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Testimony of Elizabeth Warren Before the House Financial Services Committee

By Elizabeth Warren – MAR 16, 2011

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

I. Introduction

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

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

Since taking over the job of putting together the new bureau, I have had more than sixty one-on-one conversations with Members of Congress, exploring a number of different questions and suggestions in detail. I am pleased to have this chance to appear before you today to update you on our progress and to talk with you more in this forum. I also look forward to continuing this conversation with you and your colleagues in Congress in the weeks and months ahead.

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

II. The CFPB's Mission

A. Background

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

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

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

B. Goals for the Bureau

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

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

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

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

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

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

product can explode, taking their life savings, their cars, or their homes, and leaving them in financial ruin.

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

For too long, regulation has been described as undermining the free market. This is wrong. The choice isn't between regulation and the market or between consumers and lenders. The choice is between a market in which costs are impossible for the average consumer to calculate in advance and nasty surprises are hidden in the fine print, and a market in which prices and risks are clear up front so that products are transparent and apples-to-apples comparisons are possible. Good regulation is not about impeding market forces; it is about channeling those forces to make the market work better. Good regulation is not about retribution designed to make an industry suffer; it is about rooting out deception and promoting transparency so that honest competition actually works. Good regulation supports strong markets and makes strong markets more likely to persist over time. This approach is based on faith in the good sense of American consumers to make the decisions that are best for them—once they have the basic information they need.

C. Implementing the CFPB's Goals

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

Consumers must be armed with the information they need to be able to assess the costs and risks and compare products. Our goal is shorter, clearer disclosures and agreements for the most common credit products that can be read in a few minutes by consumers, with high levels of understanding.

Each lender would set the terms of its deal, but certain basic information – including the interest rate, the penalty terms, and whether and how the rate or other terms might change – would have to be presented in a plain and open manner so that consumers can figure out the best overall terms for them. Pages of fine print and long passages of legalese may serve some lenders, but they can make it impossible for the customer to know what’s really going on. This is wrong. Average consumers who take out credit should not have to struggle to understand the basic agreement.

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

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

III. The CFPB’s Priorities

A. Mortgages

For many Americans, a mortgage is the biggest financial commitment they will make in their lives. This means the stakes are especially high when consumers cannot understand the basic terms of

their mortgages or comparison shop before they settle on a particular product. Getting stuck with the wrong mortgage can cost a family tens of thousands of dollars over the life of the loan. It can even cost them their home.

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

Transparency in the mortgage market is critical. If a family can see the costs and risks up front, that family is safer – and we’re all safer. Right now, much of the paperwork associated with a mortgage is far too confusing and comes too late. It is the worst of all possible worlds: The paperwork required by law is complicated and expensive for the lender to fill out, and there are real regulatory compliance costs associated with every loan. But the papers come too late and are too complicated to be helpful to consumers. By the time they see most of the papers, they are at the closing table being told “sign here, sign here, sign here.” In other words, the current regulations provide low value for the borrowers and high cost for the lenders.

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

Of course, the CFPB’s job cannot end with mandating simpler disclosure. As in any market, there are some “bad apples” that must be dealt with. Congress has given the consumer bureau the tools – and the mandate – to do so. A family needs someone on their side if, for example, a mortgage company

tries to change terms at the closing. Karen from Pennsylvania shared her story with us. When Karen refinanced her mortgage, the broker promised her a low fixed rate loan but instead gave her two more expensive loans – a large adjustable-rate first-lien loan and a second smaller loan – that increased the broker’s fees. Karen’s broker also altered her asset and income information to make her eligible for a larger loan than she would have otherwise qualified for. The broker scheduled a late-night closing, insisting that she sign a ream of paper quickly, and Karen was not aware of these changes. The broker also withheld copies of the appropriate documents at the time of closing, making it even harder for her to figure out what had happened.

At the time of Karen’s closing, many of these practices were already illegal. But the rules have not been adequately enforced. Recent revelations of mortgage servicers’ haphazard and questionable practices have further demonstrated the need for a new cop on the beat. Currently, our team is working with federal and state regulators to lay the groundwork for coordination in the regular examination of mortgage servicers. Notably, Congress authorized the CFPB to be the first federal agency with the authority to monitor and regulate all major mortgage servicers, including both bank and non-bank companies.

B. Credit Cards

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

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

Making credit cards easier to understand and compare can also spur innovation. Instead of producing ever-more-complicated cards with more hidden fees and surprises, card issuers would have additional incentives to produce innovations that are attractive to customers. Competition would flourish, but in ways that consumers can see – better customer service or lower or more predictable prices.

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

We believe the CARD Act has pushed in the right direction. It has brought about significant reforms in both the pricing practices of card issuers and the information provided to consumers. Even so, there are a lot of moving parts in a credit card price, and there is still room for improvement in the transparency of this market. Despite the important progress made in improving the Schumer box disclosure and monthly statement, it is still too difficult to pin down the costs and risks of each individual credit card and to make direct apples-to-apples comparisons. Our next challenge will be to further clarify price and risk and make it easier for consumers to make direct product comparisons. The CFPB is working hard on ideas about how to improve this market without an overreliance on rules.

Addressing the mortgage and credit card markets is a good start for the new consumer bureau, but the CFPB will also study other markets. It is important that the costs and risks associated with other products – such as prepaid cards, payday loans, remittances, overdrafts, and title loans – also be

clear and up-front. Ultimately, the CFPB must be responsive to the needs of American families, tracking market trends and identifying new credit products and unexpected practices. Recent experience has taught us that American families need an agency that is actively monitoring consumer financial markets to ensure that they are fair, transparent, and competitive.

C. Financial Education

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

The Dodd-Frank Act required the CFPB to establish an Office of Financial Education. This office will be a 21st-century resource for consumers who are looking to better understand how different products and services work, and we will provide access to tools and information that can help consumers select the products that are best for them. Building an office that has a real impact requires improving upon educational materials already available, developing new materials that are short, simple, and effective, and coordinating our efforts with others. It means creating tools that are easy to use and that enable consumers to understand and assess the total costs and potential risks of different products to make comparison shopping easy.

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

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

D. Consumer Complaints

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

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

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

E. Supervision, Enforcement, and Fair Lending

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

The CFPB's Large Bank and Non-Bank Supervision teams and our Office of Fair Lending will work closely with our Enforcement division. To the extent practicable, the CFPB will seek to resolve issues short of litigation, promoting compliance through open discussion, clear regulation, consumer response follow-up, form simplification, and constructive supervision. While enforcement is generally a last resort, it is an essential tool to make certain that there is a credible cop on the beat. The consumer bureau will work to set clear priorities and processes for its enforcement efforts and coordinate closely with the Department of Justice, other federal agencies, and state partners to achieve a balance of "cooperative federalism" that maximizes joint effectiveness, increases efficiency, and reduces burdens on industry. This effort is critical because consistent enforcement of clear rules benefits the entire economy. Enforcement protects law-abiding businesses that play by the rules against unfair competition from companies that seek advantage by breaking the law.

F. Information Technology

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

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

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

IV. Accountability and Transparency

The CFPB was designed to increase accountability by consolidating into a single agency the core consumer financial protection functions that had existed across the federal government. Under the

old system, seven different federal agencies were responsible for consumer financial protection. Those agencies had other responsibilities as well and consumer financial protection was not anyone's top priority. The tangle of seven agencies failed to create effective rules and left gaping holes in oversight. There were also basic problems of accountability. Because it was no one's primary responsibility, it was more difficult to hold any single agency accountable. The CFPB will be directly responsible to the public for performing those core functions. Accountability was a central policy rationale for the establishment of the CFPB, and it is essential that the CFPB be accountable for its efforts moving forward.

A. Oversight of the CFPB

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

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

- The CFPB submits annual financial reports to Congress;
- The CFPB reports to Congress twice each year to justify its budget from the previous year;
- The Director of the CFPB testifies before and reports to Congress twice each year regarding the CFPB's activities;
- The GAO conducts an audit each year of the consumer bureau's expenditures and submits a report to Congress; and

- The CFPB submits its financial operating plans and forecasts and quarterly financial reports to the Office of Management and Budget.

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

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

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

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

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

B. Budget

Under the Dodd-Frank Act, the CFPB is funded principally by transfers from the Board of Governors of the Federal Reserve System up to a limit set forth in the statute. The CFPB can request funds from the Federal Reserve that are reasonably necessary to carry out its consumer financial protection

functions, but the CFPB's funding from the Federal Reserve is capped at a pre-set percentage of the total 2009 operating expenses of the Federal Reserve, subject to an annual adjustment. Specifically, the Dodd-Frank Act places a cap on this primary source of funding for the CFPB by limiting transfers in FY2011 to 10 percent of these Federal Reserve System expenses (or approximately \$498 million), in FY2012 to 11 percent of these expenses (or approximately \$547.8 million), and in FY2013 to 12 percent of these expenses (or approximately \$597.6 million). The cap remains at 12 percent in FY 2014 and beyond but will be adjusted for inflation.

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

The CFPB has been tasked with supervising more than twice the number of entities as all other federal bank supervisors combined, including supervising the largest, most complex banks. Effective supervision that levels the playing field between bank and non-bank institutions will require dedicated and predictable resources, and independent examiners. Moreover, consumer compliance examinations for depository institutions with less than \$10 billion in assets will continue to be conducted by prudential regulators and thus funded independently. There is no rationale for having the consumer compliance examinations of community banks funded independently while subjecting the same examinations of their large bank and non-bank competitors to the appropriations process. Such an approach is plainly inconsistent with the level playing field promised by the Dodd-Frank Act.

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

If the CFPB fully used the amount authorized for transfers from the Federal Reserve System in FY2011, FY2012, or FY2013, this funding level would remain substantially below that of the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Securities and Exchange Commission, and the Federal Reserve System. Moreover, if the CFPB fully used the amount authorized for transfers from the Federal Reserve System in those years, it would take nearly 20 years

of operation for it to spend as much money as it cost the government to resolve IndyMac – a single institution that failed in the financial crisis of 2008. To put it another way, if the CFPB fully used the amount authorized for transfers from the Federal Reserve System, its expenses in FY2011 would be the equivalent of \$1 for every open mortgage in the country plus \$.32 for every open credit card account. Wall Street bonuses in 2010 alone totaled \$20.8 billion – more than 51 times the size of the CFPB’s budget cap.

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

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

C. Organizational Chart and Hiring

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

also spoken about the organizational structure with Members of Congress and a number of community groups.

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

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

- Steve Antonakes, the former Commissioner of Banks in Massachusetts, serves as Assistant Director for Large Bank Supervision for institutions such as banks and thrifts; and
- Peggy Twohig, a former financial services lawyer and a 17-year veteran of the Federal Trade Commission, serves as Assistant Director for Non-Bank Supervision for other financial services providers.

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

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

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

- Raj Date, who worked in and around consumer finance and banking for 15 years, will serve as Associate Director of Research, Markets, and Regulations;
- Len Kennedy, former General Counsel of Sprint Nextel, has assumed that role at the CFPB;
- David Silberman, Assistant Director for Card Markets, comes to us after having built a credit card for the AFL-CIO and then becoming a well-respected banking consultant;

- Corey Stone left his position as Chairman of the Board of a community bank and as CEO of an alternative credit reporting business to serve as Assistant Director for Credit Information Markets; and
- Elizabeth Vale, who started her professional career with a community bank and eventually served as a managing director at Morgan Stanley, will serve as Assistant Director for Community Banks and Credit Unions.

The CFPB has also brought on:

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

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

D. The CFPB Headquarters

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

Sometime next year, the CFPB team will move across the street from the White House complex to 1700 G Street, N.W. Our plan is to make that building the clearly identifiable home of the consumer bureau. We want the CFPB to have a very tangible presence for anyone who visits Washington, and we want the building to have as much public space as possible. In particular, we are working on plans to open up parts of the lobby and the adjacent patio for displays, perhaps featuring consumer information and financial education materials and tools to help consumers choose the mortgages, credit cards, and other financial products and services that are right for them.

E. Public Disclosure of My Schedule

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

F. Availability to Members of Congress

Since my appointment to my current role six months ago, I have made clear that I am available and willing to testify before Congress. My presence here today – and my eager acceptance of your invitation – reflects my commitment to working closely with this Committee and Congress in the weeks and months ahead. In standing up the consumer bureau, I also have been and remain available to Members of Congress in less formal settings. As of today, I have had more than 60 one-on-one conversations with Members of Congress and have made nine separate trips to Capitol Hill since September. I have met with Democrats, Republicans, and Independents – including many who supported the creation of the CFPB and many who opposed it. Each visit has taught me something valuable.

Making myself readily available to Members of Congress serves several goals. First, I want to listen. It is important that we learn from the elected representatives of the American people, and particularly

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

V. Public Engagement

We recognize the importance of communicating substantively and frequently with all quarters that will be affected by the agency – from American families struggling to understand a credit card charge to investors in banking stocks trying to evaluate whether industry profits are built on sustainable models. My first role in public engagement is to listen. In order to appreciate the full implications of this new agency and how to build it to best serve our nation, we are working to understand the hopes, fears, and concerns of individuals with many different perspectives. We are also using what we learn to help build the most effective consumer bureau. Stories from our travels to California, Illinois, New York, Ohio, Texas, and elsewhere have helped us think about how to track consumer abuses more effectively, and suggestions from a variety of different business leaders discussing organizational design have helped us shape our internal structure.

A. Industry

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

Reflecting this commitment to industry engagement, we have been doing a lot of listening. To date, I have met with dozens of CEOs and other executives of large financial institutions, including multiple meetings in many cases. I have also met with a large number of trade associations that represent the interests of the industry. The new consumer bureau has hosted a number of multi-party meetings. In my first week on the job, the Treasury Department sponsored a symposium that brought together lenders and consumer advocates to discuss how to simplify federal mortgage disclosures. [\[2\]](#)

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

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

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

enticing were in fact far more expensive. Practices that hurt our nation's families also hurt our community banks.

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

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

B. Consumer Advocates and Faith Leaders

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

turn to their pastors, priests, and rabbis both for solace and for counseling. People of faith are trying hard to offer guidance, and congregations everywhere are trying to support their members.

Learning from community leaders is not new to me. For years, I have met frequently with such groups, learning about the problems that consumers face in the marketplace and policies that can make a meaningful difference. They have been on the front lines, and the stories they have told often have been harbingers of more system-wide problems to come. In standing up the consumer bureau, we have continued to learn from those who work every day with families in economic distress.

C. Military Families

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

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

Earlier this year, Holly Petraeus, a veteran financial educator for military families and a military daughter, wife, and mother herself, joined our team. She is hard at work leading the CFPB's Office of Servicemember Affairs. This office is establishing a partnership with the Department of Defense and the Department of Justice and will focus on three key areas: Military family financial readiness education, complaint and response monitoring, and coordination among federal and state agencies of consumer protection measures for military families. In January, Holly and I visited Joint Base San

Antonio – where two of my brothers took basic training – to speak with servicemembers and financial providers about the unique lending circumstances and challenges that exist in military communities. In future trips, we will continue to ask many questions, listen to our troops, and apply what we learn directly to our efforts. It is an honor to have the opportunity to build a consumer bureau that will serve the families of those who serve our country.

D. Attorneys General

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

Recently I visited a state attorneys general conference in Fort Lauderdale, Florida. I regularly speak with both Democratic and Republican attorneys general by telephone. With a former Attorney General, Richard Cordray, leading our coordination effort as the head of our enforcement division, we will continue to work together with the attorneys general in enforcing consumer protection laws.

VI. Conclusion

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

Updated May 23, 2011

- **FORECLOSURE** (CFPB.GOV/ABOUT-US/NEWSROOM/?TOPICS=FORECLOSURE)
 - **BANKING** (CFPB.GOV/ABOUT-US/NEWSROOM/?TOPICS=BANKING)
 - **PAYDAY LOANS** (CFPB.GOV/ABOUT-US/NEWSROOM/?TOPICS=PAYDAY-LOANS)
 - **DEBT COLLECTION** (CFPB.GOV/ABOUT-US/NEWSROOM/?TOPICS=DEBT-COLLECTION)
 - **MORTGAGES** (CFPB.GOV/ABOUT-US/NEWSROOM/?TOPICS=MORTGAGES)
 - **STUDENTS** (CFPB.GOV/ABOUT-US/NEWSROOM/?TOPICS=STUDENTS)
 - **CREDIT CARDS** (CFPB.GOV/ABOUT-US/NEWSROOM/?TOPICS=CREDIT-CARDS)
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