THE AGENCY THAT'S GOT YOUR BACK

A LITTLE-KNOWN GOVERNMENT WATCHDOG IS STRIKING FEAR INTO THE LENDING INDUSTRY

BY MASSIMO CALABRESI

Michigander Deborah Jacobs was skeptical of the Consumer Financial Protection Bureau until it helped her keep her house

PHOTOGRAPH BY PAUL D'AMATO FOR TIME

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THE FIRST TIME DEBORAH JACOBS heard about the Consumer Financial Protection Bureau, it struck her as a terrible idea. It was 2010, and Jacobs, a 65-year-old retired teacher, was one year into the mortgage on her new house in Brooklyn, Mich. Watching the news one evening, she saw a Harvard academic named Elizabeth Warren talking about the need for a new federal agency to protect consumers from deceptive and predatory lending. Jacobs, who describes herself as "definitely a Republican," remembers thinking, Well, that's a waste of taxpayer dollars.

Four years later, Jacobs was in a bind. Her daughter and grandkids had moved into her home, and the costs of supporting the expanded household caused her to fall behind on the mortgage payments. With interest rates low, Jacobs calculated that she could modify her mortgage and keep her home. Her Michigan-based bank, Flagstar, approved the modification, but when the documents for the deal arrived in the mail, they included a surprise: a "closing fee" of $11,599.32. The more Jacobs tried to find out what the fee was for, the less clarity she got from Flagstar. At her wit's end, Jacobs sent out a barrage of complaints—to the Michigan attorney general, to Flagstar's federal regulators at the Office of the Comptroller of the Currency in Washington and, finally, to the Consumer Financial Protection Bureau (CFPB). "I'm at a loss and do not know what else to do," Jacobs wrote them. "If I had $11,599.32 in the bank, I wouldn't be behind on my mortgage."

As it happened, Jacobs had stumbled on the most powerful new tool in government: the CFPB's consumer-complaint service. Imagine a site like Yelp, if Yelp could respond to negative reviews with federal investigations and hundreds of millions of dollars in fines and could fund itself from the bottomless coffers of the Federal Reserve. The day after Jacobs filed her complaint on the CFPB's website, the agency emailed her to say it was looking into her case. Four days after that, she received an overnight FedEx package from Flagstar with a new set of papers for her modification—minus the $11,599.32 fee.

The consumer-complaint service is an ideal place to start understanding how in four short years the CFPB has become one of the most effective and feared regulators in Washington. Since opening its doors in July 2011, the bureau has received more than 650,000 complaints about lenders. And the pace is accelerating: it now receives as many as 27,000 complaints a month. What's more, the CFPB publishes the details of the complaints on its website, complete with banks' names and whether they responded promptly; the bureau is literally shaming banks into compliance. Just as important, the CFPB has used the data it has collected to launch investigations, guide its oversight of banks and publicly chart lending trends that it deems unfriendly to consumers. Lawyers and consultants for the banks now advise their clients that the once quaint phenomenon of customer indignation suddenly poses a threat to their business. "The financial institutions understand there's somebody looking over their shoulder now. There's a cop on the beat," says Sheila Bair, former chair of the Federal Deposit Insurance Corporation.

And banks are just the beginning for the CFPB. Less than a decade after Warren first proposed the agency, it is clear why opponents tried so hard to prevent it from becoming reality. Just as lending has expanded into every corner of the economy, with credit available for anything from fishing boats to orthodonture, the CFPB has pushed the limits of the broad powers Congress gave it under the 2010 Dodd-Frank financial-reform package, finding targets anywhere anyone is charging interest. In the past year alone, CFPB has taken on furniture retailers, cellular-network companies and auto-loan providers. To date, it has issued hundreds of millions of dollars in penalties and generated more than $11 billion in relief for 25 million consumers.

That's the sort of record that attracts allies—and enemies. The rise of a credible cop in the marketplace—something Washington has never been very good at creating in the name of consumer protection—has neither surprised nor pleased the banks it now oversees. Financial institutions big and small use rhetoric to describe the agency that is drawn from the bad old days of secret files and illegal wiretaps. "CFPB is the most powerful agency we have seen in Washington since J. Edgar Hoover ran the FBI," says Richard Hunt of the Consumer Bankers Association, an industry lobbying group.

To its backers, the CFPB is a dream come true: an agency with the independence and authority to crack down on the financial exploitation of consumers wherever it takes place. The agency's clout, says its plainspoken director, Richard Cordray, "gives us the ability to shape an industry toward being consumer-friendly. If that sounds like that's a major change in the markets, so be it."

THE CFPB IS TRULY the agency that almost never happened. The idea began with an article Warren wrote in the journal *Democracy* in 2007 on the eve of the financial crisis. "It is impossible to buy a toaster that has a 1-in-5 chance of bursting into flames and burning down your house," Warren began the piece. "But it is possible to refinance an existing home with a mortgage that has the same 1-in-5 chance of putting the family out on the street."

The problem, Warren wrote, was that the job of protecting ordinary Americans from unscrupulous lenders was spread over dozens of federal and state regulators. Some covered global behemoths like Citibank and Bank of America, others oversaw local savings and loan outfits, and still other agencies covered state-chartered banks. Nonbank lenders, meanwhile, were regulated by yet another agency. The job of policing student loans, which had grown to a nearly $1 trillion market, fell to the federal Department of Education. Payday lending, check cashing and overdraft protection, not to mention lending by auto dealers and orthodontists, were handled by still other authorities. The result of this regulatory maze was low-priority government attention to a high-priority issue for ordinary Americans.

Warren's article resonated with Democratic policy wonks, and on April 14, 2009, Michael Barr, then the Assistant Secretary of the Treasury for Financial Institutions, pitched the idea of a single agency to oversee all consumer lending to Barack Obama and his top political and economic advisers in the Roosevelt Room of the West Wing. But Barr, a Rhodes scholar who had served in the Treasury Department under Bill Clinton, went well beyond what Warren had envisioned. Where Warren had suggested an oversight body akin to the Consumer Product Safety Commission, which protects Americans from dangerous products but has limited authority, Barr wanted an agency with real clout. That meant an independent budget and broad rulemaking and enforcement powers.

Barr proposed creating the new agency as part of what became the broader Dodd-Frank financial-reform package, and he warned the President that opposition from the financial sector would be enormous. But Obama signed off and gave Barr the task of writing the section of the reform law that would create it. Barr gave the agency uncommon power: he allowed the CFPB to fund its operations by drawing up to the equivalent of 12% of the Fed's operating budget every year without anyone's approval—in 2015 that amounts to nearly $600 million. He gave it legally binding powers to issue subpoenas and extract cash penalties from bad lenders at will. He transferred all or part of the rulemaking authority in 19 different existing laws to the bureau. And rather than creating a board of commissioners like those that run many federal regulators, he ultimately gave all that power to one director.

BILL CLARK—CQ ROLL CALL/GETTY IMAGES

CFPB director Richard Cordray aims to make the lending industry consumer-friendly

MAKING ITS MARK

In just four years, the Consumer Financial Protection Bureau has put the lending industry on the defensive

$11 BILLION
Approximate amount of relief to consumers from the CFPB's enforcement, including restitution and canceled debts

25 MILLION
Number of consumers who have been helped by the agency's regulatory actions

$13 TRILLION
Estimated size of the U.S. lending industry, which the CFPB oversees

The outcry from the financial sector was loud and sustained. "It's going to be a huge fight," declared Edward Yingling, then president of the American Bankers Association, when Barr's plan was made public in June 2009. "This agency would have broad powers that go beyond every consumer law that has ever been enacted." When the Dodd-Frank reform bill containing Barr's plan moved through the House of Representatives, the nascent CFPB barely survived an attempt to turn it into a weak commission of existing regulators.

The battle was even harder in the Senate, where Democratic Banking Committee chairman Christopher Dodd needed to sway several Republicans to get enough votes to move the larger bill. Among the deals Dodd made to get the law passed was a concession to Senator Susan Collins of Maine, who wanted to ensure that the fluctuating income of seasonal workers like lobstermen wouldn't preclude them from getting loans. With Collins on board, the Dodd-Frank bill cleared the Senate on July 15, 2010. Were it not for Collins, the CFPB might not even exist.

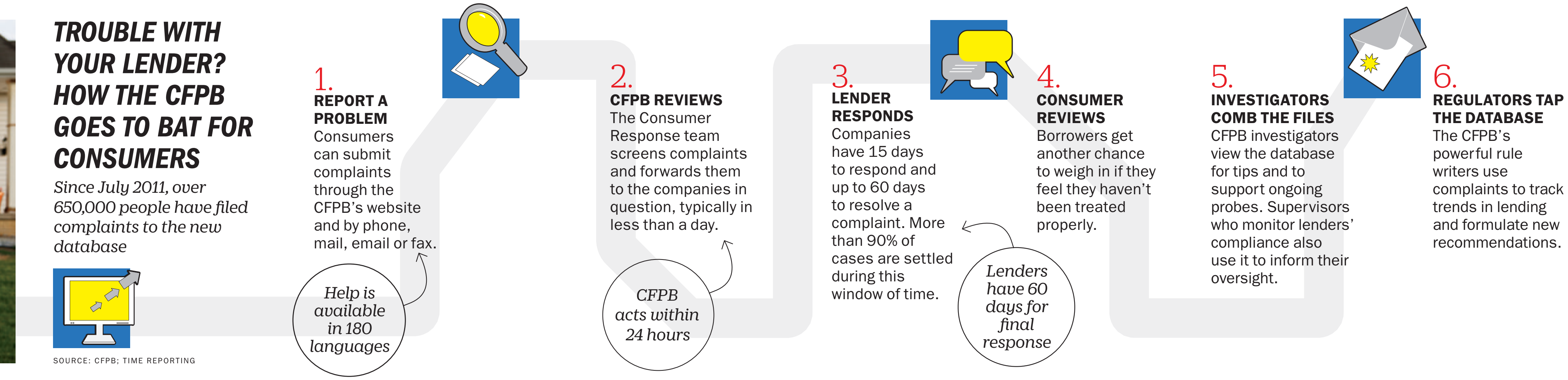
The Republicans and their backers in the financial sector hadn't given up on fighting the agency, though. The following May, 10 weeks before the CFPB's full powers were set to kick in, 44 Senate Republicans signed a letter to Obama saying they'd block any permanent nominee to run the agency without major structural changes. They insisted on direct congressional control over the agency's budget, a lower bar for vetoes and the replacement of the sole director with a board. Obama rejected the changes out of hand, but he also proffered a peace offering of sorts. The previous fall he had appointed Warren as temporary head of the agency, but he passed her over for the permanent job. Instead, Obama tapped the lower-profile Cordray to run the agency. (Even that wasn't enough to appease Republicans, who blocked Cordray's nomination. Unwilling to meet their demands, Obama used a recess appointment to install Cordray while Congress was on its holiday break in January 2012.)

CORDRAY, 56, was a canny choice. Though he comes off as an understated Midwesterner, he's no less of a crusader

PAUL D'AMATO FOR TIME

TROUBLE WITH YOUR LENDER? HOW THE CFPB GOES TO BAT FOR CONSUMERS

Since July 2011, over 650,000 people have filed complaints to the new database



SOURCE: CFPB; TIME REPORTING

than Warren. Raised in Grove City, Ohio, where he and his wife still live when he's not in Washington, Cordray graduated from the University of Chicago Law School and then clerked for conservative flag-bearer Robert Bork and Supreme Court Justices Byron White and Anthony Kennedy. After serving in the Ohio legislature and working in private practice, he was elected Ohio attorney general in 2008. He views the CFPB's mission from the perspective of his Middle American roots. "My dad was born in 1918 to a fairly poor family in eastern Ohio," Cordray says, and growing up during the Depression, he "didn't like to owe people money." When Cordray's father started his own family in the '50s, credit was limited. He had a small mortgage that he quickly paid off and a few low-limit, store-specific credit cards. "They didn't have a lot of extra opportunity there," Cordray says of people like his parents. "But they couldn't get into much trouble."

In taking over the CFPB, Cordray was dealing with a very different landscape. Since the rise of easy credit in the 1980s, lending has worked its way into virtually every corner of society. For many with limited savings but a steady income, this has made it possible to get a home or a car or an education that would otherwise be out of reach. But as lenders expanded credit, they also made it more complicated. The increased opportunity credit offered came with heightened risks and less transparency that made those risks harder to understand. Credit-card billing terms that used to be explained in a page in the 1970s ballooned to dozens of pages by the early 2000s. Lenders issued some $90 billion in student loans in 1991. Today it's a $1.3 trillion industry, fueled in part by for-profit institutions. Outstanding home-mortgage debt meanwhile grew from $903 billion in 1980 to $11.3 trillion in 2008.

Cordray wasted little time marshaling his forces. On July 21, 2011, the agency launched its consumer-complaint service and began collecting online, phone and written reports of bad behavior by lenders. By January 2012, Cordray had hired 100 enforcement attorneys. By the end of that February, the bureau had launched investigations of mortgage lenders and credit-card issuers. Just as important, it was looking into more commonplace consumer gripes including charges for overdrafts and minimum-balance violations that few borrowers understand and that can be challenging to reverse.

The CFPB focused its early rulemaking on the U.S. mortgage industry, by far the largest area of consumer lending. In the summer of 2012, it introduced simpler mortgage documents and proposed a rule requiring lenders to tell borrowers within three days of applying for a loan how much total interest they would pay and how that could change if rates went up or down. In April 2013, it proposed rules giving borrowers more protection from companies servicing their mortgages.

Most of all, the CFPB flexed its broad enforcement powers. By the end of 2012, it had ordered Discover, Capital One and American Express to pay a total of $537 million in refunds and penalties for deceptive credit-card marketing. It fined U.S. Bank $48 million for charging 420,000 borrowers for identity-protection services they never received. And it busted nationwide mortgage-modification scams run by fake lawyers who allegedly tricked thousands of troubled homeowners into paying large upfront fees for promised lower rates they never delivered.

The crackdown won over the public and disarmed political opponents. On July 16, 2013, Republicans voted to confirm Cordray permanently to his position, effectively ratifying all the actions the CFPB had taken until then and opening the door for more. "It is in some sense literally unbelievable that CFPB is alive and doing well today," says Barr, who now teaches law at the University of Michigan Law School.

IF THE PUBLIC has come to respect the CFPB, the lending industry still can't stand it. Camden Fine, president of the Independent Community Bankers of America, says the agency has stifled lending by setting standards that "prevent the banker from extending credit to worthy consumers." Others worry about the vast power of the agency. Staffers on Capitol Hill have their eye on the CFPB's civil-penalty fund, which is supposed to spend collected penalties that aren't returned to consumers on programs that protect them from predatory lending. As of March 2015, the fund had grown to $207 million. GOP staffers worry that eventually the fund could be misused for political purposes. Cordray defends the fund, saying it has been allocated only to provide $13 million to a program that advises veterans and other vulnerable borrowers, but he admits the political sensitivity of the fund given the authority and independence of the bureau.

Then there's the waste. The bureau paid more than $5.7 million to IDEO, the firm that did the Apple logo, for a "consumer experience strategy" including designing CFPB's hip, all-lowercase logo that features the beam of a flashlight. And in July 2014, the Federal Reserve's Inspector General scolded the agency over the cost of renovations to its headquarters, in a building across 17th Street from the White House compound. The work was initially budgeted at $55 million, but the IG found that the cost could rise to $216 million, thanks in part to a two-story waterfall and a sunken garden. (The cost rose to $99 million in late 2014, but a recent IG follow-up found renovation costs "reasonable" and under control.) CFPB's independence from congressional budget control and oversight, said one House GOP critic, Patrick McHenry of North Carolina, has meant "less concern for fiscal discipline" and "a substantial risk to taxpayers."

None of this has deterred Cordray and his band of lawyers. If anything, they ramped up in their second and third years. In December 2013, the bureau ordered Ocwen, a big mortgage servicer, to pay $2.1 billion for deceiving consumers and engaging in illegal foreclosure practices. In April 2014, it fined Bank of America $727 million for deceptive credit-card marketing, and on July 21, 2015, it ordered Citibank to pay $700 million for the same. And it has broadened its target list to a wide array of lenders in other fields. As part of an aggressive effort to protect young members of the military, the CFPB fined the furniture retailer Freedom Stores $2.5 million for illegal debt-collection practices against service members. In February, it secured $480 million of debt relief for current and former students of Corinthian Colleges, a for-profit educator the bureau had sued for predatory lending. Last May, it forced Sprint and Verizon to refund $120 million to consumers for "cramming" online-data charges onto mobile-phone bills, jacking up their monthly fees with unwanted, unauthorized services.

If the agency is behaving as if it still has something to prove, that's partly because there are plenty of people who would still like to curtail its powers. In March, the House passed a bill along party lines that would replace the sole director with a commission and give Congress direct control over CFPB's funds. That bill is going nowhere in the Senate.

> **'CFPB IS THE MOST POWERFUL AGENCY WE HAVE SEEN IN WASHINGTON SINCE J. EDGAR HOOVER RAN THE FBI.'**
>
> —RICHARD HUNT, *BANKING LOBBYIST*

IN A CAPITAL controlled by monied interests, consumer-protection agencies rarely enjoy long periods of clout. Even when they have the votes and the leadership to flex their muscles, agencies that work for the little guy either overstep their authority or solve the problem they decided to fix. The CFPB may be an exception to the rule. Cordray knows the bureau's future will depend partly on public support. He says the agency has created a "virtuous circle" with its complaint service, and he sees it as a way to both maintain goodwill and sharpen the agency's mission. "We're being driven by what people tell us, in real time, not by some agenda that I might have brought to the bureau," Cordray says.

Which is one reason the agency has taken another step to make bank regulation very personal. In late June, the CFPB started adding first-person testimonials to the online database, which means the human side of troubled interactions between ordinary Americans and their lenders are on view for everyone to see. Deborah Jacobs, who won her war with Flagstar (which declined repeated requests for comment for this story), says the effort to shame banks into compliance is working. She still worries that the CFPB could someday become too powerful, but for now, she says, "they're my saviors."