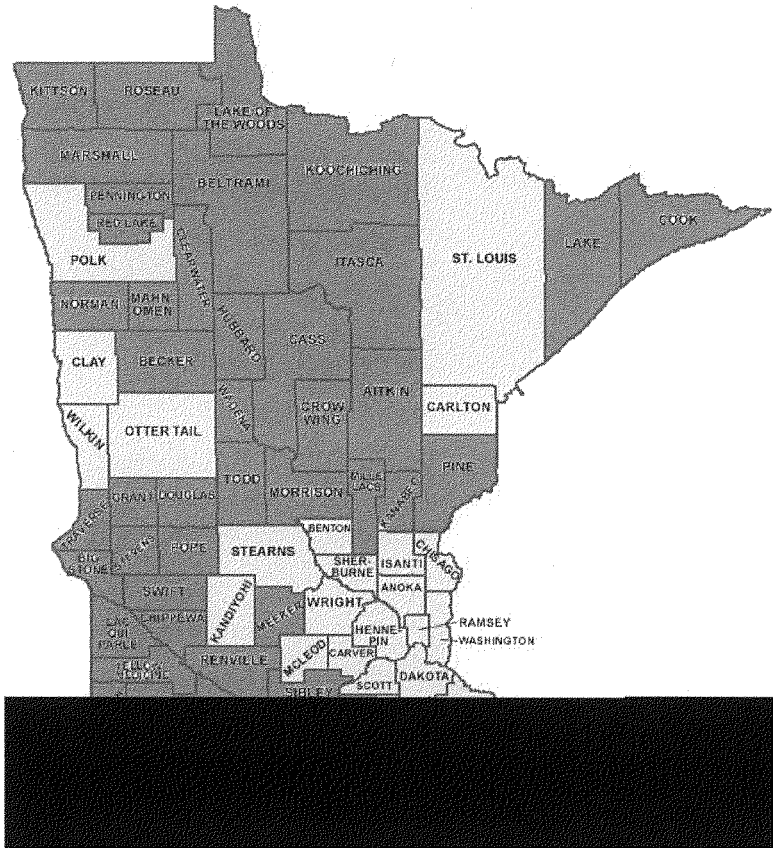
Minnesota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LAKE
COOK
NORMAN
MAHNOMEN
HUBBARD
CASS
CLAY
BECKER
AITKIN
CARLTON
WILKIN
OTTER TAIL
WADENA
CROW WING
PINE
TODD
MORRISON
KITTSON
LACS
GRANT
DOUGLAS
BENTON
POPE
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SHER-BURNE
ISANTI
CHISAGO
BIG STONE
SWIFT
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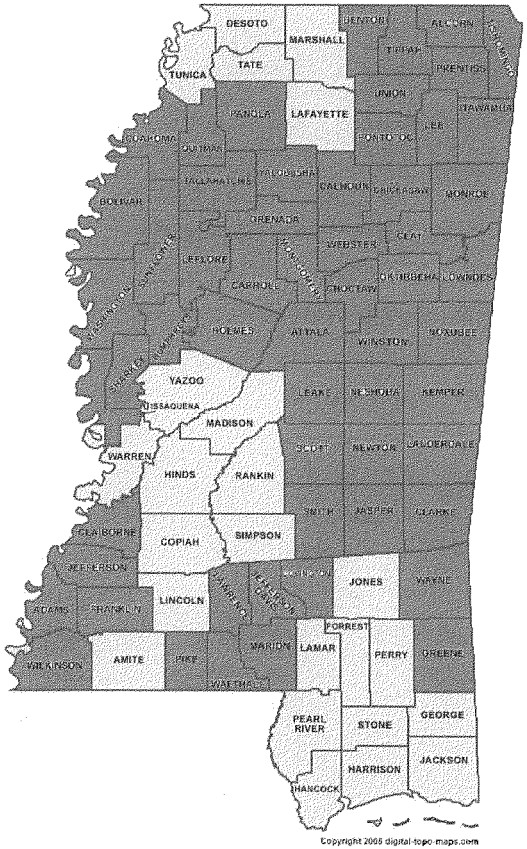
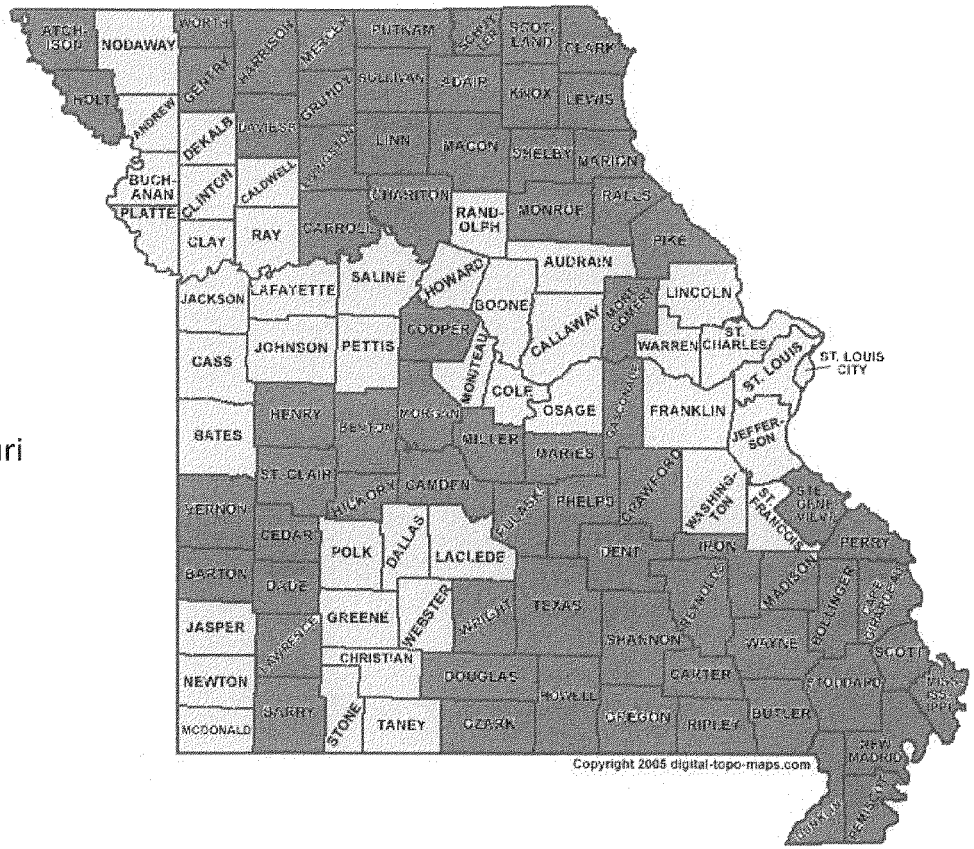
SIBLEY

Mississippi



Missouri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SULLIVAN
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DEKALB
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CEDAR
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LACLEDE
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PERRY
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DADE
WEBSTER
WRIGHT
TEXAS
REYNOLDS
MADISON
BOLLINGER
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GREENE
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SCOTT
CHRISTIAN
DOUGLAS
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BARRY
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OREGON
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BUTLER
MCDONALD
NEW MADRID
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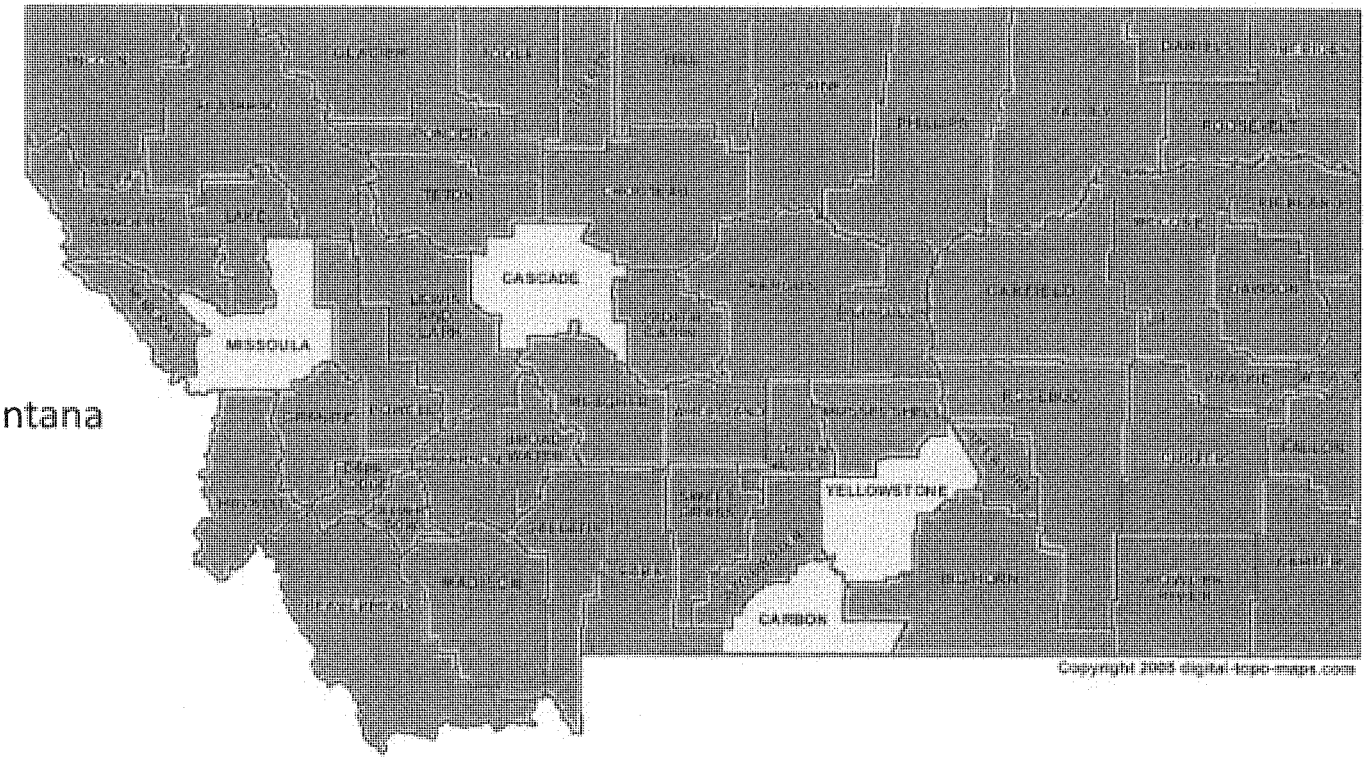
Montana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YELLOWSTONE
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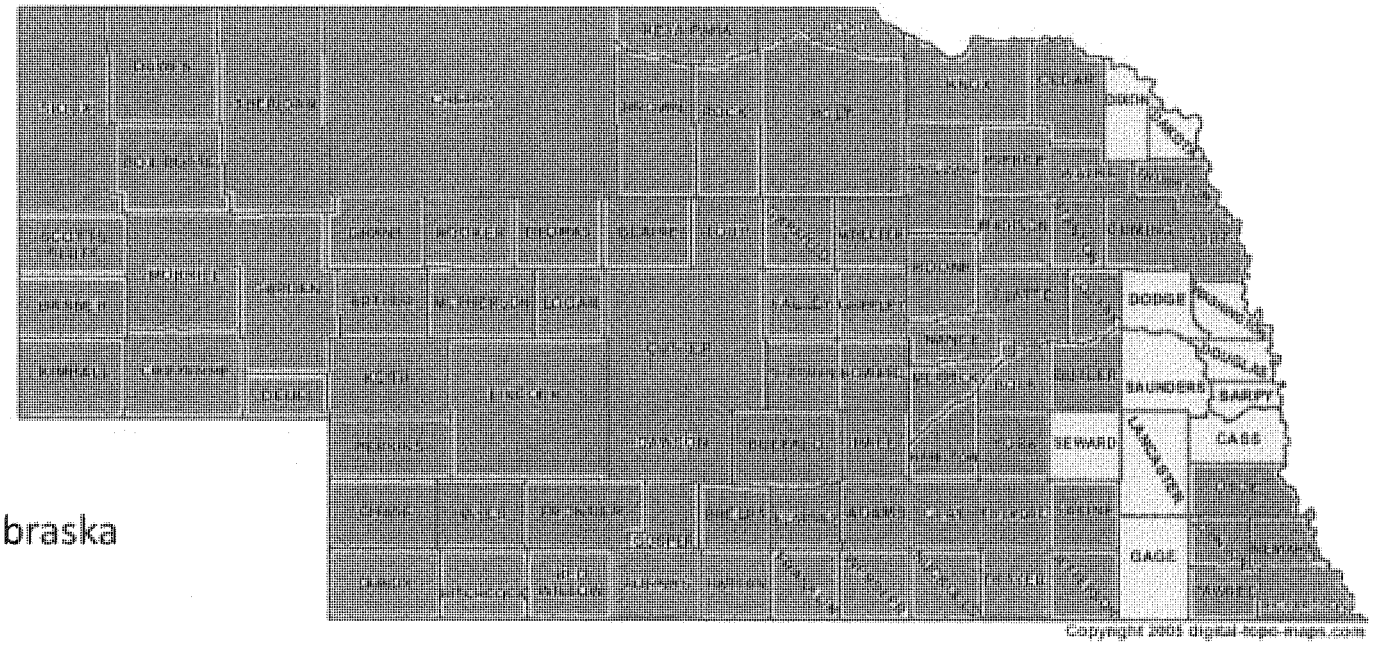
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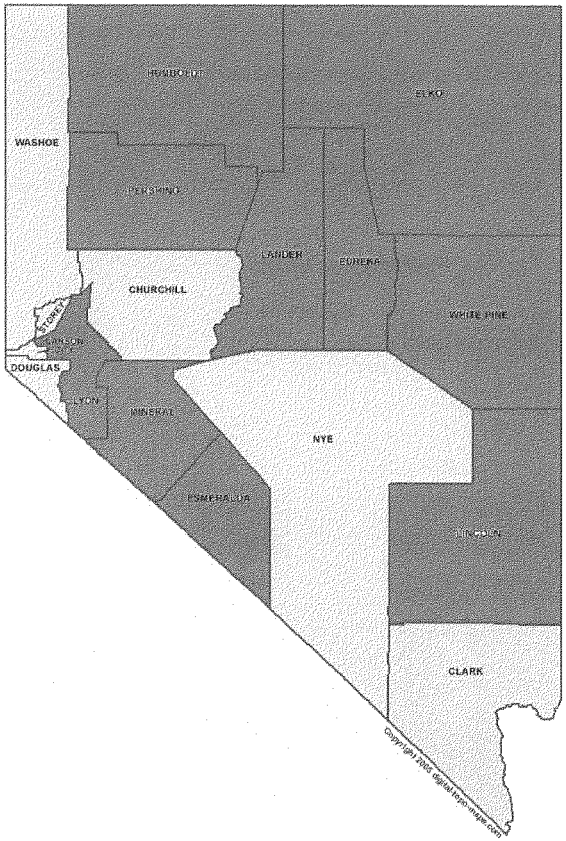
Nebraska

Nevada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LINCOLN
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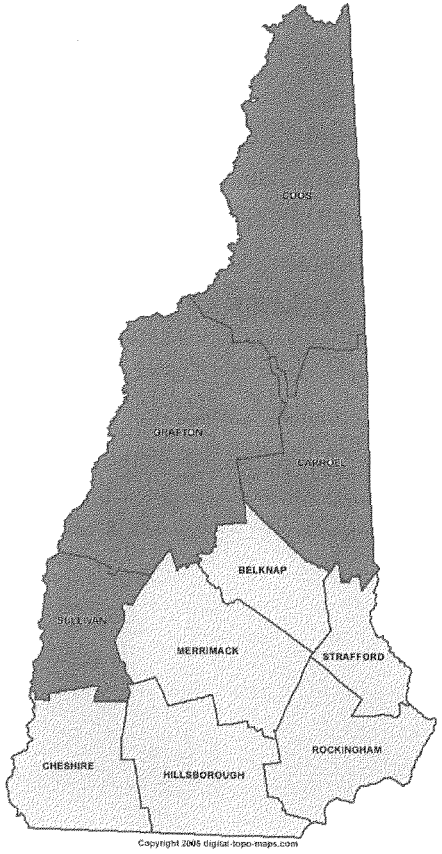
New Hampshire



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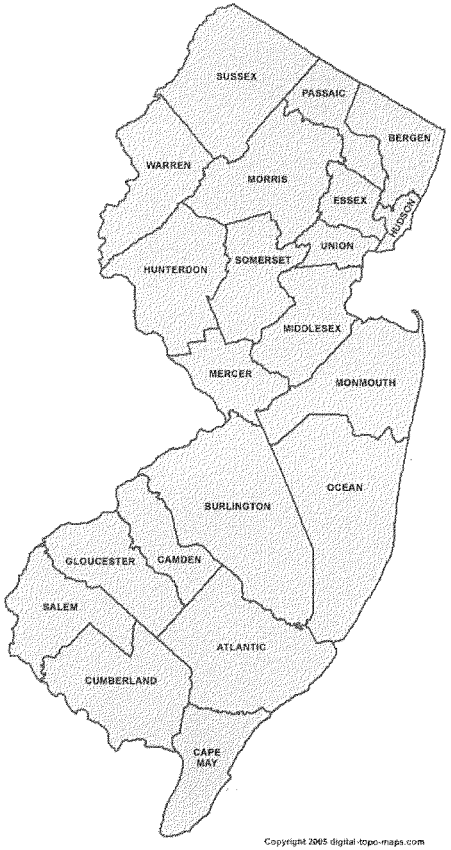
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CUMBERLAND
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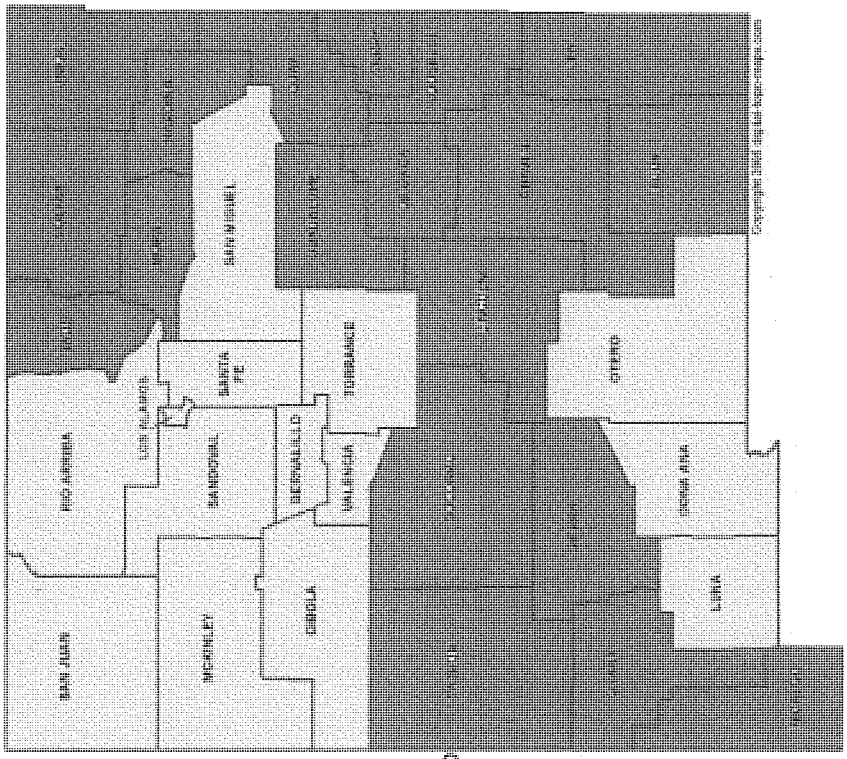
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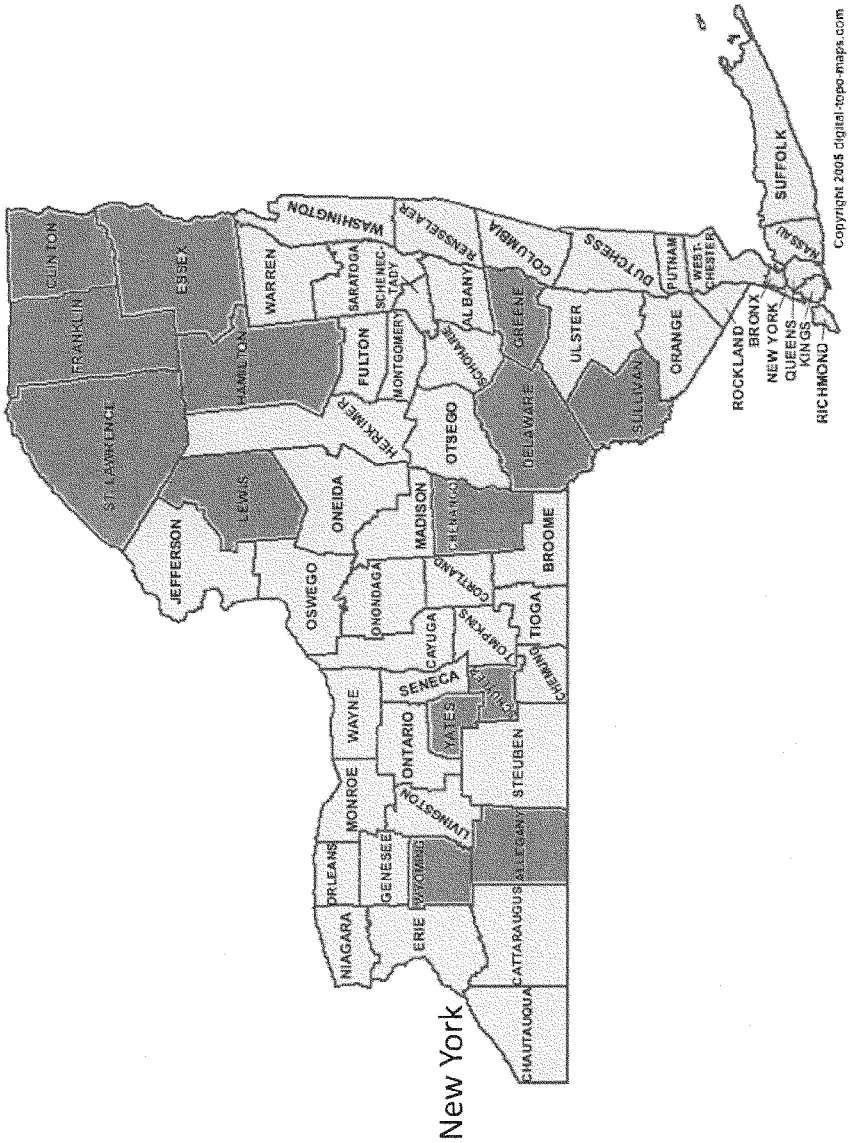
TORRANCE
OTERO
EDDY
LEA
LUNA

New Mexico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SCHOHARIE
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ORANGE
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NASSAU
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MADISON
CHENANGO
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OSWEGO
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CORTLAND
TIOGA
CAYUGA
TOMPKINS
CHEMUNG
SENECA
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LIVINGSTON
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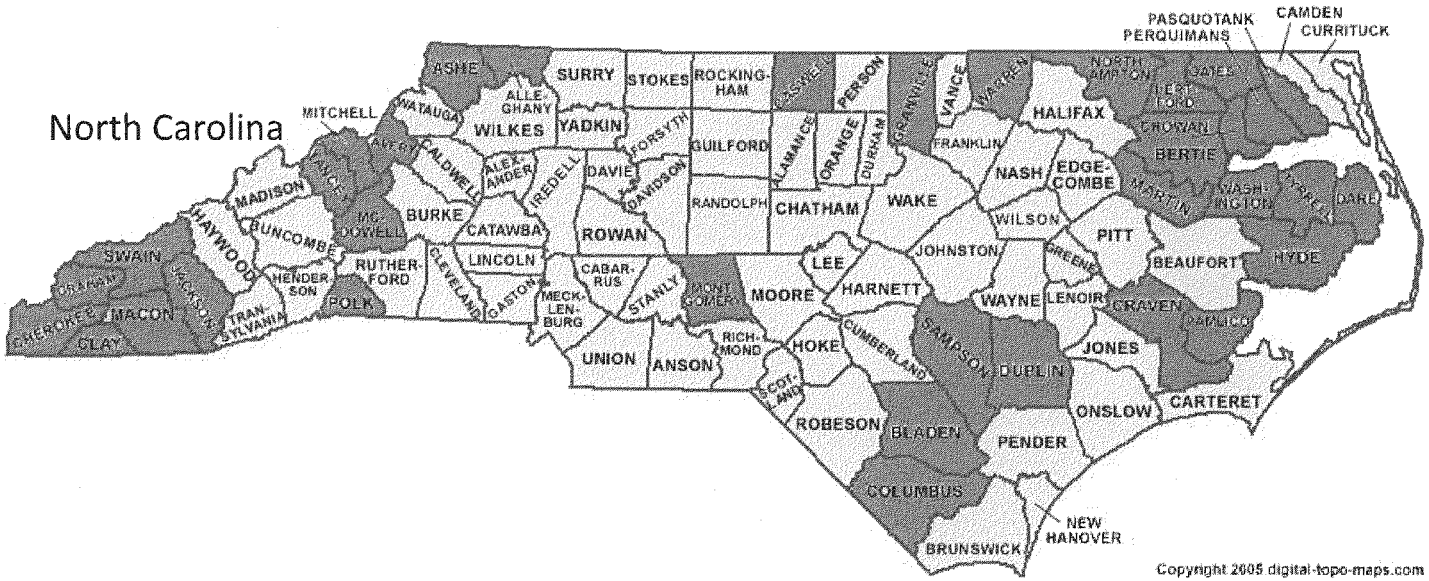
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STOKES
ROCKING-HAM
CASWELL
PERSON
GRANVILLE
VANCE
WARREN
NORTH-AMPTON
GATES
HERT-FORD
HALIFAX
WATAUGA
ALLE-GHANY
WILKES
YADKIN
FORSYTH
GUILFORD
ALAMANCE
ORANGE
DURHAM
FRANKLIN
CHOWAN
BERTIE
AVERY
CALDWELL
ALEX-ANDER
IREDELL
DAVIE
DAVIDSON
RANDOLPH
CHATHAM
WAKE
NASH
EDGE-COMBE
MARTIN
WASH-INGTON
PASQUO-TANK
DARE
MADISON
YANCEY
MC-DOWELL
BURKE
CATAWBA
ROWAN
WILSON
PITT
BEAUFORT
HYDE
HAYWOOD
BUNCOMBE
LINCOLN
JOHNSTON
GREENE
SWAIN
GRAHAM
JACKSON
HENDER-SON
RUTHER-FORD
CLEVELAND
GASTON
MECK-LEN-BURG
CABAR-RUS
STANLY
MONT-GOMERY
MOORE
LEE
HARNETT
WAYNE
LENOIR
CRAVEN
PAMLICO
CHEROKEE
MACON
TRAN-SYLVANIA
POLK
CLAY
UNION
ANSON
RICH-MOND
HOKE
CUMBERLAND
SAMPSON
DUPLIN
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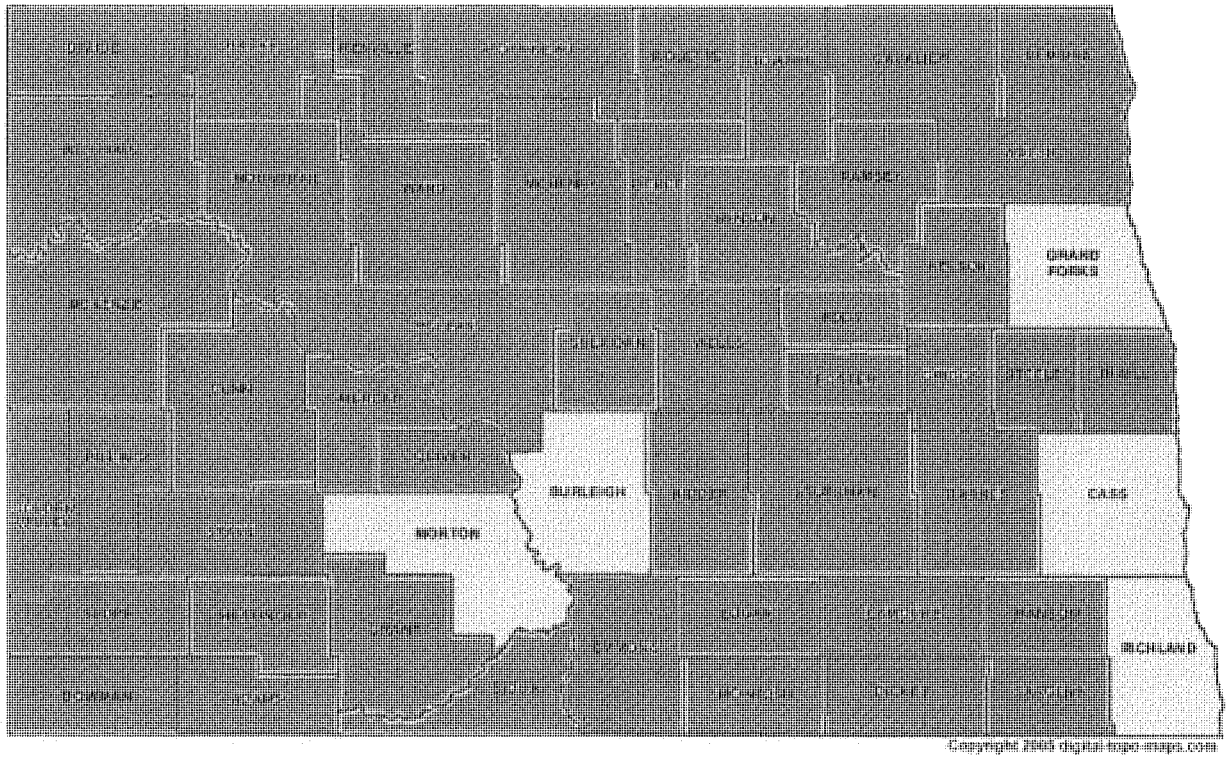
North Dakota



Ohio

WILLIAMS
FULTON
LUCAS
OTTAWA
LAKE
ASHTABULA
GEAUGA
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TRUMBULL
DEFIANCE
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WOOD
SANDUSKY
ERIE
LORAIN
PORTAGE
SUMMIT
MEDINA
HURON
SENECA
PAULDING
PUTNAM
HANCOCK
MAHONING
VAN WERT
ALLEN
WYANDOT
CRAWFORD
RICHLAND
ASHLAND
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STARK
COLUMBIANA
MERCER
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HARDIN
MARION
HOLMES
TUSCARAWAS
CARROLL
JEFFERSON
MORROW
KNOX
LOGAN
SHELBY
UNION
DELAWARE
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WASHINGTON
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VINTON
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CLERMONT
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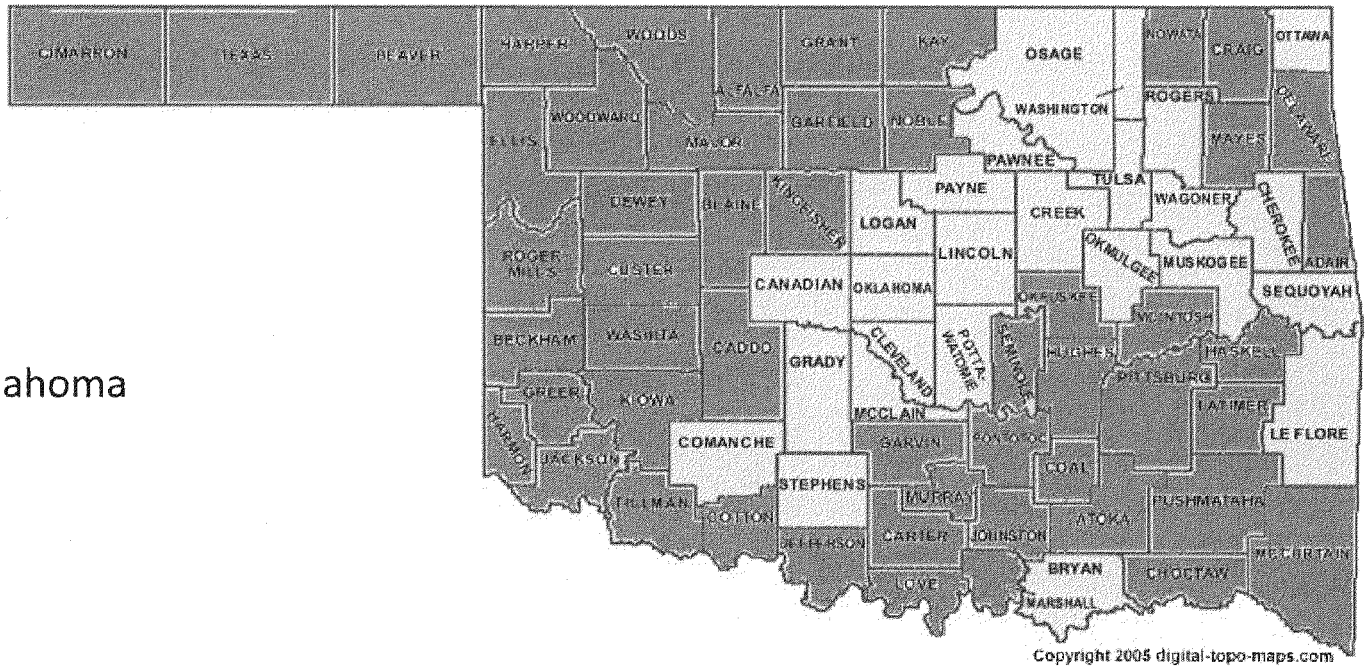
Oklahoma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DELAWARE
ELLIS
MAJOR
PAWNEE
TULSA
WAGONER
CHEROKEE
DEWEY
BLAINE
KINGFISHER
LOGAN
PAYNE
CREEK
ROGER MILLS
CUSTER
CANADIAN
OKLAHOMA
LINCOLN
OKMULGEE
MUSKOGEE
ADAIR
SEQUOYAH
OKFUSKEE
MCINTOSH
BECKHAM
WASHITA
CADDO
GRADY
CLEVELAND
POTTA-WATOMIE
SEMINOLE
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HASKELL
PITTSBURG
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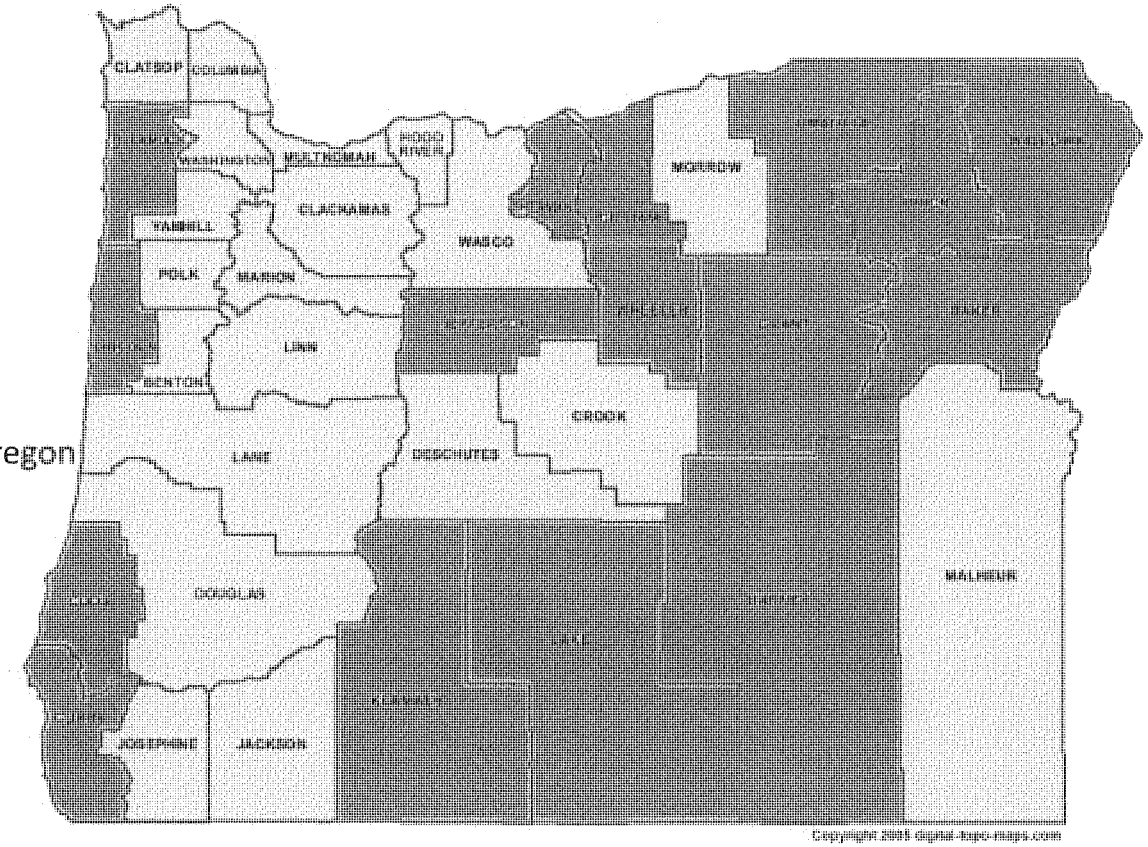
Oregon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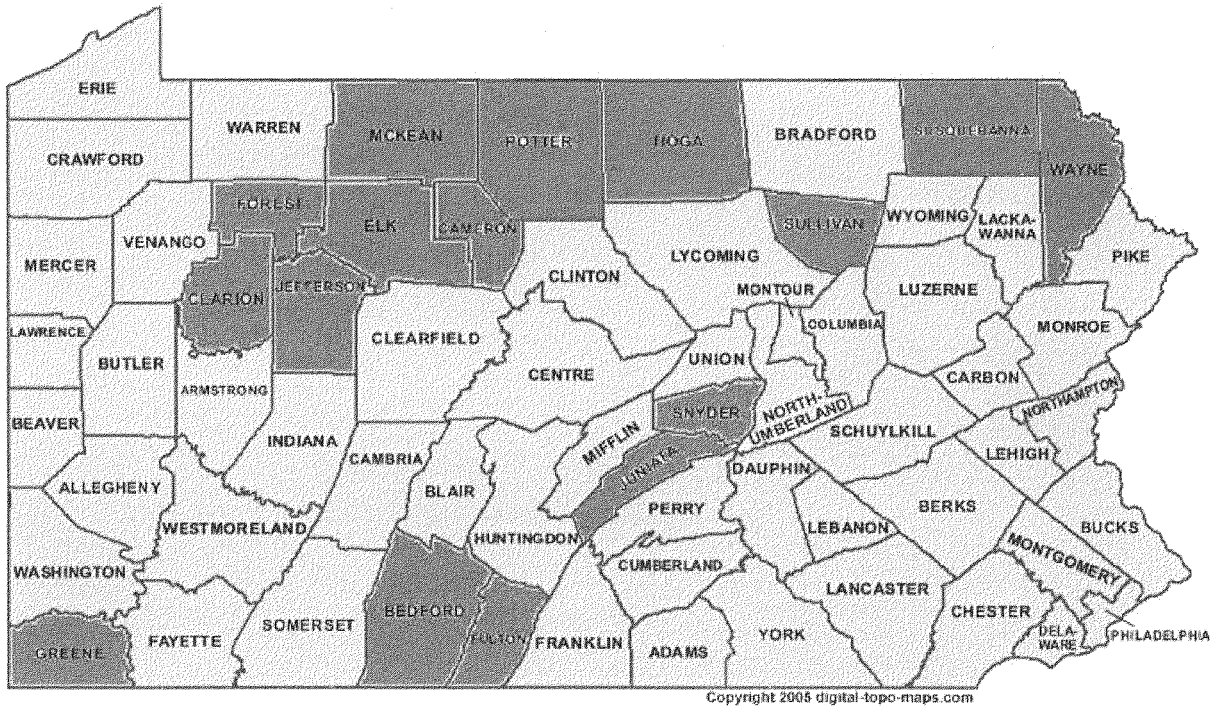
Pennsylvania



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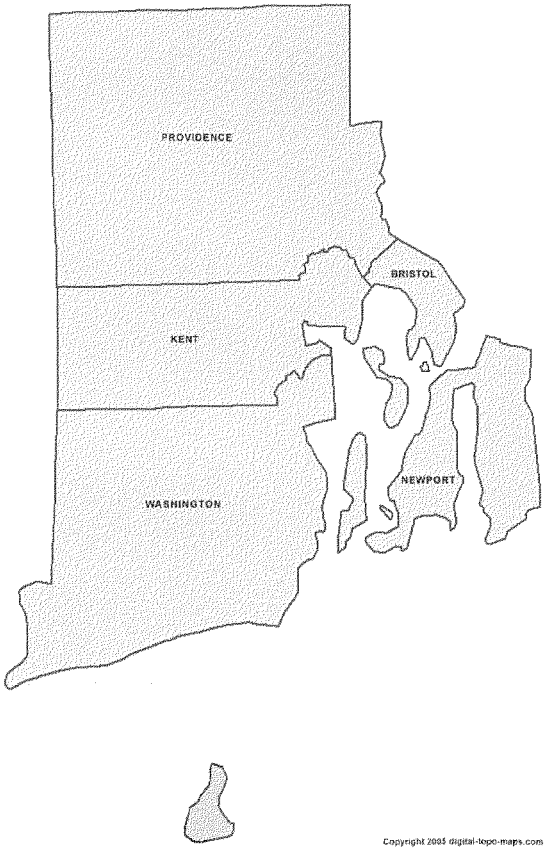

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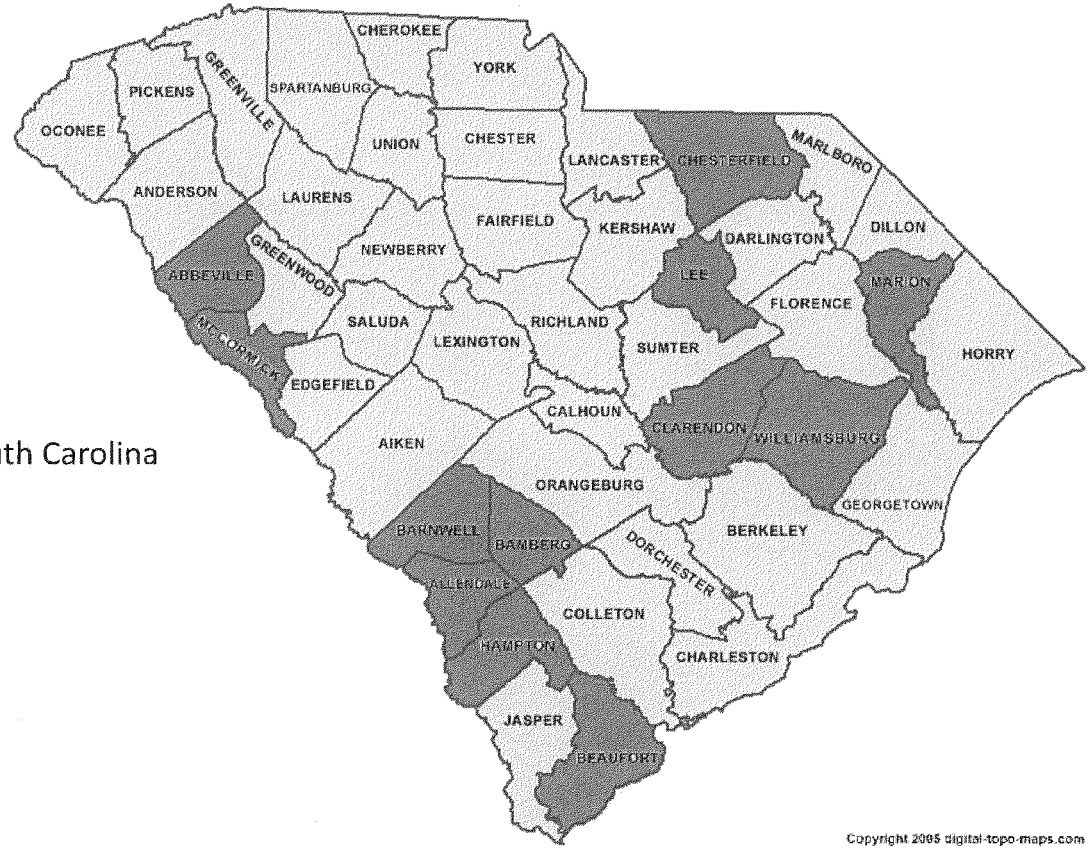

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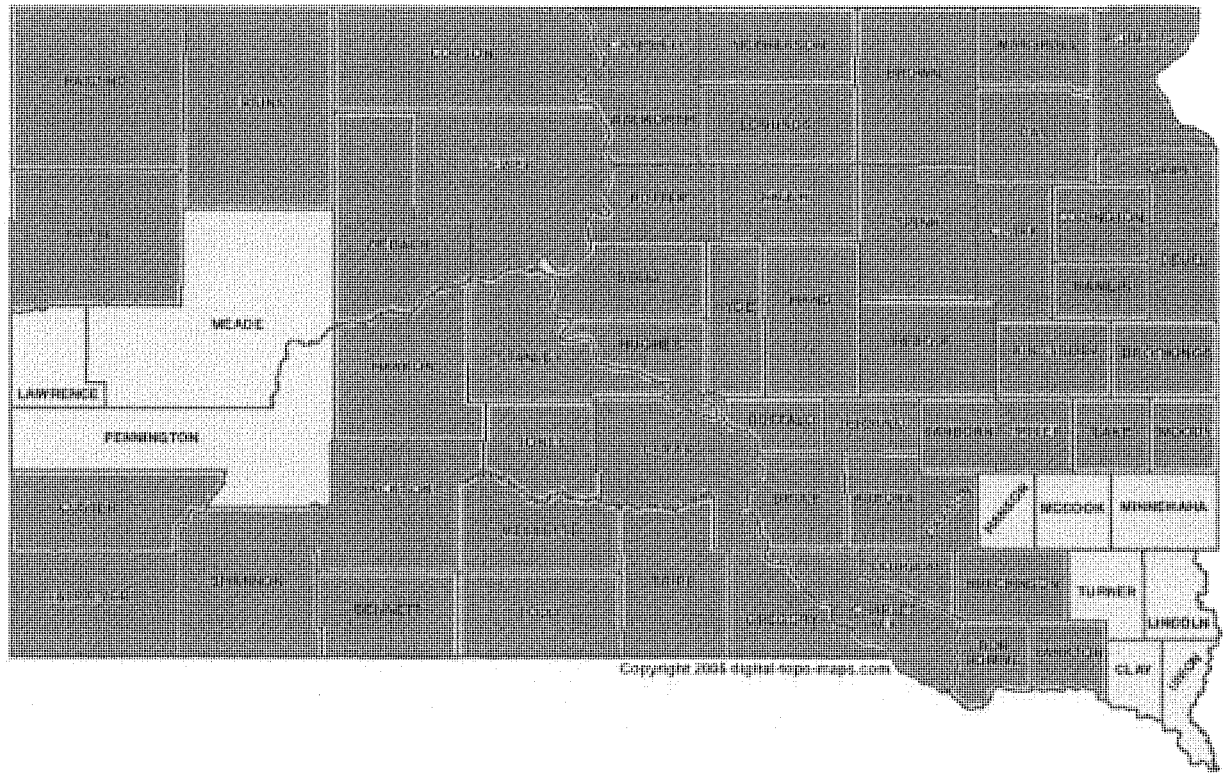

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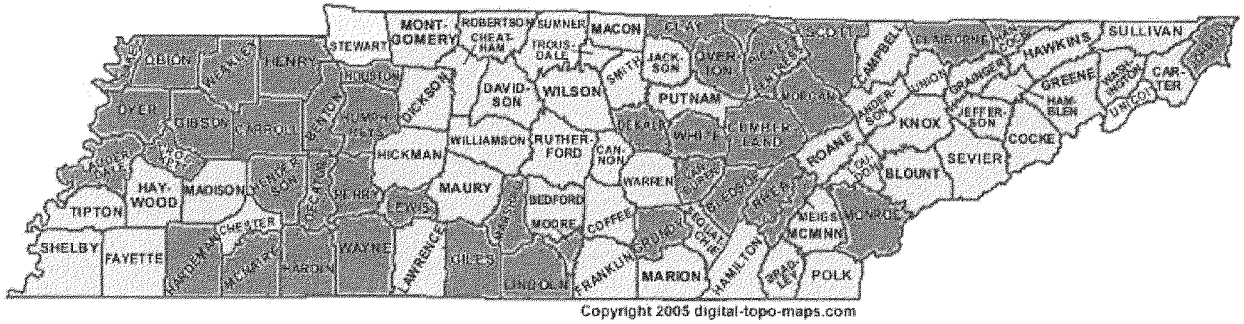

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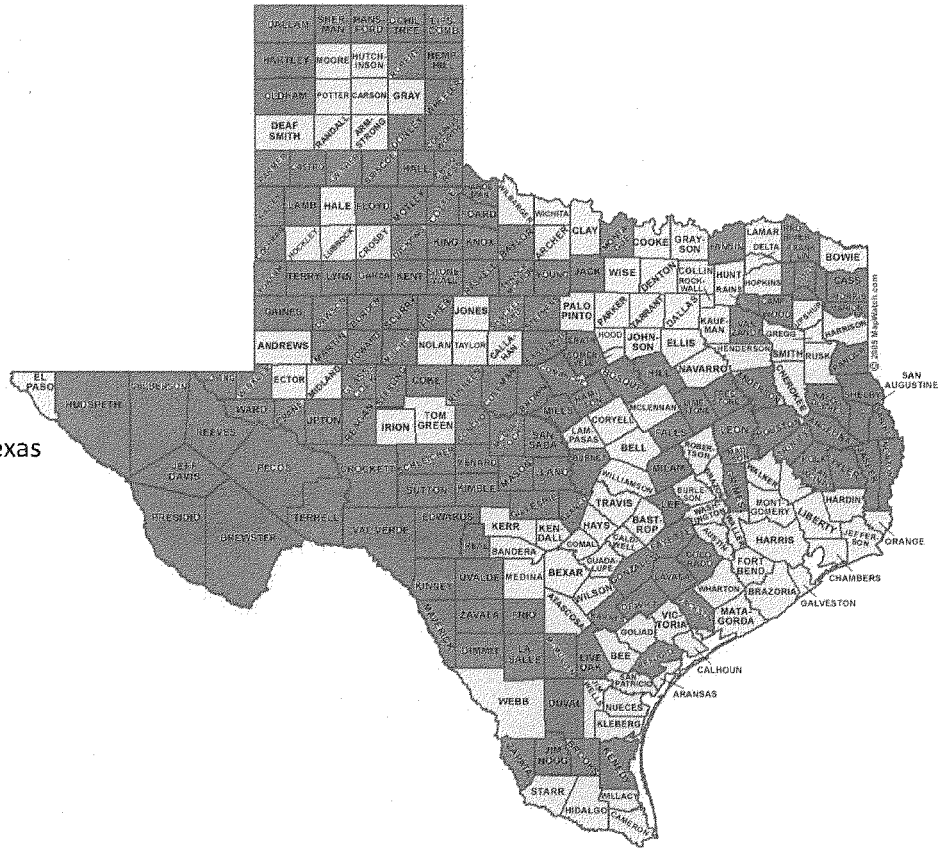
Texas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DALLAS
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BRAZORIA
MATA-GORDA
VIC-TORIA
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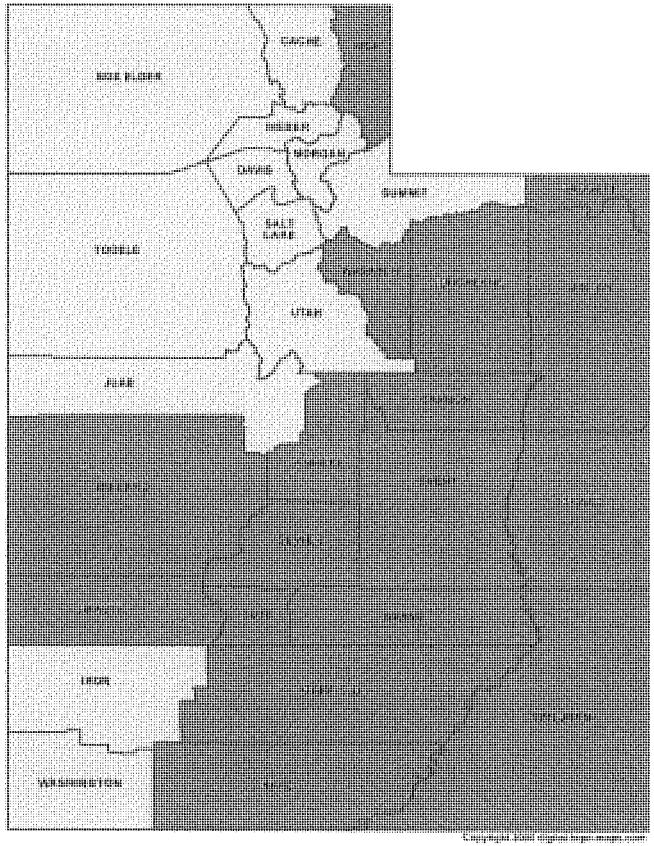
Utah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GRAND
SAN JUAN
UINTA
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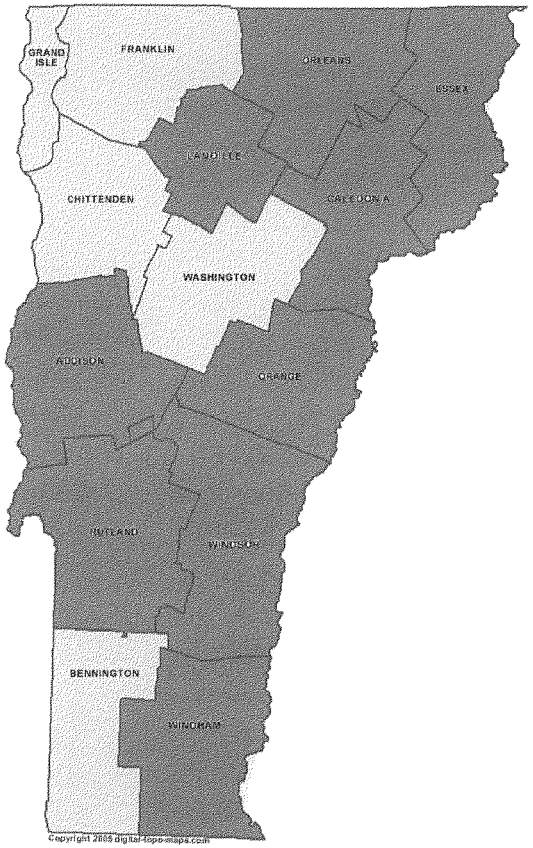
Vermont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WINDSOR
BENNINGTON
WINDHAM
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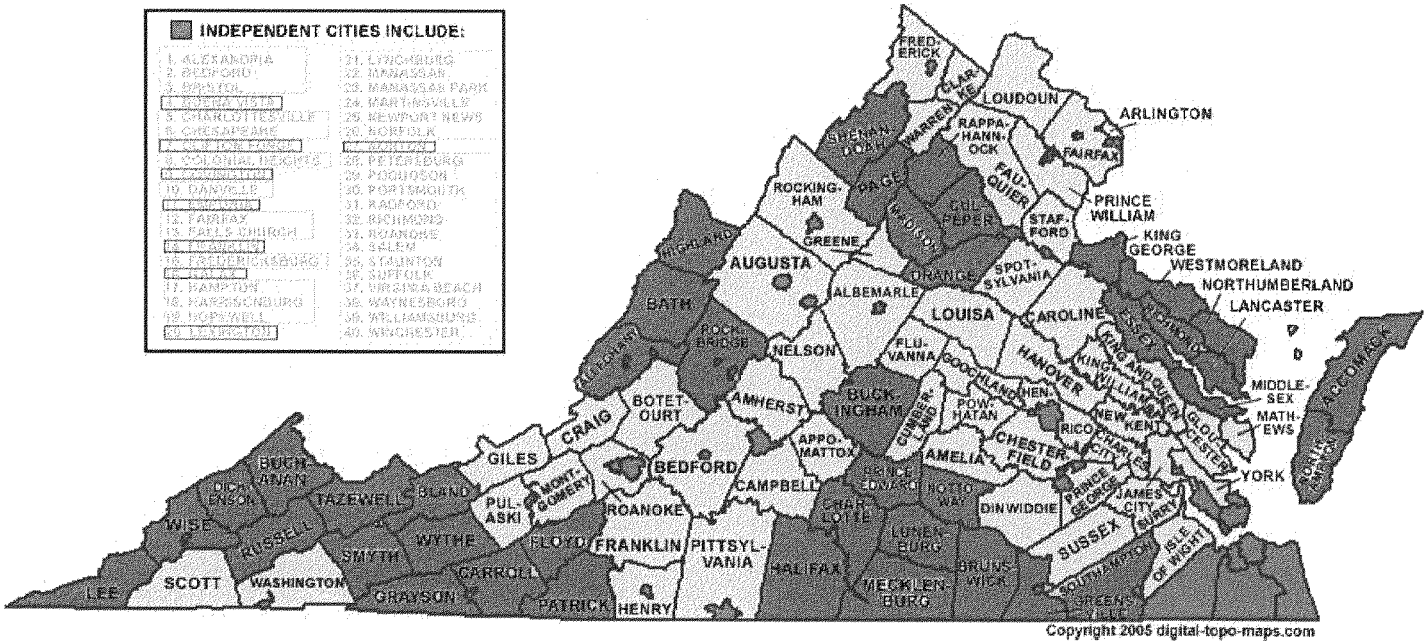
Virginia


INDEPENDENT CITIES INCLUDE:
1. ALEXANDRIA
2. BEDFORD
3. BRISTOL
4. BUENA VISTA
5. CHARLOTTESVILLE
6. CHESAPEAKE
7. COLONIAL HEIGHTS
8. COVINGTON
9. DANVILLE
10. FALLS CHURCH
11. FAIRFAX
12. FALLS CHURCH
13. FREDERICKSBURG
14. HAMPTON
15. HARRISONBURG
16. HOPEWELL
17. LEXINGTON
18. LYNCHBURG
19. MANASSAS
20. MANASSAS PARK
21. MARTINSVILLE
22. NEWPORT NEWS
23. NORFOLK
24. NORTON
25. PETERSBURG
26. POQUOSON
27. PORTSMOUTH
28. RADFORD
29. RICHMOND
30. ROANOKE
31. SALEM
32. STAUNTON
33. SUFFOLK
34. VIRGINIA BEACH
35. WAYNESBORO
36. WILLIAMSBURG
37. WINCHESTER
FRED-ERICK
CLAR-KE
LOUDOUN
ARLINGTON
FAIRFAX
WARREN
RAPPA-HANN-OCK
SHENAN-DOAH
PAGE
FAU-QUIER
ROCKING-HAM
CUL-PEPER
STAF-FORD
PRINCE WILLIAM
KING GEORGE
WESTMORELAND
NORTHUMBERLAND
LANCASTER
GREENE
MADI-SON
ORANGE
SPOT-SYLVANIA
HIGHLAND
AUGUSTA
ALBEMARLE
LOUISA
CAROLINE
BATH
ROCK-BRIDGE
NELSON
FLU-VANNA
GOOCHLAND
HANOVER
KING AND QUEEN
KING WILLIAM
ESSEX
MIDDLE-SEX
MATH-EWS
ALLEGHANY
AMHERST
BUCK-INGHAM
HENRICO
POW-HATAN
NEW KENT
GLOU-CESTER
YORK
CRAIG
BOTET-OURT
APPO-MATTOX
CUMBER-LAND
CHESTER-FIELD
RICHMOND CITY
AMELIA
RICO
GILES
BEDFORD
CAMPBELL
BUCH-ANAN
DICK-ENSON
TAZEWELL
BLAND
MONT-GOMERY
PUL-ASKI
ROANOKE
BEDFORD CITY
HOLI-WAY
PRINCE GEORGE
JAMES CITY
SURRY
WISE
RUSSELL
WYTHE
FLOYD
FRANKLIN
PITTSYL-VANIA
CHAR-LOTTE
DINWIDDIE
SUSSEX
ISLE OF WIGHT
SMYTH
CARROLL
LUNEN-BURG
HALIFAX
BRUNS-WICK
SOUTHAMPTON
LEE
SCOTT
WASHINGTON
GRAYSON
PATRICK
HENRY
MECKLEN-BURG
GREENS-VILLE
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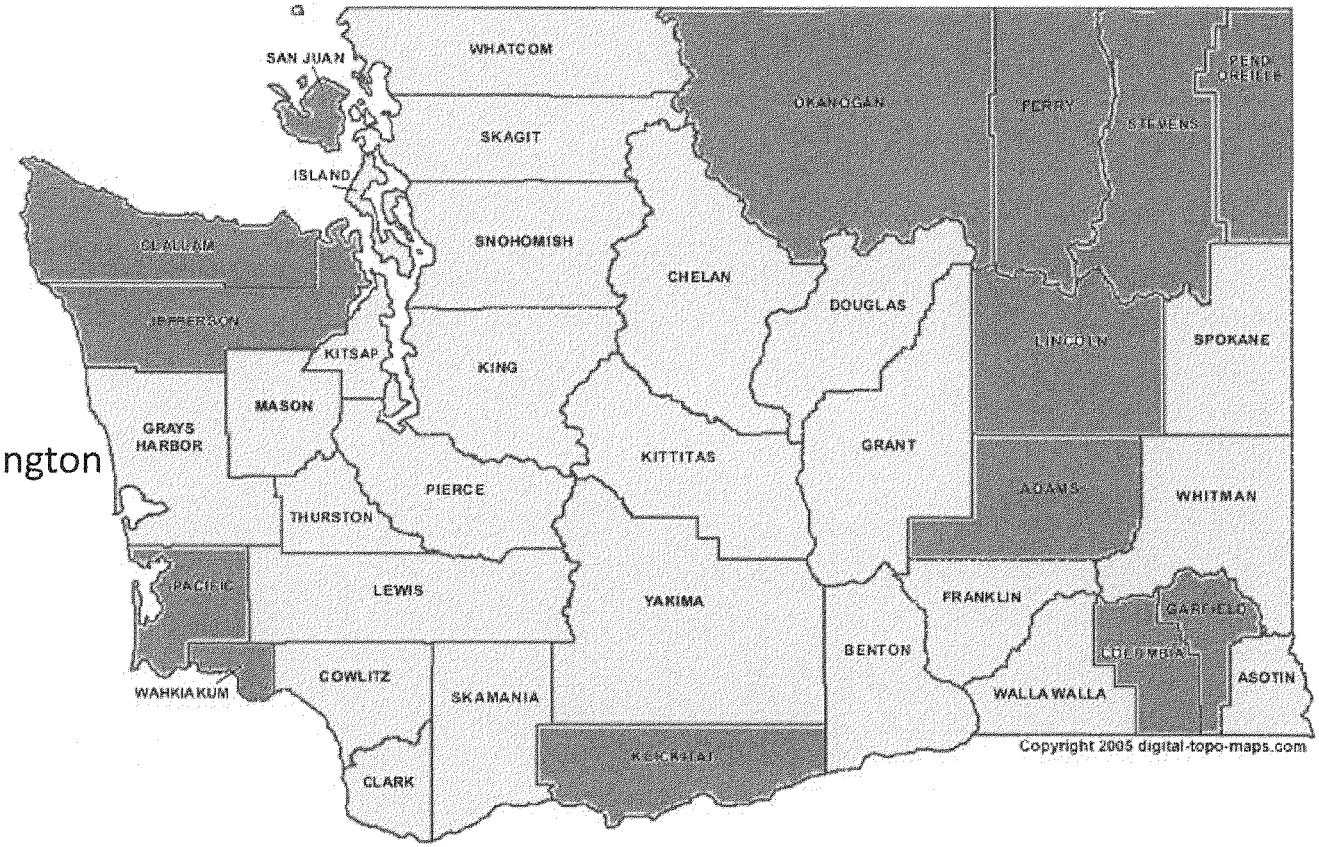
Washington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COWLITZ
CLARK
SKAMANIA
KITTITAS
YAKIMA
KLICKITAT
CHELAN
DOUGLAS
OKANOGAN
GRANT
BENTON
FRANKLIN
FERRY
STEVENS
PEND OREILLE
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ADAMS
WHITMAN
GARFIELD
COLUMBIA
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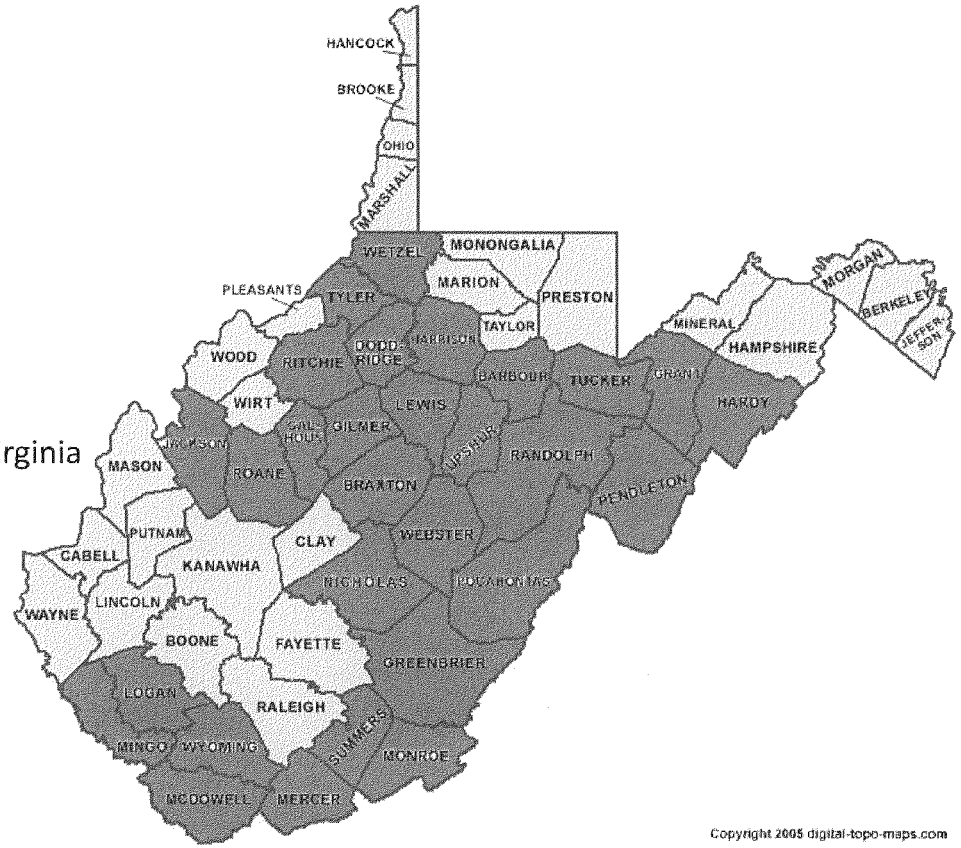
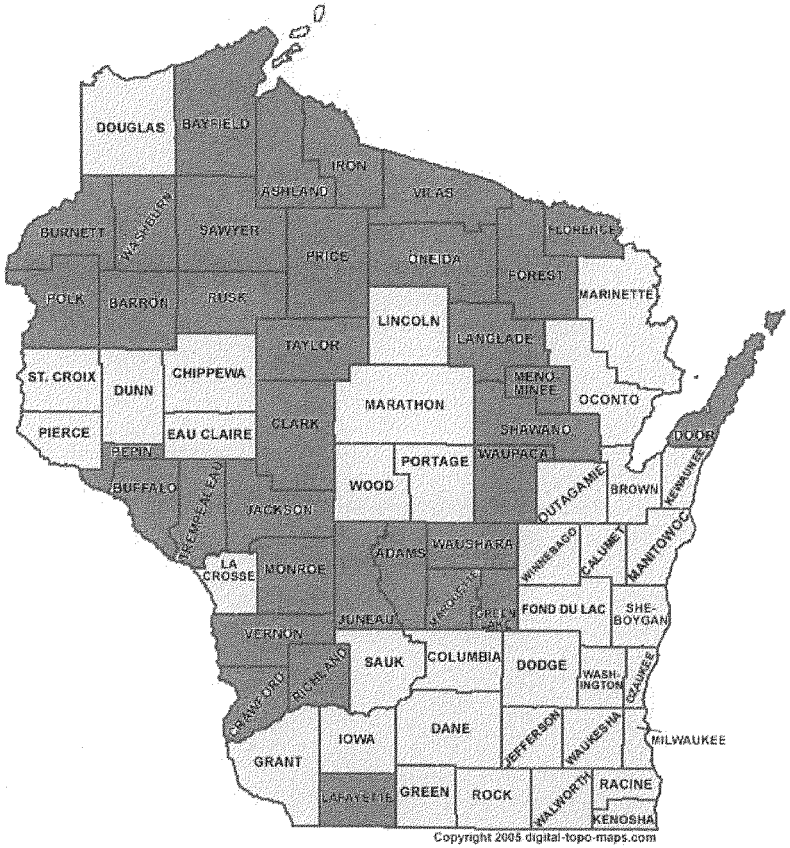
West Virginia



Wisconsin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RUSK
LINCOLN
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ST. CROIX
DUNN
CHIPPEWA
MENO-MINEE
OCONTO
MARATHON
CLARK
PIERCE
EAU CLAIRE
SHAWANO
DOOR
PEPIN
PORTAGE
WAUPACA
KEWAUNEE
BUFFALO
TREMPEALEAU
WOOD
OUTAGAMIE
BROWN
JACKSON
ADAMS
WAUSHARA
WINNEBAGO
CALUMET
MANITOWOC
LA CROSSE
MONROE
MARQUETTE
GREEN LAKE
FOND DU LAC
SHE-BOYGAN
JUNEAU
VERNON
SAUK
COLUMBIA
DODGE
WASH-INGTON
OZAUKEE
CRAWFORD
RICHLAND
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WAUKESHA
MILWAUKEE
IOWA
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Wyoming

August 25, 2013 7:00 PM

40 Million Mistakes: Is your credit report accurate?

The following script is from "40 Million Mistakes" which aired on Feb. 10, 2013 and was rebroadcast on Aug. 25, 2013. Steve Kroft is the correspondent. James Jacoby and Michael Karzis, producers.

Whether we like it or not, we live in an age where much of what goes on in our daily lives is monitored, collected and sold to interested parties -- our driving records, our medical history, our Internet traffic and, most importantly, our credit information.

A mistake on your credit report can cost you money. It can increase the interest you pay on loans, prevent you from getting a mortgage or buying a car, landing a job or getting a security clearance. Its not uncommon. And as we first reported in February, a government study indicated that as many as 40 million Americans have a mistake on their credit report. Twenty million have significant mistakes.

And our own investigation of the credit reporting industry shows that those mistakes can be nearly impossible to get removed from your record.

Consumer credit reporting is a four billion dollar a year industry dominated by three large companies: Experian, TransUnion and Equifax. They keep files on 200 million Americans and traffic in our financial reputations. They make their money gathering information from people we do business with and selling it to banks, merchants, insurance companies, and employers and they use it to make judgments on our creditworthiness and reliability. But now the reliability of the industry is being questioned in an 8-year Federal Trade Commission. Jon Leibowitz is the chairman.

Jon Leibowitz: Here's what we found. Some pretty troubling information. One out of five Americans has an error on their credit report. And one out of 10 has an error on their credit report that might lower their credit score.

Steve Kroft: I'm trying to think of another industry where a 20 percent error rate would be acceptable. That's a pretty high error rate.

Jon Leibowitz: It's a pretty high error rate.

Mike DeWine: I think the more we look at this and the more the American people know about this, the madder they're going to get.

Ohio Attorney General Mike DeWine has opened his own investigation into the credit reporting industry which for years has blamed mistakes on banks and merchants that provide them with bad information. But DeWine argues that the fault lies with the industry for what he says are clear violations of the Fair Credit Reporting Act.

Steve Kroft: Do these companies have a legal responsibility to make sure that the information is accurate?

Mike DeWine: The federal law says that if you believe that there is a mistake, you can go to them and they have an obligation to do a reasonable investigation. They're not doing a reasonable investigation. They're not doing an investigation at all.

Every day, DeWine's office fields calls from desperate constituents who can't get the credit reporting agencies to answer their questions or correct mistakes on their report like paid bills listed as delinquent, closed accounts listed as open, and bad debts that belong to other people with similar names or social security numbers.

Mike DeWine: The problem is not that they make mistakes. It's they won't fix the mistakes. It literally is like this-- you know, guy behind the curtain in "The Wizard of Oz." You really don't know what he's doing. It really is a secret operation that is so hard to crack.

Eight million people a year file disputes about their credit report which usually requires a visit to the Experian, TransUnion or Equifax websites. They are primarily designed to sell you premium products, not resolve a dispute which was what I was trying to do. There's a toll-free number you can call which is likely to connect you to someone on a faraway continent.

[Kevin at credit reporting agency: Thank you for calling. My name is Kevin. How may I help you?

Steve Kroft: Where are you located?

Kevin at credit reporting agency: India.

Steve Kroft: India?]

But regardless of where they are or who you talk to, they won't be much help.

Steve Kroft: So, really, you can't do anything for me. I've just been talking to you for 15 minutes. I mean, the only thing you can do is to tell me to fill it out online.

[Employee at credit reporting agency: Yes, Mr. Kroft.

Steve Kroft: Okay, thank you.]

Besides the toll-free number, they also give you a post office box address where you can send a letter and documents supporting your claim. In each case, it's extremely unlikely that anyone with the authority to resolve your dispute will ever actually see it.

Ask Sandra Cortez, a California accountant, whose credit report confused her with an international drug trafficker. It took her five years to get it fixed.

Or David Smith, a retired Army officer whose credit report listed a bankruptcy that wasn't his and triggered a foreclosure proceeding against his house in South Carolina. He is still dealing with the fallout.

Or Judy Thomas, a trauma nurse with a horror story worthy of Hitchcock or Kafka.

Judy Thomas: There's nobody to go to. There's nobody. You just keep making phone calls and you just keep writing disputes and you keep sending them your Social Security number. And they don't care.

Thomas, who manages two medical centers near Cleveland, says it all began in 1999 when she went shopping for a new dress and applied for a store credit card to get a 15 percent discount. She was denied.

Steve Kroft: Was that the first time you'd ever been denied credit?

Judy Thomas: Yes, very first time.

Steve Kroft: Ever?

Judy Thomas: Ever, ever.

But certainly not the last. It became a regular occurrence. The personal credit reports she got from Experian, TransUnion and Equifax were all clean, and without blemish. Yet she kept getting rejected and couldn't find out why.

Judy Thomas: I would get a consumer report and it would look fine. I would go to the bank. And they would tell me, "Oh no, you have all this debt." But no one would tell me what was on there.

Steve Kroft: They wouldn't tell you what the debt was? And they wouldn't give you a copy of the report that they had.

Judy Thomas: No. No.

It took Judy Thomas several years to discover what almost no one knows -- that the credit reports the agencies send to you are different than the ones that they sell to banks, merchants and mortgage brokers. And she only found that out when a loan officer left her file on his desk and walked out of the room.

Steve Kroft: And what did you see?

Judy Thomas: I saw debt from Utah Medical Center. I saw debt from a veterinarian clinic in Utah. I saw collections for a Judith Kendall.

Steve Kroft: Judith Kendall, not Judy Thomas?

Judy Thomas: Correct.

Steve Kroft: What's going through your mind?

Judy Thomas: What the hell's she doing on my credit report? What the hell is her debt doing on my credit report?

Steve Kroft: You think this would be a fairly simple thing to get straightened out?

Judy Thomas: You would think. You would think.

Judy Thomas (in kitchen): This is my Judy Thomas versus Judith Kendall file.

Instead it became a six-year battle with credit agencies, requiring box loads of correspondence to try and prove that she was Judy Thomas, not Judith Kendall, all to no avail.

Steve Kroft: You got a lot of time invested in this. How important are these documents?

Judy Thomas: It's my life.

There are logs of daily phone calls to dispute centers, hundreds of letters to Experian, Equifax and TransUnion, even correspondence from Judith's Kendall's creditors in Utah, acknowledging that the debts on her credit report aren't hers.

Judy Thomas: I would get letters back from these companies, saying, "This, in fact, is not you."

Steve Kroft: You still couldn't get it off your credit report?

Judy Thomas: No, I sent copies to the credit bureaus. And they would come back as mine, verified, verified. I also hired an-- a local attorney to try and straighten it out. We had everything certified that this is Judy Thomas. This is where I live. I've never gone by the name of Kendall. I've never even been to Utah, let alone owing a cable company in Utah.

Steve Kroft: And what happened?

Judy Thomas: Nothing.

Steve Kroft: Nothing?

Judy Thomas: Nothing.

Steve Kroft: What kind of problems did this cause for you?

Judy Thomas: I couldn't refinance. I couldn't take advantage of the interest rates. I couldn't get a new-- I couldn't get a car. I couldn't cosign for my children's student loans. And I'd worked hard for my credit. I was-- and these people were taking it away from me.

Finally Judy Thomas took the only recourse available to her. She sued Equifax and TransUnion in federal court. And after a year-long battle, the credit reporting agencies settled for an undisclosed sum and promised to clean up her file.

Steve Kroft: Did you think it was going to take a federal lawsuit?

Judy Thomas: Heck no. It just takes a human being going, "Wow, this isn't Judith Kendall. Let me fix this." That's all they had to do.

But as we discovered, that almost never happens.

If you challenge a credit report and mail your information to a post office box in the United States, the dispute will likely be investigated in India, or the Philippines or South America. We traveled 5,000 miles to the Chilean capital of Santiago where we tracked down three former Experian employees.

Carolina Herrera, Rodolfo Carrasco and Enzo Valdivia were all dispute agents at Experian's national consumer assistance center although they say they weren't able offer consumers much assistance.

Steve Kroft: So, if somebody had a problem with their credit report, they would send the complaint, and it would end up with you?

Many voices: Yeah. Oh, yeah.

Steve Kroft: So how many of these did you have to do a day?

Rodolfo Carrasco: Ninety.

Steve Kroft: Ninety?

Carolina Herrera: Ninety, yeah.

Steve Kroft: Did you consider yourself investigators?

Many voices: No.

Steve Kroft: Did you have any way to investigate these claims?

Carolina Herrera: No, we didn't. You can't call the person.

Steve Kroft: You can't pick up the phone and call them?

Many voices: No.

Steve Kroft: Did you have phones?

Many voices: No. No.

Steve Kroft: Could you email them?

Many voices: No.

Steve Kroft: Did you have the authority to say, "Wait a minute," after looking at somebody's file, and say that, you know, "This is a-- somebody made a mistake; this person doesn't owe this money"?

Rodolfo Carrasco: We didn't have that power.

All they did was read the disputes and reduce them to a two-digit code like "never late" or "not mine." It was then sent with a two or three-line summary and no documentation back to the bank or department store that furnished the original information.

Steve Kroft: If there was a difference of opinion between the creditor and the person who was filing the complaint, how was it usually resolved in the-- in favor of the creditor?

Enzo Valdivia: Yeah. The creditor was always right.

Rodolfo Carrasco: Mostly, we took for granted the word of the bank. If the bank said, "Hey, this guy owes $100," so it is.

Sylvia Goldsmith: None of us have ever interviewed anybody in Chile from Experian. We've got a federal court ordering them to bring these people forward. And we're still waiting.

Much of what's known about the inner workings of the consumer credit agencies comes out of lawsuits filed by Len Bennett and Sylvia Goldsmith, who have subpoenaed company records and deposed employees and executives. They say under the current system, there is no way for people like Judy Thomas to get their problems solved.

Steve Kroft: So all these people who take the time to meticulously document a case that the bill isn't theirs or the bill has been paid -- that is never seen by anybody?

Len Bennett: It's not seen by anyone who considers it in determining whether or not information will be removed from a credit report.

Steve Kroft: It's not forwarded onto the person who has the complaint with you?

Len Bennett: No. It is never forwarded on, never forwarded onto the creditor.

Sylvia Goldsmith: We can get a jury verdict for $1 million. That's chump change to some of these bureaus. They would rather pay a verdict in $1 million than to actually go in and change the policies and procedures that they have, because that's much more expensive to them.

Len Bennett: I can say this. Without qualification, the dispute procedures used by the credit reporting agencies uniformly used completely fail to comply with the Fair Credit Reporting Act. Courts have found that. The Federal Trade Commission has found that. It's not even a close call.

Ohio Attorney General Mike DeWine agreed.

Mike DeWine: I think the industry's a mess. And I think the impact it has on real people is just unconscionable.

Steve Kroft: You think they're breaking the law?

Mike DeWine: I think they're breaking the law. There is no doubt in my mind that they are breaking the law.

We wanted to talk to Equifax, TransUnion and Experian. But like most consumers, we were unsuccessful. The agencies referred us to the spokesman for their lobbying group in Washington. He too declined our request for an on-camera interview, but did provide a written statement citing an industry sponsored survey that showed 95 percent of its customers were satisfied with the dispute process. The industry maintains it is in compliance with federal law. And one final update, in February, Jon Leibowitz stepped down as chairman of the Federal Trade Commission.

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QUESTIONS FOR THE RECORD
U.S. HOUSE OF REPRESENTATIVES COMMITTEE ON FINANCIAL SERVICES

Director Richard Cordray, Consumer Financial Protection Bureau:
March 2013 Semi-Annual Report

QUESTION FROM REP. BILL FOSTER (IL-11):
Director Cordray: as you know, Section 1024 of Dodd-Frank grants the CFPB the authority to supervise nonbank covered persons of all sizes in the residential mortgage, private education lending, and payday lending markets. In addition, the Bureau has the authority to supervise nonbank "larger participant(s)" of markets for other consumer financial products or services, as the Bureau defines by rule. Can you provide the committee with a sense of when the Bureau intends to exercise this authority with respect to the supervision of the nonbank online lending industry? It is my understanding that there are other agencies currently regulating this space, is it your intention to exercise your regulatory authority over these financial products? If so, when do [you] expect to do so?

Response:
The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) authorizes the Consumer Financial Protection Bureau to, among other things, supervise all payday lenders, regardless of whether they do business through storefronts, over the internet, or both. The marketplace in which nonbank online lenders operate is increasingly diverse, and the Bureau is committed to ensuring that consumers receive the full protection of Federal consumer financial law whether they obtain a loan online or from a storefront. The Dodd-Frank Act authorizes the Bureau to supervise payday lenders, to assess compliance with Federal consumer financial law, to obtain information about them and their compliance systems or procedures, to detect and assess risks to consumers and consumer financial markets, and promulgate rules as appropriate to implement Federal consumer financial law. Thus, when the Bureau launched its nonbank supervision program in January 2012, this included all payday lenders regardless of distribution channel. The Bureau has studied small dollar lending, including online payday lending, and continues to do so.

In January 2012, the Bureau held a field hearing in Birmingham, Alabama, to hear directly from consumers and providers of these products. At that time, the Bureau began its study, which resulted in a publication entitled, "Payday Loans and Deposit Advance Products: A White Paper of Initial Data Findings" issued in April of this year.[1] The purpose of the Bureau's outreach,

[1] CFPB's Payday Loans and Deposit Advance Products report can be accessed at http://files.consumerfinance.gov/f/201304_cfpb_payday-dap-whitepaper.pdf.

research, and analysis is to determine the best way to protect consumers while ensuring that they will have access to a small dollar loan market that is fair, transparent, and competitive.

The Bureau's White Paper underscored that consumer protection issues exist in the small dollar loan market, and that further attention to these products is warranted. The Bureau is continuing to study small dollar loan products to better understand why some consumers are able to use these products in a light to moderate way, while others seem to get trapped in a prolonged borrowing cycle, and the effectiveness of limitations that have been put into place by state laws, trade associations, and institutions to curb the sustained use that can lead to adverse financial consequences for consumers.

The Bureau seeks to protect consumers across the entire small dollar credit market. To the extent that consumers may experience injury in the nonbank lending market resulting from violations of laws within our authority, we will take appropriate action to ensure consistent implementation and enforcement of the applicable laws across the small dollar credit marketplace.

QUESTIONS FROM REP. MURPHY (FL-1)

Question 1:
CFPB is charged with protecting American consumers from bad financial products and bad actors. I want to understand more about your priorities. No one likes when consumers are taken advantage of, but I have absolutely no patience when our veterans, the men and women willing to give everything for our country, are targeted. The New York Times recently reported that servicemembers were being charged excessive interest on their student loans. This is unacceptable in the United States. What is CFPB doing to prioritize actions against those who deliberately go after the patriotic men and women who served?

Response:
The Consumer Financial Protection Bureau's Office of Servicemember Affairs (OSA) addresses the specific challenges faced by servicemembers, veterans, and their families. Headed by Holly Petraeus, OSA conducted 116 outreach events from January 1, 2013 through August 31, 2013, delivering consumer financial information to more than 7,400 military and veteran consumers and more than 475,000 consumers using electronic communications and digital and social media to help them make better informed financial decisions.

In October 2012, the Bureau released "The Next Front? Student Loan Servicing and the Cost to Our Men and Women in Uniform," which detailed the problems servicemembers reported experiencing when attempting to obtain and/or retain their Servicemember Civil Relief Act (SCRA) rights with regard to their student loans. OSA also created an accompanying "Action Guide" for use by military advisors to provide information on repayment option for military borrowers.

Additionally, in March 2013, OSA teamed up with the Office for Students and the Office of Consumer Engagement to deliver the Bureau's first military-focused virtual financial education forum by means of live webcast. The forum reached nearly 300 military financial educators, legal assistance attorneys, and on-base college education counselors. Participants learned about student loan servicing issues for servicemembers and Bureau resources available to assist them.

Furthermore, the Bureau's recent enforcement action against US Bank and Dealers" Financial Services returned $6.5 million to servicemembers who participated in the Military Installment Loan and Educational Services (MILES) auto loan program.

Question 2:
I am honored to represent a district that's home to over 160,000 seniors, including a proud few from the Greatest Generation. As you know, our seniors aren't cynics – they trust this great nation they built. What is the bureau doing to protect Florida seniors from people who are taking advantage of that trust and their all too limited income stream?

Response:
A primary mission of the Consumer Financial Protection Bureau's Office for Older Americans (OA) is to facilitate the financial literacy of individuals aged 62 and over on protection from unfair, deceptive, and abusive practices, and on current and future financial choices, including through the dissemination of materials to seniors on such topics. OA conducts outreach efforts nationwide with its core constituency, key public officials, financial institutions, industry, advocates, and other stakeholders. OA participated in 97 events from January 1, 2013 through August 31, 2013, reaching more than 5,740 participants.

Specific examples of outreach efforts include helping to coordinate Older American Protection Networks in several states, representing the Bureau on the Elder Justice Coordinating Council, which consists of 12 federal agencies that play a role in addressing elder abuse, and collecting and reviewing comments submitted in response to the Bureau's Request for Information regarding Senior Financial Exploitation.

In April 2013, the Bureau's Office for Older Americans released a report entitled "Senior Designations for Financial Advisers: Reducing Consumer Confusion and Risks" to both Congress and the Securities and Exchange Commission pursuant to Section 1013(g)(3)(C) of the Dodd-Frank Wall Street Reform and Consumer Financial Protection Act.[2] The Report illuminates the challenges that older consumers face in trying to navigate the complex world of financial advice for seniors. The Report also highlights the need for consistent high-level standards of training and conduct for those advisers who want to acquire a bona fide senior designation. On November 8, 2013, OA released a consumer guide entitled "Know Your Financial Adviser" to help consumers understand senior adviser designations and how to check an adviser's background.

In addition, in June 2013, the Office for Older Americans released "Money Smart for Older Adults," in partnership with the Federal Deposit Insurance Corporation. Money Smart is a training curriculum to provide older consumers and their caregivers with information on preventing and responding to elder financial exploitation, including common frauds and scams targeted at older consumers.

On September 24, 2013, the Bureau, in conjunction with seven other federal agencies, issued guidance[3] to clarify that the privacy provisions of the Gramm-Leach-Bliley Act generally permit financial institutions to report suspected elder financial abuse to appropriate authorities.

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[2] http://files.consumerfinance.gov/f/201304_CFPB_OlderAmericans_Report.pdf.
[3] *See Interagency Guidance on Privacy Laws and Reporting Financial Abuse of Older Adults*, September 24, 2013 *available at* http://files.consumerfinance.gov/f/201309_cfpb_elder-abuse-guidance.pdf.

On October 29, 2013, OA released a set of four guides, called "Managing Someone Else's Money," to help financial caregivers carry out their duties and responsibilities in managing money for a family member or friend. Millions of Americans are managing money for someone who is unable to pay bills or make financial decisions. For these fiduciaries — such as agents under powers of attorney, guardians, Veterans Affairs fiduciaries, and trustees — the task can be overwhelming. But it's also critically important to the people who can't handle their own finances. These plain-language guides walk people through their duties, put them on the look-out for scams and theft, and refer them to additional sources of help.[4]

Question 3:
That young family in my district looking to buy their first home will benefit from CFPB responsiveness to industry concerns in the qualified mortgage sphere. While I still believe more can be done to preserve access to affordable mortgages for middle class families, I continue to hear that uncertainty remains one of the biggest burdens, particularly for community banks. As we all know, every time that QM gets better, it's another large stack of guidance that mom and pop community bankers have to sort through. In terms of pending improvements to QM, what certainty can you give the smaller banks in my district, many of whom are ready to quit mortgages altogether?

Response:
The Consumer Financial Protection Bureau has tailored the Ability-to-Repay rule and the standards for qualified mortgages (QMs) to allow small creditors to continue providing certain credit products, while carefully balancing consumer protections. The Bureau also notes, and frequently emphasizes to community banks, that the same safe and sound underwriting standards that they have been successfully applying for years, with historically small default rates, generally will meet the baseline Ability-to-Repay requirements with little further effort on their part.

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

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[4] *See* http://www.consumerfinance.gov/blog/managing-someone-elses-money/?utm_source=newsletter&utm_medium=email&utm_campaign=20131029OA.

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

Finally, the Bureau has included in its "Regulatory Implementation" initiative a number of elements specifically intended to facilitate small entities' efforts to understand and to implement the rules. These elements include "Small Entity Compliance Guides," videos, and webinars on the rules. They also include two "job aids" specially designed to highlight the small portfolio creditor QM provision discussed above: a one-page summary of the varieties of QM available, and a flow chart that walks a creditor through the steps to determine whether it can qualify for that provision's coverage. The Bureau has been taking every opportunity to circulate these job aids as widely as possible, including through small banks' and credit unions' trade associations and their primary federal regulators.

QUESTIONS FROM REP. KYRSTEN SINEMA (AZ-9)

Question 1:
The state of Arizona is one of several states that prohibit payday lending. In the semi-annual report it is noted that in states where payday loans are prohibited (and others) residents may be obtaining internet payday loans. Are internet payday lenders subject to the same oversight and regulation as storefront payday lenders?

Response:
The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) authorizes the Consumer Financial Protection Bureau to supervise all payday lenders, regardless of whether they do business through storefronts, over the internet, or both. Consistent with the authority provided by the Dodd-Frank Act, the Bureau carries out its supervisory responsibilities by assessing compliance with Federal consumer financial law, obtaining information about supervised entities' compliance systems, and other activities and detecting and assessing risks to consumers and consumer financial markets.

All lenders should be mindful of state and federal law and must comply with all of the laws applicable to them. Full compliance with the law is essential to the operation of a fair, transparent, and competitive market. The marketplace in which payday lenders operate is increasingly diverse, and the Bureau is committed to ensuring that consumers receive the full protection of Federal consumer financial law, whether they obtain a loan online or from a storefront.

Question 2:
In the absence of payday lending Arizona has robust auto title lending. Has the CFPB assessed the risks posed to consumers by these products? Has the CFPB considered whether and how to supervise auto title lenders?

Response:
The Consumer Financial Protection Bureau is actively engaged in assessing risks to consumers across the small dollar lending market so that we can protect consumers across the entire spectrum of products. We recognize that auto title loans – and, in Arizona, auto registration loans – are a possible substitute for other forms of high-cost credit, including the payday and deposit advance loans that were the topic of the Bureau's April 2013 publication entitled "Payday Loans and Deposit Advance Products: A White Paper of Initial Data Findings." To the extent that consumers may experience injury in the auto title lending market resulting from violations of laws within the Bureau's authority, we will take appropriate action to ensure consistent implementation and enforcement of the applicable laws across the small dollar credit marketplace.

As noted above, the Dodd-Frank Wall Street Reform and Consumer Financial Protection Act provides the Bureau with authority to supervise payday lenders. When examining a payday lender, the Bureau may examine the firm's auto-title lending operations, if any, to ensure they are in compliance with all Federal consumer financial law, assess compliance systems and procedures, and assess and detect risks to consumers or to consumer financial markets.

Question 3:
There are some obvious alternatives to payday loans, such as borrowing from a bank or credit union, taking a loan from a consumer finance company, using a credit card, or getting assistance from a friend or relative. However, I am concerned that low-to moderate-income households have difficulty accessing the small dollar loans they need to meet basic expenses. What other alternatives do Arizonans have?

Response:
There are many ways small dollar credit products are offered, and the Consumer Financial Protection Bureau's job is to ensure that regardless of how a consumer gets a small dollar loan or from whom, at a minimum, they are given the full protection of Federal consumer financial laws.

Our Offices of Financial Empowerment and Financial Education seek to identify and develop the tools that consumers, particularly the most vulnerable, need to make the best financial decisions for themselves and their families. That includes helping consumers understand the full costs and risks of any financial product and encouraging consumers to have emergency savings so that they can avoid having to seek out short-term loans in the first place.

The Bureau also hears regularly from financial services providers of all sorts who are developing products designed to meet the demands of low- and moderate-income consumers. The Bureau seeks to use the authorities that we have to implement and enforce Federal consumer financial law in a way that enables the functioning of a transparent and competitive marketplace.

Question 4:
This past March, the CFPB issued guidance on indirect auto lending and compliance with the Equal Credit Opportunity Act (ECOA). Auto lenders in Arizona have concerns with this guidance in part because the CFPB has not provided sufficient information on how the industry is to comply. Does the CFPB plan to issue additional guidance or clarification around this issue?

Response:
As you know, the Consumer Financial Protection Bureau published CFPB Bulletin 2013-02, Indirect Auto Lending and Compliance with the Equal Credit Opportunity Act of 1974 (ECOA), to offer guidance to all indirect auto lenders within the jurisdiction of the Bureau, including both

depository institutions and nonbank institutions.[5] The Bulletin explains that the standard practices of indirect auto lenders likely make them "creditors" under ECOA and that a lender's discretionary markup and compensation policies may alone be sufficient to trigger liability under ECOA if the lender regularly participates in a credit decision and its policies result in discrimination. By describing the existing relevant laws and regulations that apply to indirect auto lending, the Bulletin's intent is to help indirect lenders recognize and mitigate the risk of discrimination resulting from discretionary dealer markup and compensation policies and incentives that may encourage it. The Bulletin also described steps indirect auto lenders might take to ensure that they were operating in compliance with fair lending laws. Importantly, the Bulletin makes clear that there are many possible paths forward for lenders.

For the purpose of conducting our supervisory work, we have chosen to use proxy methods that rely solely on public data so that lenders can replicate our methods without the need to recreate or purchase proprietary databases as part of their own fair lending compliance management systems.

Proxy methods vary based on the characteristic being proxied (race, national origin, or gender), and there are several reasonable methods of proxying for each of these characteristics. Some methods, for example, use solely surname or geocoding. The Federal Reserve Board, which publicly released some of its proxy methods in July, uses a surname Census database to determine if a borrower is Hispanic and geocoding to determine majority minority census tracts.[6] Other methods, like the Bureau's, integrate the same sources of data into a single proxy for race and national origin. We have chosen the integrated method because we consider it appropriate and helpful in evaluating the large and complex portfolios of the auto lenders supervised by the Bureau. Similarly, we expect lenders to choose a proxy method that will support a compliance management system commensurate with their size, organizational complexity, and risk profile.

Recently, the Bureau and Department of Justice (DOJ) ordered Ally Financial Inc. and Ally Bank to pay $80 million in damages to harmed African-American, Hispanic, and Asian and Pacific Islander borrowers and $18 million in penalties. The Bureau and DOJ determined that more than 235,000 minority borrowers paid higher interest rates for their auto loans between April 2011 and December 2013 because of Ally's discriminatory pricing system. This case demonstrates that the risks of discretionary pricing in dealer markups in the indirect auto finance market are real and significant and provides for appropriate ways of addressing those risks. A

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[5] Indirect Auto Lending and Compliance with ECOA, CFPB Bulletin 2013-02, Mar. 21, 2013 *available at http://files.consumerfinance.gov/f/201303_cfpb_march_-Auto-Finance-Bulletin.pdf*

[6] http://www.philadelphiafed.org/bank-resources/publications/consumer-compliance-outlook/outlook-live/2013/080613.pdf.

strong Compliance Management System (CMS) will be implemented by Ally. We know from our supervisory work that a strong CMS can work to significantly reduce fair lending risk. A strong CMS was one of the suggested options for mitigating fair lending risk that we identified in the Bulletin. In addition, Ally may move to a non-discretionary compensation structure to mitigate the fair lending risk associated with discretionary dealer markups.

QUESTIONS FROM REP. ROSS (FL-15)

Question 1:
The CFPB white paper on payday loans and deposit advance products states that "High-intensity borrowers are more likely to be sampled based on usage in a given month than low-intensity borrowers." Approximately what percentage of borrowers who took out 12 or more loans per year were sampled? What percentage of borrowers who took out one loan per year were sampled?

Response:
The Consumer Financial Protection Bureau's publication titled "Payday Loans and Deposit Advance Products: A White Paper of Initial Data Findings" was developed from information obtained from a number of storefront payday lenders over a 12-month period. For each account with activity in the first month of the study period, the Bureau studied all activity over 12 months. Overall, the study sample consists of a total of approximately 15 million loans generated by storefronts in 33 states. The Bureau's deposit advance findings were developed from information obtained from depository institutions offering this product. For this group, we examined for a 12-month period a random sample of accounts that were eligible to receive a deposit advance during the first month of our study or during the quarter prior to the start of our study.

In the White Paper, the Bureau used a sample based on borrowers who took out a loan in the first month of the lenders sample, and we analyzed borrowing for the 12 months. If a borrower did not borrow in the first month of a lender's sample period, the borrower was not included in our sample. Additionally, our sample did not exclude a borrower who borrowed a payday loan before the sample period, meaning that borrowers who are in the middle of an extended borrowing episode are included in the sample. Of the approaches available to us, the methodology we chose reasonably addresses the question of how prevalent certain consumer harms are in the payday lending industry.

Question 2:
The Bureau's Information quality guidelines (as found on http://www.consumerfinance.gov/informationquality) state that "...After review of the information disseminated by Bureau, the Bureau does not believe that it currently produces or sponsors the distribution of influential scientific, financial, or statistical information within the definitions promulgated by OMB." According to OMB, "'Influential' when used in the phrase 'influential scientific or statistical information' means the agency expects that information in the form of analytical results will likely have an important effect on the development of domestic or international government or private sector policies or will likely have important consequences for specific technologies, substances, products or firms."

Response:
Please see response to question 3, below.

Question 3:
Taken together, this indicates that the CFPB does not believe that any of the information it disseminates, including the payday loan white paper, should have an important effect on the development of policy nor consequences for specific products. Yet you cited the report in your testimony, and the Bureau cites the report in a number of places on its website and elsewhere that have important consequences for short-term lending products. Please explain this inconsistency.

Response:
Under the Office of Management and Budget's guidance on the Information Quality Act, an agency that produces "influential scientific or statistical information" should provide a high degree of transparency about data and methods. OMB's guidance also makes clear that such goals do not override confidentiality concerns; the Bureau's Information Quality Guidelines are in accord.[7]

Question 4:
You testified in response to one of my questions that the CFPB has data on the 13 states that effectively prohibit payday loans. Will the Bureau make that data publicly available? What does that data show with respect to the usage of unregulated online loans in those states?

- Has the Bureau examined the Kansas City Fed's study on payday loan restrictions?
- Has the Bureau examined the New York Fed's study on Georgia and North Carolina which found higher rates of bounced checks, complaints about debt collectors and Chapter 7 bankruptcies after those states banned payday loans?
- Has the Bureau examined the rates of consumer complaints to state regulators about unlicensed lenders after payday lending was banned or severely restricted in Washington State, Oregon, Montana and New York?

Response:
The Consumer Financial Protection Bureau's leadership recognizes the serious responsibility associated with its collection of information on consumer financial markets under the authorities granted by the Dodd-Frank Wall Street Reform and Consumer Financial Protection Act and

[7] *See Bureau Information Quality Guidelines* ("The Bureau will make both original and supporting data and the source of the data available to the public when appropriate."); ("The guidelines do not override other compelling interests such as privacy, trade secrets, intellectual property, and other confidentiality protections"); *see also* Office of Management and Budget, *Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies*, 66 FED. REG. 49718 (Sept. 28, 2001) ("[T]hese guidelines do not alter the otherwise applicable standards and procedures for determining when and how information is disclosed. Thus, the objectivity standard does not override other compelling interests, such as privacy, trade secret, and other confidentiality protections.").

cannot freely disclose the microdata that it uses. The Bureau's published regulations "Disclosure of Information and Records Rules," 12 CFR Part 1070.40 et seq., outlines the restrictions on the disclosure of confidential information.

Currently 14 states and the District of Columbia either prohibit payday lending or subject it to a strict usury limit. The 14 states are: Arkansas, Arizona, Connecticut, Georgia, Maryland, Massachusetts, Montana, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Vermont, and West Virginia.

The Bureau publication entitled, "Payday Loans and Deposit Advance Products: A White Paper of Initial Data Findings" underscored that consumer protection issues exist in the small dollar loan market, and that further attention to these products is warranted. The Bureau continues to study small dollar loan products to better understand the effectiveness of limitations that have been put into place by state laws, trade associations, and institutions, and is aware of the Kansas City and New York studies on payday loans.

The Bureau has reviewed the studies referenced and has examined complaints to the extent available.

Question 5:
In your mission of enforcing the federal laws governing regulating short term credit, money service business activity or payday lending, it is important that you make it clear to those businesses who follow Florida's and other state laws that regulators will only be pursuing those businesses that operate illegally, and outside of the regulatory system. How do you plan to both pursue illegal, unlicensed operators and conduct rule making related to licensed payday lending while at the same time ensuring that your efforts will not cause harm to those following the law or preempt the stable and effective regulatory environment we have in Florida?

Response:
The Consumer Financial Protection Bureau recognizes the importance of both state and federal laws and their respective relevance to the consumer financial marketplace. For example, state regulatory agencies license payday lenders, whereas the Bureau has authority over Federal consumer financial law, including various laws that confer substantive consumer protections relevant to payday lending. The Bureau meets its responsibilities under these laws in part by supervising payday lenders for compliance with them and by enforcing them directly. Payday lenders, in turn, must comply with state law and federal law, as applicable. Those who ignore applicable state or federal laws are at legal risk for doing so.

Compliance with state law does not exempt a lender from having to comply with federal law, and vice versa. We continue to expand our understanding of how the payday market operates and affects consumers in order to better inform our policy work in this area.

QUESTIONS FROM REP. STIVERS (OH-15)

Director Cordray, having now been up and running for 2 years, the CFPB has only issued final rules where mandated by Congress. This includes remittances, Qualified Mortgages and a number of other mortgage rules. During this same time, we have seen several enforcement actions and the issuance of bulletins or Guidance. As we all know, Bulletins, guidance and enforcement actions make policy but do not include the thorough process of gathering input from all stakeholders as is required by the Administrative Procedures Act (APA).

Congress put the APA in place to ensure agencies collect information from all parties and is thorough during that process and can provide clarity having listened to everyone across the spectrum. It appears the CFPB, to-date, has taken every effort to get around using the APA except on those issues specifically laid out in Dodd-Frank. Further, I often hear enforcement actions, Bulletins and Guidance are not as clear and transparent as the rule writing process.

Doesn't the rule writing process provide clear & transparent rules for the banking industry which are not as clear with bulletins or other actions?

Response:

The Administrative Procedure Act (APA) sets out the basic principles by which federal agencies engage in regulatory activity and in applicable cases instructs an agency to seek public comment regarding a proposed rule. The APA does not mandate notice and comment for general statements of policy, non-binding informational guidelines, or interpretive rules.

In addition to the rulemaking specifically mandated by the Dodd-Frank Wall Street Reform and Consumer Protection Act, the Consumer Financial Protection Bureau has engaged in notice and comment rulemaking to promulgate new rules, or amendments to pre-existing rules.

The Bureau issued an Advanced Notice of Proposed Rulemaking[8] (ANPR) for debt collection (November, 2013), prepaid cards (May, 2012), and issued several proposed rules and requests for comment relating to its supervision of nonbanks.

The Bureau has also repeatedly issued Requests for Information (RFI) to inform policy making. These RFI's include, but are not limited to: payday lending (March, 2012); overdraft products (February 2012 and April 2012); servicemembers (September 2011); reverse mortgages (July 2012); senior financial exploitation (June 2012); arbitration (April 2012); streamlining inherited regulations (March 2012); and affordability of private student loans.

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[8] *See* http://www.consumerfinance.gov/notice-and-comment/

QUESTION FROM REP. PITTENGER (NC-9)
Where in the process is the rule for Section 1071 of the Dodd-Frank Act?

Response:
The Consumer Financial Protection Bureau has begun to explore the issues we need to address pursuant to Section 1071 of the Dodd-Frank Wall Street Reform and Consumer Financial Protection Act. In particular, we are looking at how we might work with other agencies to gain insight into existing small business data collection efforts and possible ways to cooperate in future efforts. The small business lending market is vast and complex, with many different types of financial institutions and products, so we need to ensure we consider the requirements associated with data collection. We also will learn from the changes that we will be making to Home Mortgage Disclosure Act regulations to enrich the information collected there, as required by the Dodd-Frank Act.

QUESTIONS FROM REP. LUETKEMEYER (MO-3)

Question 1:
In your testimony before the Committee, you stated that a lender or other entity in full compliance with state and/or federal law should be allowed to operate as long as that entity remains in accordance with the law. Our understanding is that licensed and regulated lenders have had banking relationships threatened. Under the Dodd-Frank Act, the CFPB was given explicit authority to supervise entities that offer or provide non-bank small dollar loans to consumers. As the regulator of many of the products being threatened, what specific actions have you taken or will you take to ensure that these products remain viable and that these entities remain able to offer them?

Response:
The Dodd-Frank Wall Street Reform and Consumer Protection Act authorizes the Consumer Financial Protection Bureau to, among other things, supervise payday lenders; to assess compliance with Federal consumer financial law; to obtain information about them and their compliance systems or procedures; to detect and assess risks to consumers and consumer financial markets; and promulgate rules as appropriate to implement Federal consumer financial law. The Bureau has studied small dollar, short-term lending, including online payday lending, and continues to do so. In January 2012, the Bureau held a field hearing in Birmingham, Alabama, to hear directly from consumers and providers of these products. At that time, the Bureau began its study, which resulted in a publication entitled, "Payday Loans and Deposit Advance Products: A White Paper of Initial Data Findings" issued in April of this year.[9] The purpose of our outreach, research, and analysis is to determine the best way to protect consumers while ensuring that they will have access to a small dollar loan market that is fair, transparent, and competitive.

The Bureau's White Paper underscored that consumer protection issues exist in the small dollar loan market, and that further attention to these products is warranted. The Bureau intends to continue its study of small dollar loan products to better understand why some consumers are able to use these products in a light to moderate way, while others seem to get trapped in a prolonged borrowing cycle. The Bureau would also like to better understand the effectiveness of limitations that have been put into place by state laws, trade associations, and institutions to curb the sustained use that can lead to adverse financial consequences for consumers.

The Bureau seeks to protect consumers across the entire small dollar credit market. To the extent that consumers may experience injury in the nonbank lending market resulting from violations of laws within our authority, we will take appropriate action to ensure consistent implementation

[9] CFPB's Payday Loans and Deposit Advance Products report can be accessed at http://files.consumerfinance.gov/f/201304_cfpb_payday-dap-whitepaper.pdf.

and enforcement of the applicable laws across the small dollar credit marketplace. As the Bureau looks to next steps, we will consider how best to exercise our authorities to protect consumers while protecting access to affordable credit.

Question 2:
What steps are you taking to ensure that the FDIC and other banking regulators issue proper guidance on this matter without infringing on CFPB authority? Will the CFPB issue guidance on this matter?

Response:
The Federal Deposit Insurance Corporation has issued guidance that relates to this topic. See "FDIC Supervisory Approach to Payment Processing Relationships with Merchant Customers That Engage in Higher-Risk Activities," available at http://www.fdic.gov/news/news/financial/2013/fil13043.html.

In addition, see responses to Question 1 above and Question 3 below.

Question 3:
As the regulator for the payday loan industry your agency has spent considerable time and investment assembling data and reviewing the practices of the cash advance industry. Has the Bureau asked the FDIC, the OCC or the Department of Justice to deny basic banking services to companies in the industry? Does the bureau support the efforts by the agencies to encourage financial institutions not to bank legally licensed lenders in the space?

Response:
The Consumer Financial Protection Bureau's job is, among other things, to ensure that payday lenders comply with Federal consumer financial law. To this end, the Bureau works collaboratively with other federal and state partners in the markets where more than one governmental entity may have authority to take action. However, the Bureau is not the sole regulator of financial products and services providers and, in particular, does not engage in the same kind of safety and soundness regulation as the federal prudential regulators, who operate under a statutory mandate distinct from that conferred upon the Bureau. We recognize the judgment of the prudential regulators in the matters committed to their responsibility.

Question 4:
Do you believe that tribal governments have the right to use the Internet to make loans?

Response:
As noted above, all lenders should be mindful of state and federal law and must comply with all of the laws applicable to them. Full compliance with the law is essential to the operation of a fair, transparent, and competitive market.

Question 5:
Does the CFPB believe that the comprehensive array of federal consumer financial laws and regulations are generally adequate to protect consumers from improper lending practices? If not, please detail what additional provisions or changes are needed and why.

Response:
As you know, Congress passed the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 in response to the worst financial crisis this country experienced since the Great Depression. Over the past three years, the Bureau and other financial regulatory agencies have been working diligently to implement the Dodd-Frank Act. Work on many of the rulemakings required by the Dodd-Frank Act is ongoing at various agencies. Once the rules required by the Dodd-Frank are implemented and in effect for some period of time, we will be in a better position to address whether to recommend changes that might make the statutory framework more effective.

Question 6:
It is widely recognized that many states have quite restrictive lending laws that limit the type of small dollar, short-term credit products that nonbank lenders may offer. It would be very helpful to have a better understanding of this patchwork of state lending laws. Please provide the Committee with a detailed comparative breakdown of what each state's law allows concerning offering specific types of small dollar products including such things as any minimum or maximum limitations on the length of the loan, the total interest allowed (noting what fees and charges are counted) as well as any exceptions from such limitations for certain fees or loan types, and any prohibited loan terms or conditions that apply with respect to any such loan product. Also, please include a state-by-state breakdown of state licensing requirements that apply to each such product.

Response:
Information regarding state payday lending statutes is available on the National Conference of State Legislatures website at http://www.ncsl.org/issues-research/banking/payday-lending-state-statutes.aspx.

Question 7:
Millions of underserved consumers are moving rapidly to meet credit needs via the Internet. What is the CFPB doing to promote even greater credit access for underserved consumers through online sources while also ensuring that online lenders comply with applicable federal laws and regulations?

Response:
All lenders should be mindful of state and federal law and must comply with all of the laws applicable to them. Full compliance with the law is essential to the operation of a fair,

transparent, and competitive market. The Dodd-Frank Wall Street Reform and Consumer Protection Act authorizes the Consumer Financial Protection Bureau to supervise payday lenders, to assess compliance with Federal consumer financial law, to obtain information about them and their compliance systems or procedures, to detect and assess risks to consumers, and consumer financial markets, and to promulgate rules as appropriate to implement Federal consumer financial law.

The marketplace in which payday lenders operate is increasingly diverse, and the Bureau is committed to ensuring that consumers receive the full protection of Federal consumer financial law whether they obtain a loan online, or from a storefront. There is a demand for small dollar credit products, but debt traps should not be part of consumers' financial futures. In January 2012, the Bureau added payday lenders to its supervision program on top of its existing efforts to supervise the depository institutions that offer deposit advance products. We also held a field hearing in January 2012 in Birmingham, Alabama, to hear directly from consumers and providers of these products. At that time, the Bureau began its study, which resulted in a publication entitled, "Payday Loans and Deposit Advance Products: A White Paper of Initial Data Findings" issued in April of this year.[10] The purpose of our outreach, research, and analysis is to help better understand the best approach to protect consumers while ensuring they will have access to a small dollar loan market that is fair, transparent, and competitive.

The Bureau's White Paper underscored that consumer protection issues exist in the small dollar loan market, and that further attention to these products is warranted. The Bureau intends to continue its study of small dollar loan products to better understand why some consumers are able to use these products in a light to moderate way, while others seem to get trapped in a prolonged borrowing cycle. The Bureau would also like to better understand the effectiveness of limitations that have been put into place by state laws, trade associations, and institutions to curb the sustained use that can lead to adverse financial consequences for consumers.

As the Bureau looks to next steps, we will consider how best to exercise our authorities to protect consumers while protecting access to affordable credit.

Question 8:
The CFPB's Semi-Annual Report notes that consumers may have difficulty comparing small dollar loan products on an "apples-to-apples" basis and points out, for example, that APRs are not provided in all cases and may not include all fees. Has the CFPB collected any data through focus-groups, surveys and other methods, to determine whether consumers truly understand what an APR means when used to disclose the cost of various small dollar credit products with a term of less than one year? Has any research been conducted to determine whether consumers

[10] Bureau's Payday Loans and Deposit Advance Products report can be accessed at http://files.consumerfinance.gov/f/201304_cfpb_payday-dap-whitepaper.pdf.

understand the costs of such short-term credit options better when all costs (interest, fees and other charges) are expressed as a dollar figure and as a percentage of the total loan amount instead of an APR? If not, will you collect such data and provide this Committee with your analysis of it?

Response:
The Consumer Financial Protection Bureau's "March 2013 Semi-Annual Report" stated with respect to the complexity and diversity of small dollar, short term loan products available in the marketplace: "It may be challenging to determine whether taking out a two-week payday loan, pawning a household good for a month, or gradually paying down a six-month installment loan makes better financial sense. One standard approach to comparing loan costs is the Annual Percentage Rate (APR); however, APRs may not be provided in every case, or include all fees. For example, APRs are not disclosed when a consumer incurs an overdraft fee, and other products might have application or other fees that are not included in this calculation. At least one survey suggests that many consumers may not understand how to use APR to measure the relative costs of different small dollar credit options."[11]

The Bureau continues to research consumer behavior in the small dollar credit market, including the impact of disclosures on consumers' choices and their understanding of loan costs.

[11] *See CFPB March 2013 Semi-Annual Report, available at:* http://files.consumerfinance.gov/f/201303_CFPB_SemiAnnualReport_March2013.pdf at 39.

QUESTIONS FROM REP. FINCHER (TN-8)

Question 1:
Nearly 8.7 million American families depend on manufactured homes for reliable, safe, and sustainable housing. However, smaller-sized manufactured home loans are at risk of being adversely impacted by HOEPA/high cost mortgage provisions and loan originator guidelines in Dodd-Frank. Without regulatory relief tailored to this form of housing, the manufactured housing market will be facing loss of financing available to low- and moderate-income families, particularly in rural and underserved areas.

As you may know, the manufactured housing industry has been working with consumer advocates to develop a consensus approach to resolve the regulatory challenges facing this market. I understand that much progress has been made between the groups, and they have begun the process of communicating their joint concerns to members of your staff.

To the extent that you are able to comment on the Bureau's rulemaking processes, do you anticipate that there might be some accommodation made for the areas highlighted by these groups? What additional feedback do you think would be necessary from the Committee to underscore that there is concern for preserving access to credit in this market?

Response:
The Dodd-Frank Wall Street Reform and Consumer Protection Act has a very broad definition for loan originators, with some exclusions. One of these is a limited exclusion for employees of manufactured housing retailers that permits them to conduct certain activities without being treated as loan originators. The loan originator rule published in February addressed this exclusion, and in June the Consumer Financial Protection Bureau issued a proposal to clarify it further. The Bureau has considered public comment received on the June proposal, and on September 13 we issued a final rule.

The compensation paid to a loan originator is generally included for purposes of calculating points and fees under the Ability-to-Repay and Home Ownership and Equity Protection Act rules. Our final rule includes a provision that excludes from points and fees compensation paid by a retailer of manufactured homes to its employees. The points and fees calculation still includes loan originator compensation paid by other persons, including a creditor to loan originator employees of manufactured home retailers. Where the creditor has knowledge that the sales price includes loan originator compensation, then such compensation is included in points and fees. However the rule imposes no duty on the creditor to investigate. Thus, creditors with arrangements with retailers to build loan origination compensation into the homes' sale prices must count such compensation.

The final rule also provides guidance on what activities an employee of a manufactured home retailer may conduct without becoming a loan originator, stating that a retailer employee may: generally describe the credit application process to a consumer without discussing particular credit terms; prepare residential mortgage loan packages and provide general application instructions to consumers so consumers can complete an application, without interacting or communicating with the consumer regarding specific transaction terms; collect information on behalf of the consumer with regard to a residential mortgage loan; in certain circumstances, provide or make available general information about creditors and loan originators that may offer financing for manufactured homes in the consumer's general area.

Further, the rule on points and fees does provide more relaxed treatment for "smaller-sized manufactured home loans" that are secured by first liens on personal property. The Bureau provided the same accommodation that Congress prescribed in this respect. In so doing, as well as in its approach to all of its rulemakings under title XIV of the Dodd-Frank Act, the Bureau has remained mindful of the need to ensure that regulations do not unduly restrict access to credit in any market, including manufactured housing.

The Bureau has met with representatives from the manufactured housing industry and has requested additional data from a set of manufactured housing lenders to gain a more complete understanding of this market and the potential effects of this and other rules on the market for manufactured home loans. Available data on manufactured housing lending, however, may not be representative of all loans secured by manufactured housing and of all lenders who extend these loans. For this reason and because it must not prejudge any future decisions, the Bureau has not committed, and cannot commit, to making further modifications to the rules it has adopted.

QUESTIONS FROM REP. SCOTT GARRETT (NJ-5)

Question 1:
Dodd-Frank contains provisions limiting the CFPB's authority to collect "personally identifiable financial information," yet the law does not define this term. How does the CFPB define "personally identifiable financial information" and does it include such information as a name, Social Security number, and address?

Response:
Pursuant to the Gramm-Leach-Bliley Act, the Consumer Financial Protection 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.

Question 2:
How many U.S. consumer accounts is the CFPB monitoring as part of its data collection activities?

Response:
The Consumer Financial Protection Bureau does not track the financial habits or activities of any individual consumer.

Instead, in the normal course of carrying out its statutory mandates, the Bureau collects information from consumers who seek the Bureau's help through the consumer response function and from the institution involved in the complaint; 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; and in the performance of market monitoring activities.

Question 3:
It has been reported that the CFPB has requested account-level details regarding consumer credit card data from nine banks. Can you tell the committee which banks the CFPB is collecting this information from? Are there currently any plans to increase the amount of banks that the CFPB will obtain this information from?

Response:
The Consumer Financial Protection Bureau does not track the financial habits or activities of any individual consumer.

In the exercise of its supervisory authority the Bureau uses 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 purchase transactions.

The issuers from which the data is being collected include the largest credit card issuers and thus have particularly significant potential to create risks to consumers. At present, the Bureau has no plans to increase the number of banks from which we will obtain this information.

Question 4:
In the strategic plan that the CFPB issued in April of this year, the CFPB said that it seeks to "acquire and maintain a credit card database…covering approximately 80% of the credit card marketplace" by the end of FY 2013. According to the U.S. Census Bureau, Americans hold approximately 1.2 billion credit cards. That would mean that the CFPB is planning to monitor about 960 million credit cards. Why is it necessary to monitor such a high number of credit card accounts?

Response:
The Consumer Financial Protection Bureau does not track the financial habits or activities of any individual consumer.

The Bureau does collect certain information 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. For example the Bureau collects account-level information as needed from consumers who submit consumer complaints as well as from the company the complaint is about. 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.

The Bureau manages risks to privacy associated with collecting information by complying with the Privacy Act of 1974, Right to Financial Privacy Act, and E-Government Act of 2002; voluntarily adopting Office of Management and Budget privacy-related guidance as best practice; and applying National Institute of Standards and Technology risk management processes. The Bureau has many privacy protections in place to protect the consumer from misuse of information that directly identifies them, reveals their consumer behaviors, or describes personal characteristics such as race or gender, or credit characteristics. When the Bureau does obtain information that includes personal identifiers, it protects the information using technical, physical, and administrative controls that may include but are not limited to: acquisition provisions, privacy incident management, access controls, audit logs, physical security, records schedules, and minimizing the maintenance of personal information by deleting direct identifiers or coding information into generic categories to facilitate analysis.

Question 5:
How many people have access to CFPB databases containing personal consumer financial data? And who are the people that have access?

Response
In general, access to the Consumer Financial Protection Bureau's 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.

Question 6:
Section 1022 (c)(4)(C) of Dodd-Frank is a limiting provision on the CFPB's general power. The provision reads "The Bureau may not use its authorities under this paragraph to obtain records from covered persons and service providers...for purposes of gathering or analyzing the personally identifiable information of consumers." As the head of the CFPB and an attorney, do you believe that the CFPB has the authority to collect personally identifiable information as part of its examination process from supervised entities and then use that information for market

monitoring? And if not, upon what authority does the CFPB rely for collecting personally identifiable information in an examination and using it to monitor markets?

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 to request information. The Bureau's information-gathering is consistent with these authorities and with limitations regarding personally identifiable financial information. The Bureau manages the privacy associated with its exercise of consumer protection authorities by complying with the Privacy Act of 1974, Right to Financial Privacy Act, and E-Government Act of 2002; voluntarily adopting Office of Management and Budget privacy-related guidance as best practice; and applying National Institute of Standards and Technology risk management processes.

Question 7:
The Statement of Record Notice for the CFPB's "Market and Consumer Research Records" database indicates that personally identifiable information is being collected and able to be retrieved by reference to such information. But the CFPB has not yet issued a privacy impact assessment (PIA), which is mandated by the E-Government Act in order to ensure that agencies are in compliance with laws and regulations governing privacy of any personal information the agency stores, collects, uses, and shares. Why hasn't the CFPB issued a PIA for this database and will you commit to issuing this PIA?

Response:
The requirement to publish System of Records Notices (SORN) is derived from the Privacy Act, and the requirement to conduct Privacy Impact Assessments is derived from the E-Government Act. While both laws help protect privacy, the requirements triggering each are different. For example, an activity that triggers a SORN may or may not require a PIA; and a PIA may be conducted when a SORN is not required.

In accordance with the Privacy Act, the Consumer Financial Protection Bureau published CFPB.022- Market and Consumer Research Records to permit the Bureau's collection and use of the information for market and consumer research purposes. The Bureau has developed a Privacy Impact Assessment that documents privacy risks associated with conducting research on consumer financial markets.[12]

[12] *See* www.consumerfinance.gov.

Question 8:
As you know, the CFPB is largely shielded from congressional oversight and appropriations. Does the CFPB believe that it has a blank check to collect information on consumer activities?

Response:
No, the Consumer Financial Protection Bureau operates under statutes which define the scope of its authority. Similar to other independent agencies, the Bureau is subject to robust congressional oversight, with some facets unique to the Bureau. For example, the Director must appear before Congress biannually and report on, among other things, the Bureau's budget and significant rules and orders it has adopted. In the three years of Bureau existence, officials have appeared before Congress on 44 occasions. The Bureau is also subject to the Administrative Procedure Act, the Regulatory Flexibility Act, the Paperwork Reduction Act, the Congressional Review Act, the Privacy Act, and the Right to Financial Privacy Act, among other statutes applicable to federal agencies. In addition, the Bureau is the only independent financial services regulator with a statutory budget cap. The Bureau is also subject to three annual audits. The Bureau's financial statements are audited annually by the Government Accountability Office, the investigative arm of Congress. GAO also audits the Bureau's regulations. And, the Bureau's operations and budget are subject to an independent audit. The Bureau's activities are monitored closely by its Inspector General.

QUESTIONS FROM REP. ROYCE (CA-39)

In setting up the CFPB and the Supervision, Enforcement & Fair Lending Division, it is clear from reports that negotiations between supervision and enforcement on how best to conduct examinations initially resulted in one or two enforcement attorneys being assigned to examination teams in the field. These enforcement "ride alongs" have been met with much criticism – including from the CFPB's own Ombudsman who has cited "the potential for the policy to be a barrier to a free exchange during the examination." The Ombudsman also recommended "CFPB review implementation of the policy to have enforcement attorneys present at supervisory examinations." I am wondering if you can comment on the status of this practice. Has the CFPB decided to no longer have enforcement staff accompany examiners during examinations?

Response:

The Consumer Financial Protection Bureau intentionally grouped our supervision, enforcement, and fair lending offices together because we wanted them to be integrated and familiar with the work that each office was doing. The integrated model was intended to ensure supervision and enforcement work very closely together. We found over time that the most efficient way of accomplishing that goal did not require the enforcement attorneys to accompany the examiners on site.

QUESTIONS FROM REP. STEVAN PEARCE (NM-2)

Question 1:
Has the agency begun studying ways to improve their definition of "rural"?
What steps will the agency take to develop a new definition? What timelines can be expected?

Response:
As you may know, the Consumer Financial Protection Bureau's Qualified Mortgage rule provided a general definition of "rural" using the Department of Agriculture's Urban Influence Codes. Those codes, in turn, are based on definitions developed by the Office of Management and Budget, in particular "metropolitan statistical area" and "micropolitan statistical area."

Access to credit in rural communities as well as the impacts of our rules on small creditors who serve those communities is a matter the Bureau takes very seriously. In response to concerns that have been raised, the Bureau amended the Ability-to-Repay Rule to provide a two-year transition period, during which balloon loans made by small creditors and held in portfolio will be treated as Qualified Mortgages regardless of the location of the particular creditor. This decision will allow time for the Bureau to review whether its definition of rural should be adjusted.

As a first step in examining other possible definitions, the Bureau has begun to examine the various data sources available. Notably, data collected under the Home Mortgage Disclosure Act has sparse coverage in rural areas.

The Bureau is committed to such a review to ensure that the Bureau's definition accurately reflects significant differences among geographic areas, to calibrate access to credit concerns, and to facilitate implementation.

Question 2:
Does the agency's data collection effort include Personally Identifiable Information such as: name, address, social security, zip, property and credit score of an individual?

Response:
The Consumer Financial Protection Bureau does not track the financial habits or activities of any individual consumer.

The Bureau receives personally identifiable information (PII) as defined by the Office of Management and Budget in OMB Memorandum M-07-16, "Safeguarding Against and Responding to the Breach of Personally Identifiable Information," May 22, 2007. M-07-16 defines "personally identifiable information" to mean "information which can be used to distinguish or trace an individual's identity, such as their name, social security number, biometric records, etc. alone, or when combined with other personal or identifying information which is

linked or linkable to a specific individual, such as date and place of birth, mother's maiden name, etc."

The Bureau protects the PII it receives by implementing technical, physical, and administrative controls. These controls may include but are not limited to: acquisition provisions, privacy incident management, access controls, audit logs, physical security, records schedules, and minimizing the maintenance of personal information by deleting direct identifiers or coding information into generic categories to facilitate analysis.

Question 3:
Has the CFPB carried out case studies or analyzed cases of agencies, consumer groups or credit card companies, where information has been distributed, leaked, shared or hacked?

Response:
While the Bureau has not carried out specific case studies of other agencies or firms with data breaches, the agency is aware of the necessity of data protection. The Bureau's practice is to categorize 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.

Question 4:
Has the Director or Deputy Director of the CFPB discussed, at length, the implication of a security breach with staff?

Response:
The Consumer Financial Protection Bureau leadership recognizes the serious responsibility associated with its collection of information on consumer financial markets under the authorities granted by the Dodd-Frank Wall Street Reform and Consumer Financial Protection Act. The Bureau's published regulations "Disclosure of Information and Records Rules" 12 CFR Part 1070.40 et seq., outline the restrictions on the disclosure of confidential information. The Bureau has a dedicated Chief Information Security Officer and a dedicated Chief Privacy Officer, both of whom report directly to the Chief Technology and Information Officer, who centrally manages Bureau response to potential privacy or security incidents. Bureau employees receive instruction on how to identify and report potential privacy or security incidents, in addition to new hire and annual mandatory trainings that meet the training requirements under the Privacy

Act, the Federal Information Security Management Act, and guidance issued by the Office of Management and Budget.

Question 5:
What actions are being taken to ensure that sensitive information, from millions of consumers, is not being leaked or used inappropriately? Please provide a detailed update.

Response:
The Consumer Financial Protection Bureau continues to rely, in part, on elements of the Department 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 the Office of Management and Budget -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 if their PII is confirmed to have been 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.

Question 6.
Who made the decision to hire ASR Analytics?
Please describe the decision process for hiring contractors.

Response:
ASR provided independent audit support to the Bureau pursuant to two separate vehicles, both of which were competed. The first was a task order issued against an existing Department of Treasury contract which had been previously awarded by Treasury through a competitive process. Subsequently, the Bureau awarded a contract to ASR based upon a competition among existing General Services Administration small business vendors. The Request for Quote (RFQ) was sent via GSA's e-Buy system to a range of small businesses that were on the relevant GSA Schedule. One proposal was received and carefully evaluated against the criteria as stated in the advertised solicitation. The overall evaluation rating was "Good" and the price was determined fair and reasonable. Therefore, the contract was awarded to ASR.

QUESTIONS FROM REP. BACHUS (AL-6)

Question 1:
Director Cordray, the current Qualified Mortgage rule includes fees paid to affiliated title insurance companies. However, fees paid to an unaffiliated title insurance company are not included. Will you please explain why you differentiate between fees paid to affiliated and unaffiliated title insurance companies? If the title insurance fees are equal, is there a benefit to the consumer if title insurance is purchased by an unaffiliated title agent?

Response:
Congress specifically identified third-party charges retained by the mortgage creditor, originator, or an affiliate of the creditor or originator as not excluded from the definition of points and fees.[13] Accordingly, the Consumer Financial Protection Bureau understood Congress to have weighed the relevant competing policy concerns related to fees (including title insurance fees) that are retained by affiliates and to have made a deliberate decision not to exclude such fees from the points and fees test. Particularly given Congress's clear determination in the Dodd-Frank Wall Street Reform and Consumer Protection Act, the Bureau did not believe there was sufficient justification to use its exception authority to exclude affiliate fees from the calculation of points and fees.

Question 2:
There have been news articles and reports that federal agencies, such as the FDIC and DOJ, have been pressuring banks and third-party payment providers to stop doing business with online lenders. This leads to several questions.

a. Has the Bureau asked the FDIC, OCC and DOJ to deny basic banking services to companies in the industry?

Response:
No, the Bureau has not asked the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency or the Department of Justice to deny basic banking services to companies in the online lending industry.

b. Does the bureau support the efforts of these agencies to encourage financial institutions not to bank legally licensed lenders in the space?

[13] Section 1412, Dodd-Frank Act

Response:
The Consumer Financial Protection Bureau is unaware of efforts by any agency to encourage financial institutions not to provide banking services for lawfully operating businesses.

c. As the primary regulator, is the CFPB planning on issuing a rule on short-term lending for storefront and internet lending business?

Response:
The Consumer Financial Protection Bureau held a field hearing in January 2012 in Birmingham, Alabama, to hear directly from consumers and providers of these products. At that time, the Bureau began its study, which resulted in our white paper issued in April of this year titled "Payday Loans and Deposit Advance Products: A White Paper of Initial Data Findings." The purpose of our outreach, research, and analysis is to help better understand the best approach to protect consumers while ensuring that they will have access to a small dollar loan market that is fair, transparent, and competitive.

The Bureau's White Paper underscored that consumer protection issues exist in the small dollar loan market, and that further attention to these products is warranted. The Bureau intends to continue its study of small dollar loan products to better understand why some consumers are able to use these products in a light to moderate way, while others seem to get trapped in a prolonged borrowing cycle. The Bureau would also like to better understand the effectiveness of limitations that have been put into place by state laws, trade associations, and institutions to curb the sustained use that can lead to adverse financial consequences for consumers. As the Bureau looks to next steps, we will consider how best to exercise our authorities to protect consumers while protecting access to affordable credit.

d. Do you think it is appropriate for any federal agency to seek to deny access to banking and payments systems to lawfully operating businesses?

Response:
The Consumer Financial Protection Bureau is not aware of any federal agency seeking to deny such access to lawfully operating businesses.

e. Does the CFPB need or want the FDIC to assume its responsibilities to ensure online nonbank lenders are complying with applicable law?

Response:
The marketplace in which payday lenders operate is increasingly diverse, and the Consumer Financial Protection Bureau is committed to ensuring that consumers receive the full protection of Federal consumer financial law whether they obtain a loan online or from a

storefront. The Bureau is not, however, the sole regulator of banking relationships and, in particular, does not engage in the same kind of safety and soundness regulation as the federal prudential regulators, who operate under a statutory mandate distinct from that which Congress conferred upon the Bureau. The Dodd-Frank Wall Street Reform and Consumer Protection Act authorizes the Bureau to supervise payday lenders, to assess compliance with Federal consumer financial law, to obtain information about them and their compliance systems or procedures, to detect and assess risks to consumers and consumer financial markets, and to promulgate rules as appropriate to implement Federal consumer financial law. The Bureau is working diligently to implement the Act appropriately.

f. Has the CFPB, or FDIC, through any formal or informal action lead banks to believe that they should not provide banking and payment services to the online lending industry?

Response:
As noted above, the Consumer Financial Protection Bureau is unaware of efforts by any agency to encourage financial institutions not to provide banking services for lawfully operating businesses.

QUESTIONS FROM REP. MULVANEY (SC-5)

Question 1:
Has the Inspector General responsible for CFPB oversight inquired specifically about the discrepancy between the CFPB's funding requests and its outlays?

- If so, what was the nature of the inquiry?
- Please provide any relevant documentation relating to such an inquiry.

Response:
The Office of Inspector General (OIG) of the Board of Governors of the Federal Reserve System and the Consumer Financial Protection Bureau recently completed an evaluation of the Consumer Financial Protection Bureau's budget process for the Bureau's fiscal year 2013 budget justification published in February 2012. As part of this evaluation, the OIG reviewed the Bureau's processes and documentation related to fiscal year 2012 transfer requests from the Federal Reserve System. The OIG report, including the Bureau's management response can be found at http://www.federalreserve.gov/oig/.

Question 2:
Has any other entity inquired specifically about the discrepancy between the CFPB's funding requests and its outlays?

- If so, what was the nature of the inquiry?
  Please provide any relevant documentation relating to such an inquiry.

Response:
In addition to the regular oversight of the Consumer Financial Protection Bureau conducted by Congress, Section 1573(a) of the Department of Defense and Full-Year Continuing Appropriations Act of 2011, Pub. L. No. 112-10, requires the Bureau to order an annual independent audit of its operations and budget, and Section 1017(a)(5), Pub. L. No. 111-203 requires the Government Accountability Office (GAO) to annually audit the Bureau's financial statements in accordance with generally accepted government auditing standards.

The results of the independent audit for fiscal years 2011, 2012, and 2013 are available on the Bureau's website at http://www.consumerfinance.gov/reports/independent-performance-audit-of-cfpb-operations-and-budget/, http://www.consumerfinance.gov/reports/independent-performance-audit-of-cfpb-operations-and-budget-2/, and http://www.consumerfinance.gov/reports/cfpb-independent-audit-of-selected-operations-and-budget-fiscal-year-2013/, respectively. Similarly the results of the GAO audit for fiscal years 2011, 2012, and 2013 are embedded in the Financial Report of the Consumer Financial Protection Bureau and available on the Bureau's website at http://www.consumerfinance.gov/budget/. The reports describe the scope and the results of each of the engagements.

Question 3:
What is the current balance of the Bureau of Consumer Financial Protection Fund ("Bureau Fund")?

Response:
As required by the Dodd-Frank Wall Street Reform and Consumer Protection Act, the Consumer Financial Protection Bureau publishes an annual Financial Report of the Consumer Financial Protection Bureau that includes audited financial statements of the Bureau. The Bureau reported in its financial statements for fiscal year 2013 a balance in the Bureau Fund of approximately $371 million, consisting of $325 thousand held as cash at the Federal Reserve Bank of New York, $27 million as a fund balance with Treasury, and $344 million in investments in U.S. Treasury securities. The funds held in the Bureau Fund are drawn down as needed to pay for obligations (e.g., to cover outlays) of the Bureau. These obligations include employee salaries and benefits, travel, rent, utilities, IT equipment, and other services received through intra-governmental agreements and contracts with vendors. A list of Bureau contracts with vendors is available at usaspending.gov.

The annual Financial Report for fiscal years 2011 through 2013 are available on the Bureau's website at http://www.consumerfinance.gov/budget/.

Question 4:
What has the Bureau Fund earned, either from interest or from the sale of investments/obligations, since its inception?

Response:
Funds held in the Bureau Fund are available to cover outlays related to existing and upcoming obligations of the Consumer Financial Protection Bureau. The funds are invested in U.S. Treasury securities until such time as an outlay is required of the Bureau – for example, when it is time to pay employees' salaries or to pay invoices from vendors or other government agencies.

The Bureau has earned approximately $30,000 in fiscal year 2011, $66,000 in fiscal year 2012, and $221,000 in fiscal year 2013 from interest and/or the sale of investments in Treasury securities.

Question 5:
Do you plan to draw down, increase, or maintain the amount held in the Bureau Fund? Please describe how you intend to achieve that goal and include a proposed timeline.

Response:
As required by the Dodd-Frank Wall Street Reform and Consumer Protection Act, the Consumer Financial Protection Bureau ensures that the amount of funds requested each quarter from the Federal Reserve Board of Governors is reasonably necessary to carry out its mission.[14] Funds held in the Bureau Fund are available to cover outlays related to existing and upcoming obligations of the Bureau. These obligations include employee salaries and benefits, travel, rent, utilities, IT equipment, and other services received through intra-governmental agreements and contracts with vendors.

Funds held in the Bureau Fund at the end of fiscal year 2013 are drawn down to pay for obligations (e.g., to cover outlays) of the Bureau. Balances in the Bureau Fund, however, will fluctuate over time primarily due to the timing of both transfer requests and scheduled outlays. The length and timeline for drawing down funds from the Bureau Fund to pay obligations varies. For example, funds requested to cover employees' salaries are required every two weeks. However, funds related to intra-governmental agreements and contracts with vendors are drawn down as those entities perform the agreed-upon services and submit invoices for payment. The timeline for these outlays depends on the length of the agreement, which for most contracts generally takes between 3 to 12 months from the date the contract was executed, or longer for multiyear contracts.

Question 6:
In your recent testimony before the Committee, you discussed the CFPB's authority to regulate debt collectors.

a. Do you believe that it is the CFPB's responsibility to promote additional state regulation?

Response:
Many state and local governments license debt collectors and regulate their activities. Recently, a number of states and local governments have changed or are considering changing their statutes, regulations, and rules applicable to debt collection litigation. Most of these changes focus on rules of court procedure and evidence. These are areas that states have traditionally regulated.

b. Please describe all contacts by CFPB officials with state regulators and state legislative officials on issues related to the debt buyer and debt collection industry.

Response:

[14] Section 1017(a)(1), Dodd-Frank Act.

The Bureau regularly and routinely informs state regulators and officials about the Bureau's work, and consults and coordinates with them, as is expressly authorized and, in many cases, required by Congress, most notably throughout the provisions of the Dodd-Frank Act, subject to applicable limitations and safeguards.[15]

Indeed, in its recent ANPR on debt collection, the Bureau recognized this state role in explaining that it was interested in receiving comments concerning "how proposed rules could protect consumers in debt collection litigation without adversely affecting the traditional rule of the States in overseeing the administration and operation of their court systems and without imposing undue or unnecessary costs on the debt collection process."[16] The Bureau also developed a set of draft court rules on debt collection litigation, drawn directly from provisions already adopted by various states, and provided technical assistance on them to state regulators and officials who requested it.

c. Please include specific state legislative initiatives and proposed legislation that the CFPB supports.

Response:
On June 6, the Bureau and the Federal Trade Commission jointly hosted a roundtable entitled "Life of a Debt: Data Integrity in Debt Collection."[17] The roundtable included representatives from industry, consumer advocacy groups, and state and federal officials. In addition, the Bureau's Office of Supervision, Enforcement, and Fair Lending interact regularly with their state counterparts on confidential supervisory or enforcement matters related to the debt collection industry. When requested, the Bureau has provided technical assistance, including copies of

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[15] *See, e.g.*, Dodd-Frank Act sections 1013(b)(3)(D) ("...the Bureau shall share consumer complaint information with prudential regulators, the Federal Trade Commission, other Federal agencies, and State agencies..."; 1013(c)(2)(B) ("..."...coordinating fair lending efforts of the Bureau with other Federal agencies and State regulators...");..."; 1013(e)(1)(C) ("...coordinate efforts among Federal and State agencies, as appropriate, regarding consumer protection measures relating to consumer financial products and services offered to, or used by, service members and their families...");..."; 1013(g)(3)(E) ("..."...coordinate consumer protection efforts of seniors with other Federal agencies and State regulators...");..."; 1015 (""The Bureau shall coordinate with the Commission, the Commodity Futures Trading Commission, the Federal Trade Commission, and other Federal agencies and State regulators...");..."; 1022(c)(6)(C) (providing access to Bureau examination reports for "...a prudential regulator, a State regulator, or any other Federal agency having jurisdiction...")"; 1022(c)(7)(C) "(..."...the Bureau shall consult with State agencies...");..."; 1024(b)(3) and 1025(b)(2) ("..."...the Bureau shall coordinate its supervisory activities with the supervisory activities conducted by prudential regulators and the State bank regulatory authorities...");..."; 1025(e)(2) ("The Bureau shall pursue arrangements and agreements with State bank supervisors...");..."; 1042(b)(1) ("...a State attorney general or State regulator shall timely provide a copy of the complete complaint to be filed and written notice describing such action or proceeding to the Bureau...");..."; and 1042(c) ("The Bureau shall...provide guidance in order to further coordinate actions with the State attorneys general and other regulators...")...",

[16] Bureau of Consumer Financial Protection, "Debt Collection (Regulation F); Advance Notice of Proposed Rulemaking, 78 Fed. Reg. 67848, 67877 (Nov. 12, 2013).

[17] http://www.consumerfinance.gov/newsroom/steve-antonakes-remarks-at-life-of-a-debt-data-integrity-in-debt-collection/

draft court rules derived from current state laws and court rules, to state regulators and officials that have jurisdiction over debt collectors' activities and have or are considering changing their statutes, regulations, and rules applicable to debt collection litigation.