

Congress of the United States
Washington, DC 20515

August 16, 2012

The Honorable Richard Cordray
Director
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, D.C. 20552

Dear Director Cordray:

We are writing to express our deep concern with final CFPB rules implementing Section 1073 of the Dodd-Frank Act. The intent of Section 1073 is to (i) provide consumers with transparency and certainty regarding the costs of low value, international transfers, (ii) establish consumer error resolution rights with respect to such transfers, and (iii) expand access to low cost, financial institution services for such transfers. Unfortunately, the final rules impose arbitrary and unworkable requirements on consumer-initiated international transfers of all sizes and purposes that will drastically curtail the availability of international transfers to consumers. **We urge you to delay the effective date of these rules and to undertake a comprehensive study of their impact before moving forward to avoid irreparable harm to consumers.**

The final rules are fundamentally misaligned with the primary way in which financial institutions conduct international transfers today. As a result, consumer access to international funds transfers through their banks, credit unions, and broker-dealers is now in serious jeopardy due to the nearly impossible compliance challenge that financial institutions must solve by next February.

In particular, although not required by Section 1073, the final rules require remittance transfer providers to disclose (i) exchange rates and fees charged by other entities regardless of whether providers have any ability to know or control those rates and fees and (ii) taxes to be charged by foreign governments. Such disclosures are feasible only for money transmitters that use “closed networks,” i.e., those that own the infrastructure from end-to-end of a transaction. However, all financial institutions primarily use open networks (e.g. wire, ACH, and card-to-card transfers) for consumer-initiated international funds transfers. While these networks enable consumers to send funds account to account to almost anywhere in the world, they do not enable a financial institution in the U.S. to access to the exact exchange rate, third party fees, and foreign taxes required by the final rule.

Additionally, Section 1073 specifically directed regulatory policymakers “to expand the use of the automated clearinghouse system ... for remittance transfers to foreign countries” and required biennial reports to Congress on the status of such efforts.¹ However, due to the fundamental misalignment of the rules with ACH networks, the final rules will work against this

¹ See Dodd-Frank Act §1073(b). See also 77 Fed. Reg. at 6198.

directive by hampering the growth and diminishing the use of this cost-efficient means of international funds transfer.

To comply with the requirements of the final rules financial institutions will have to create their own closed networks, which could take several years to develop, partner with an existing closed network, or exit the international funds transfer business. We estimate that thousands of banks, credit unions, and broker-dealers will no longer send consumer-initiated international funds transfer because of the final rules. We further believe that the financial institutions that remain in the market will be required to severely limit their consumer service offerings. Therefore, we urge the CFPB to study the impact of such an exodus and service contraction on consumers and on the financial institution industry.

Lastly, the final rules could result in a significant fee burden for consumers. Fewer options will result in higher fees, especially for higher dollar transfers for amounts greater than \$1,000, where open networks currently have lower fees and more competitive exchange rates. Lack of competition could cause prices to spike. Last, enhanced compliance costs and a strict new liability standard with a 180-day resolution period will increase risk for providers and drive prices even higher.


We are very concerned that whatever price certainty and transparency that the final rule imparts will come at the cost of a significantly higher price and drastically reduced product availability. Hence, international transfers may no longer be feasible for consumers who support relatives overseas, for parents of students studying abroad, and for consumers who purchase products and services overseas. Importantly, the unbanked and underbanked populations who disproportionately use remittance services will be forced to rely increasingly on services provided by less-regulated entities. Such an outcome is contrary to the important public policy goal of integrating these populations into the mainstream financial system. Further research into the pricing impact on consumers is needed before the final rules go into effect.²

These outcomes were clearly not intended by Congress in passing Section 1073 of the Dodd-Frank Act. Rather than confer control over a product of significance to millions of consumers in the U.S. and a lifeline to families abroad to a small set of closed network providers, we urge CFPB to delay the effective date of the final rules by two years, until February 2015. During this time the CFPB should undertake a comprehensive study of how international transfers are used today for *all* segments of the consumer population, and the impact of the current rule on consumers, pricing for international transfers for a range of dollar amounts, and product accessibility.

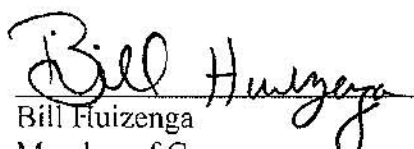
² See Dodd-Frank Act §1022(a). The Bureau must consider the potential benefits and costs to consumers and covered persons, including the potential reductions of access by consumers to consumer financial products or services, when prescribing a rule under the Federal consumer financial laws.

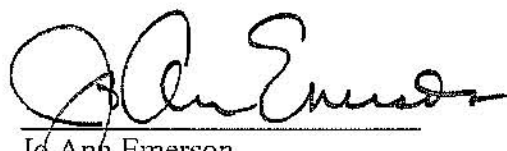
Thank you for your consideration of these concerns. We look forward to your reply and to continuing this important conversation.

Sincerely,



Blaine Luetkemeyer
Member of Congress

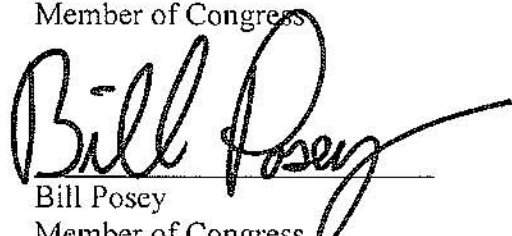

David Schweikert
Member of Congress

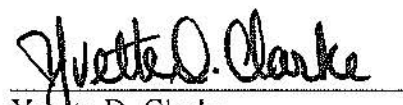

Bill Huizenga
Member of Congress



Jo Ann Emerson
Member of Congress



Stevan Pearce
Member of Congress


Frank C. Guinta
Member of Congress


Bill Posey
Member of Congress

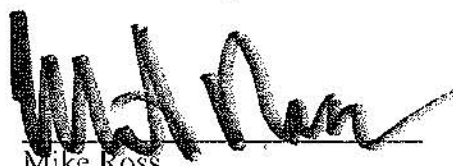

Yvette D. Clarke
Member of Congress



Alcee L. Hastings
Member of Congress

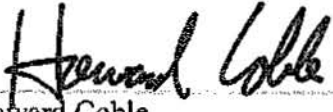

Francisco "Quico" Canseco
Member of Congress


John Campbell
Member of Congress


Steve Stivers
Member of Congress


Mike Ross
Member of Congress

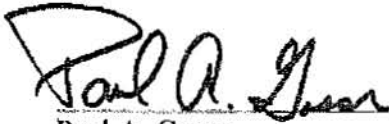

Tim Huelskamp
Member of Congress



Howard Coble
Member of Congress



Kenny Marchant
Member of Congress



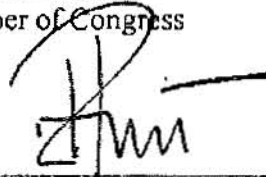
Paul A. Gosar
Member of Congress



Mick Mulvaney
Member of Congress



Janice Hahn
Member of Congress



Robert Hurt
Member of Congress



Kevin Yoder
Member of Congress



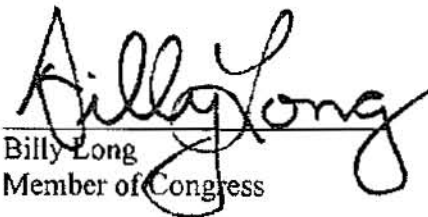
Joe Walsh
Member of Congress



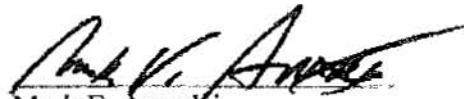
Richard B. Nugent
Member of Congress



Larry Kissell
Member of Congress



Billy Long
Member of Congress



Mark E. Amodei
Member of Congress



W. Todd Akin
Member of Congress



Jim Matheson
Member of Congress



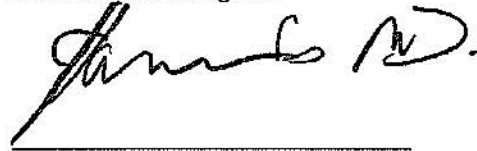
Lynn Jenkins
Member of Congress



Tim Griffin
Member of Congress



Randy Neugebauer
Member of Congress



Andy Harris
Member of Congress

Congress of the United States
Washington, DC 20515

May 24, 2013

Ms. Kelly Cochran
Assistant Director Regulations
Consumer Financial Protection Bureau
1700 G Street, N.W.
Washington, D.C. 20552

Dear Assistant Director Cochran:

We strongly encourage the Consumer Financial Protection Bureau (CFPB) to rationally integrate the three-day waiting period in the proposed rule to combine disclosures required under the Real Estate Settlement Procedures Act (RESPA) and the Truth in Lending Act (TILA) to better assist homebuyers. We appreciate the Bureau's intended goal of giving consumers a meaningful opportunity to review their closing disclosures in advance of their closing. However, we are concerned that without greater flexibility that enables consumers to accept changes within three days of closing, the Bureau's proposal could cause costly delays to closing that actually wind up harming consumers by missing contractual deadlines and potentially lose the opportunity to finance the purchase of their home.

Under the Bureau's proposed rule, the Closing Disclosure must be delivered to and received by the borrower three business days prior to the "consummation" of the transaction¹. If during this three day period a cost the borrower will pay increases or decreases (subject to very limited exceptions), the borrower must be given a new updated Closing Disclosure and wait three additional business days before closing².

Arriving at the "closing table" concludes a long process, and the coming together of a number of moving parts and parties including, buyers, sellers, lenders, real estate agents, appraisers, home inspectors, title professionals and other service providers. In many cases, the real estate transaction is being renegotiated with the seller and services that are paid for at closing are being purchased by the consumer right up to the time of the closing. If these changes cause the closing to be delayed for an additional three days, consumers will face a frustrating home buying experience, bear additional costs such as expired rate locks or the potential collapse of their transaction and loss of their earnest money deposit if the real estate contract expires.

Like the Bureau, we believe "consumers may be more aware of and better understand their transactions if consumers receive the disclosures reflecting all of the terms and costs associated with their transactions three days before consummation." Consumers should have sufficient time to review

¹ 77 FR 51117

² 77 FR 51117

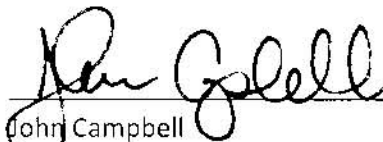
their disclosures, ask the appropriate questions and obtain the advice of a trusted advisor so that they are aware of and understand the transactions. However, the strict application of the Bureau's proposed three day rule (including the very limited exceptions) will work to the consumer's detriment. Federal regulation should not put consumers in the position of having to choose between having their closing delayed for three days (and paying the associated increased costs) or not buying a product for their protection (such as a home warranty or title insurance).

We urge the Bureau to provide consumers with needed flexibility to prevent the strict application an additional three business day waiting period before closing and explore options that balance the intent of the rule with how it would apply to consumers in the market. We look forward to your response and stand ready to work with you on this issue.

Sincerely,



Steve Stivers
Member of Congress



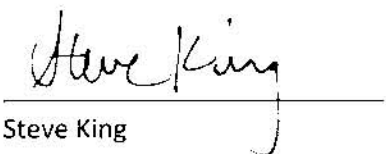
John Campbell
Member of Congress



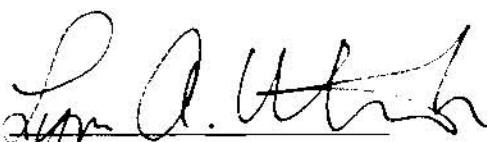
John Kline
Member of Congress



Steve Chabot
Member of Congress



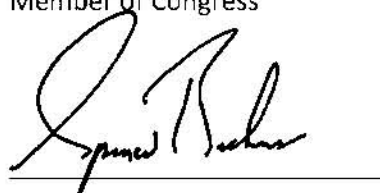
Steve King
Member of Congress



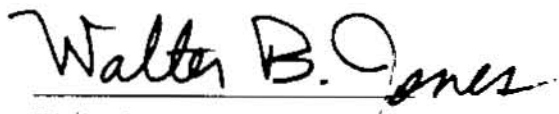
Lynn Westmoreland
Member of Congress



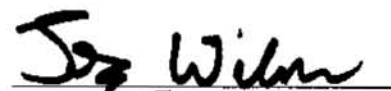
Ken Calvert
Member of Congress




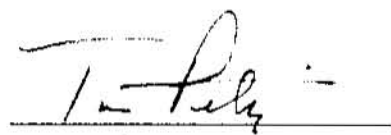
Spencer Bachus
Member of Congress

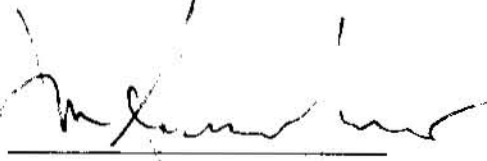

Walter Jones
Member of Congress


Steve Pearce
Member of Congress

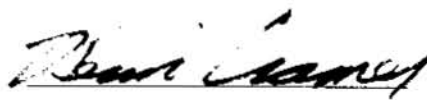

Joe Wilson
Member of Congress


Jo Bonner
Member of Congress



Tom Petri
Member of Congress



Jim Sensenbrenner
Member of Congress


Jim Griffin
Member of Congress



Kevin Cramer
Member of Congress



Billy Long
Member of Congress


Mick Mulvaney
Member of Congress


Trey Radel
Member of Congress


Sean Duffy
Member of Congress


Bill Huizenga
Member of Congress

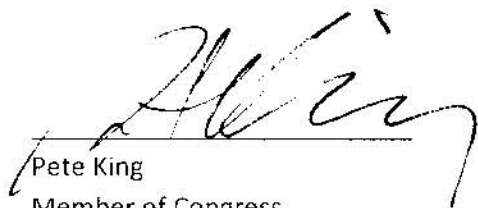

Randy Neugebauer
Member of Congress



Mo Brooks
Member of Congress



Dennis Ross
Member of Congress



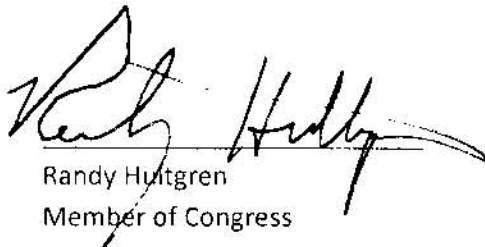
Pete King
Member of Congress



Kerry Bentivolio
Member of Congress




Marsha Blackburn
Member of Congress



Randy Hultgren
Member of Congress



Jim Renacci
Member of Congress



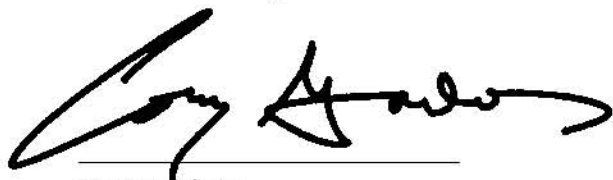
Keith Rothfus
Member of Congress



Glenn Thompson
Member of Congress



Bill Posey
Member of Congress



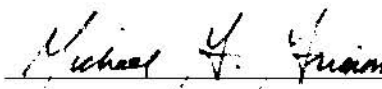
Cory Gardner
Member of Congress



Aaron Schock
Member of Congress



Erik Paulsen
Member of Congress



Michael Grimm
Member of Congress



Robert Hurt
Member of Congress



Michele Bachmann
Member of Congress



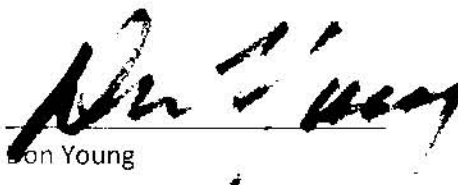
Frank Lucas
Member of Congress



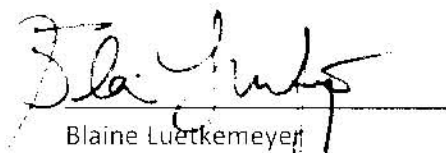
Mike Coffman
Member of Congress



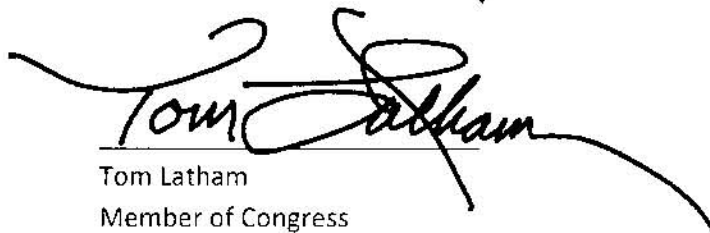
Gary Miller
Member of Congress



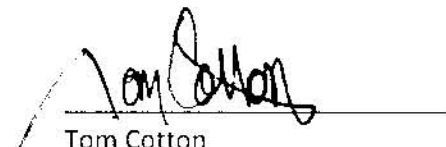
Ron Young
Member of Congress



Blaine Luetkemeyer
Member of Congress



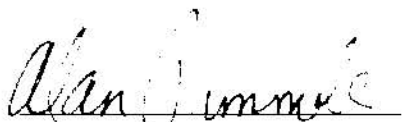
Tom Latham
Member of Congress



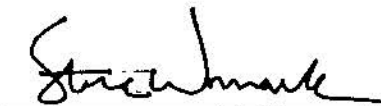
Tom Cotton
Member of Congress



Andy Harris
Member of Congress



Alan Nunnelee
Member of Congress



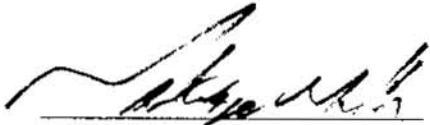
Steve Womack
Member of Congress



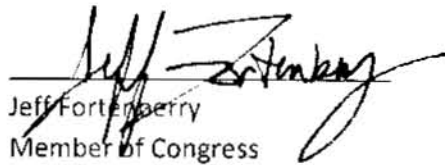
Bill Johnson
Member of Congress




Marlin Stutzman
Member of Congress



Markwayne Mullin
Member of Congress



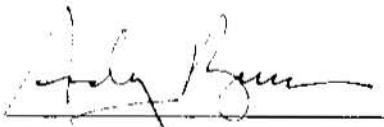
Jeff Fortenberry
Member of Congress



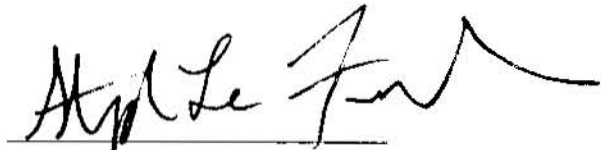
David Schweikert
Member of Congress




Rick Crawford
Member of Congress



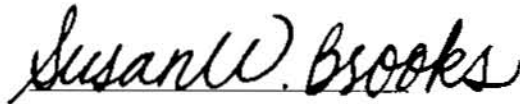
Andy Barr
Member of Congress



Stephen Fincher
Member of Congress



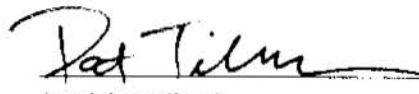
Adrian Smith
Member of Congress



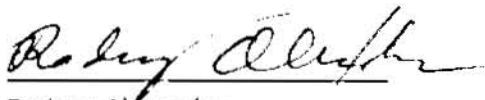
Susan Brooks
Member of Congress



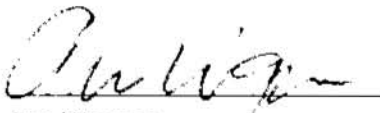
Richard Nugent
Member of Congress



Patrick J. Tiberi
Member of Congress



Rodney Alexander
Member of Congress



Ann Wagner
Member of Congress

June 12, 2013

The Honorable Steve Stivers
U.S. House of Representatives
1022 Longworth House Office Building
Washington, DC 20515

Dear Representative Stivers:

Thank you for your letter about the Consumer Financial Protection Bureau's (Bureau) proposal to integrate the mortgage disclosure requirements of the Truth in Lending Act (TILA) and the Real Estate Settlement Procedures Act (RESPA). As you know, the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act) requires the Bureau to publish a single, integrated disclosure for mortgage loan transactions that includes mortgage disclosure requirements of both TILA and RESPA. The Dodd-Frank Act required the Bureau to propose an integrated disclosure and rules by July 21, 2012, one year after statutory authority for TILA and RESPA transferred to the Bureau from the Board of Governors of the Federal Reserve System and the U.S. Department of Housing and Urban and Development, respectively. The Bureau issued the proposal on July 9, 2012, which was published in the *Federal Register* on August 23, 2012. 77 FR 51116 (Aug. 23, 2012). The comment period for the proposal ended on November 6, 2012.

In addition to integrating the disclosure requirements of TILA and RESPA, the Bureau had to reconcile some differences between the two statutes to provide for one integrated disclosure. One of those differences is that TILA and RESPA currently have different timing requirements for the disclosures consumers receive shortly before closing. In 2008, the Mortgage Disclosure Improvement Act amended TILA to require that consumers generally receive revised statements of costs no later than three business days before closing. However, Congress did not amend the RESPA requirement that the person conducting the settlement provide consumers with the HUD-1 at or before closing.

Prior to issuing the proposal, the Bureau conducted broad outreach with industry and consumer groups. Based on what we have heard from consumers,

lenders, and settlement agents, there is widespread frustration with the way closings are conducted today. One major source of this frustration is that consumers are presented with critical information about their loan at the closing table. To reconcile the statutory differences between TILA and RESPA and deal with this frustration surrounding closings, the proposal we issued would require that consumers receive the final disclosure at least three days before closing, so they have the time to review the disclosure in an unpressured environment. This is intended to ensure that all consumers have time to review, question, and understand their transaction, before they enter into what may be the largest financial transaction of their lives. The proposal also would require an additional three-day waiting period if the loan terms or costs change, to ensure consumers have adequate time to review the changes.

However, the Bureau understands that sometimes things will change during the three-day period between disclosure and closing. We also understand that not all changes justify delaying the closing date. Therefore, the Bureau proposed several exceptions specifying situations that would not trigger an additional three-day waiting period. One of these exceptions is for buyer and seller negotiations. For example, when a home is being purchased, the buyer typically performs a walk-through inspection the day before the closing. If the buyer identifies repairs that need to be made, the buyer and seller may negotiate a change in the transaction to cover the cost of those repairs. Our proposal would not delay the closing for these types of changes. We also proposed an exception for increases in costs up to one hundred dollars. In addition, we proposed to allow consumers to waive the three-day period in situations of personal financial emergencies.

The Bureau understands your concern about delayed closings. We specifically solicited comment on this issue in the proposal, and numerous commenters expressed similar concerns. Many of the comments suggested modifications to the proposed exceptions or the addition of new exceptions. The Bureau is reviewing these comments carefully to determine the most appropriate way to provide meaningful consumer disclosure while, at the same time, avoid unnecessary delays in closings. We appreciate your offer to work with us on this issue.

Sincerely,



Richard Cordray
Director

cc: The Honorable John Campbell

*We are sensitive to these issues
and will be glad to hear more
from you as we go along.
Ruh*

The Honorable John Kline
The Honorable Steve Chabot
The Honorable Steve King
The Honorable Lynn Westmoreland
The Honorable Ken Calvert
The Honorable Spencer Bachus
The Honorable Walter Jones
The Honorable Steve Pearce
The Honorable Joe Wilson
The Honorable Jo Bonner
The Honorable Tom Petri
The Honorable Jim Sensenbrenner
The Honorable Tim Griffin
The Honorable Kevin Cramer
The Honorable Billy Long
The Honorable Mick Mulvaney
The Honorable Trey Radel
The Honorable Sean Duffy
The Honorable Bill Huizenga
The Honorable Randy Neugebauer
The Honorable Mo Brooks
The Honorable Dennis Ross
The Honorable Pete King
The Honorable Kerry Bentivolio
The Honorable Marsha Blackburn
The Honorable Randy Hultgren
The Honorable Jim Renacci
The Honorable Keith Rothfus
The Honorable Glenn Thompson
The Honorable Bill Posey
The Honorable Cory Gardner
The Honorable Aaron Schock
The Honorable Erik Paulsen
The Honorable Michael Grimm
The Honorable Robert Hurt
The Honorable Michele Bachmann
The Honorable Frank Lucas
The Honorable Mike Coffman
The Honorable Gary Miller
The Honorable Don Young
The Honorable Blaine Luetkemeyer
The Honorable Tom Latham
The Honorable Tom Cotton
The Honorable Andy Harris

The Honorable Alan Nunnelee
The Honorable Steve Womack
The Honorable Bill Johnson
The Honorable Marlin Stutzman
The Honorable Markwayne Mullin
The Honorable Jeff Fortenberry
The Honorable David Schweikert
The Honorable Rick Crawford
The Honorable Andy Barr
The Honorable Stephen Fincher
The Honorable Adrian Smith
The Honorable Susan Brooks
The Honorable Richard Nugent
The Honorable Patrick Tiberi
The Honorable Rodney Alexander
The Honorable Ann Wagner

Congress of the United States
House of Representatives
Washington, DC 20515

June 20, 2013

Ms. Patrice Ficklin
Assistant Director
Office of Fair Lending and Equal Opportunity
Consumer Financial Protection Bureau
1700 G Street Northwest
Washington, D. C. 20552

Dear Ms. Ficklin:

We are writing with concern regarding "guidance" that the Consumer Financial Protection Bureau (CFPB) issued on March 21, 2013 to indirect auto lenders on the requirements for compliance with the fair lending provisions of the Equal Credit Opportunity Act. We are all strongly opposed to any discrimination in lending. However, it is highly concerning that the agency is issuing such significant new directives without affording the public a proper opportunity to comment on its methodology and analysis for determining whether discrimination has occurred and without addressing the effect of its directives on consumer financing and choice in the intensely competitive auto lending market.

The CFPB's guidance appears to stem from the concept of "disparate impact" and focuses on whether a finance source's policy for compensating dealers for arranging financing for consumers results in pricing disparities on a prohibited basis. Because allegations of disparate impact do not involve any intentional conduct, but instead consist solely of statistical analysis of past transactions, it is essential that the model used for this purpose have a very high degree of accuracy and demonstrated reliability. To allow Congress to evaluate the statistical model that the CFPB used to justify the new directives, we request that the agency provide us with the full set of details concerning its statistical disparate impact methodology, including (i) the proxies used to determine the background of consumer credit applicants; (ii) the factors held constant to isolate the applicant's background as the sole reason for any alleged pricing disparity; (iii) the metric used to measure whether pricing disparities exists (e.g., basis points, the dollar amount of the finance charge, etc.); and (iv) the numerical threshold at which it was determined that a pricing disparity on a prohibited basis constitutes an ECOA violation.

The guidance states that indirect auto finance sources should "ensure that they are operating in compliance with ECOA" by either (1) imposing a series of controls on the consumer's ability to negotiate with the dealer to determine the amount the dealer earns for arranging financing for the consumer; or (2) simply eliminating the consumer's ability to negotiate with the dealer altogether and instead compensating dealers through another mechanism such as a "flat fee per transaction." The controls strike us as onerous and unrealistic, and restricting consumer choice is highly problematic. We request that the CFPB forward all studies, analysis, and information it relied upon in developing its guidance

document. Of special interest is any analysis done on the impact of the directives on the auto financing marketplace, such as higher costs for consumers seeking auto credit or the possibility that lower-income car buyers may be pushed out of the credit market entirely. In addition, we request that the CFPB detail (i) the extent of its coordination with the federal agencies that Congress granted authority to implement and enforce ECOA as it relates to motor vehicle dealers (the Board of Governors of the Federal Reserve and the Federal Trade Commission) prior to issuing its March 21 fair lending guidance, and (ii) why the standard rulemaking process, which contains important safeguards for the public, apparently was not utilized.

In sum, it appears to us that a loss to consumers would occur if the CFPB uses its supervisory and/or enforcement authority to weaken the intense competition that results from the ability to negotiate with the dealer to obtain financing terms that are more competitive than the best terms the consumer can secure from any other source. It is troubling that the agency has initiated this process without a public hearing, without public comment, and without releasing the data, methodology, or analysis it relied upon to support such an important change in policy. The public purpose is always best served by complete transparency and accountability in regard to the manner in which decisions are made by their government agencies.

We look forward to reviewing this information and would appreciate your response within 30 days of the receipt of this letter.

Thank you for your consideration.

Sincerely,




Spencer Bachus
Chairman Emeritus
Committee on Financial Services



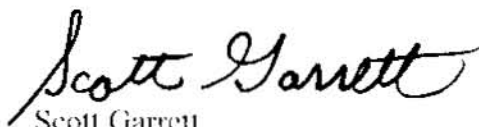
Shelley Moore Capito
Chairman
Subcommittee on Financial
Institutions and Consumer Credit



Gary Miller
Vice Chairman
Committee on Financial Services



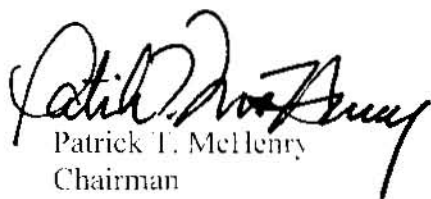
Lynn A. Westmoreland
Committee Whip
Committee on Financial Services



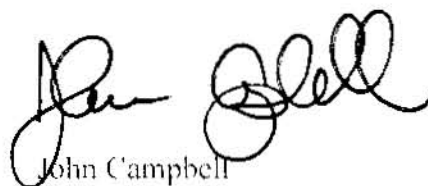
Scott Garrett
Chairman
Subcommittee on
Capital Markets and GSIs



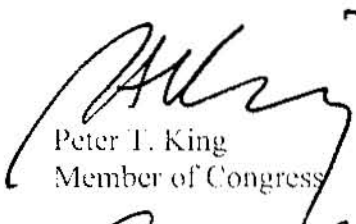
Randy Neugebauer
Chairman
Subcommittee on Housing
and Insurance



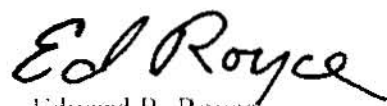
Patrick T. Mellenry
Chairman
Subcommittee on
Oversight and Investigations



John Campbell
Chairman
Subcommittee on Domestic and
International Monetary Policy



Peter T. King
Member of Congress



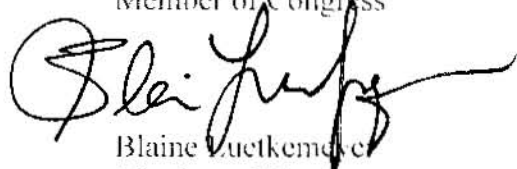
Edward R. Royce
Member of Congress



Michele Bachmann
Member of Congress



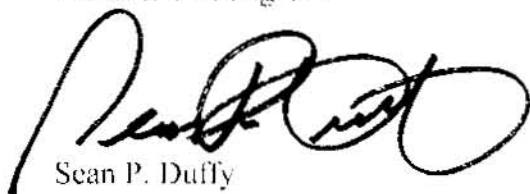
Stevan Pearce
Member of Congress



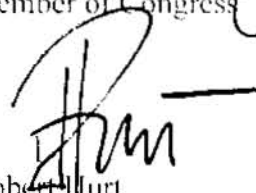
Blaine Luetkemeyer
Member of Congress




Bill Huizenga
Member of Congress



Sean P. Duffy
Member of Congress



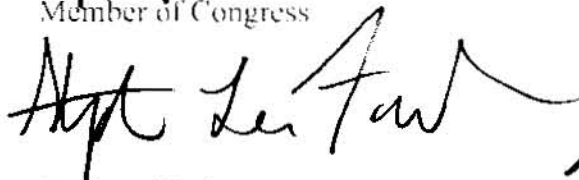
Robert Hurt
Member of Congress



Michael C. Grimm
Member of Congress



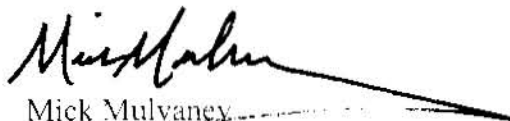
Steve Stivers
Member of Congress

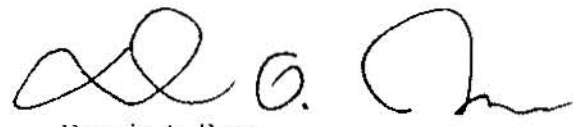


Stephen Fincher
Member of Congress

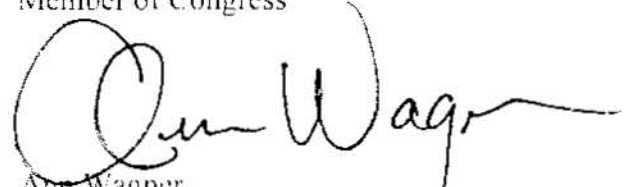


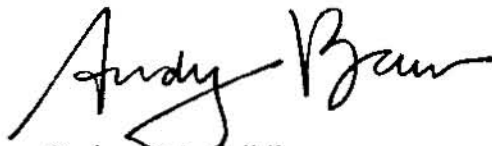
Marlin A. Stutzman
Member of Congress


Mick Mulvaney
Member of Congress

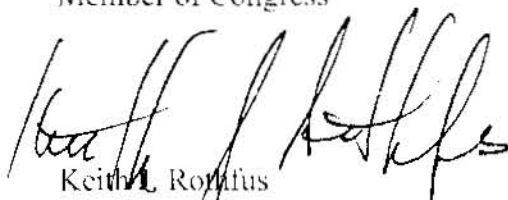

Dennis A. Ross
Member of Congress

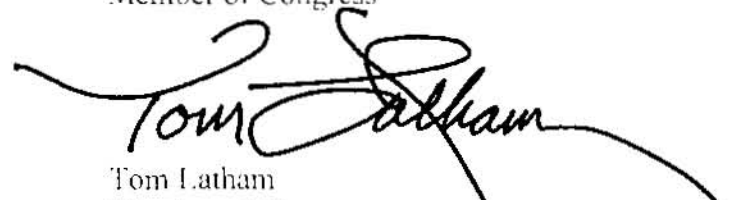

Robert Pittenger
Member of Congress


Ann Wagner
Member of Congress


Garland "Andy" Barr
Member of Congress


Tom Cotton
Member of Congress

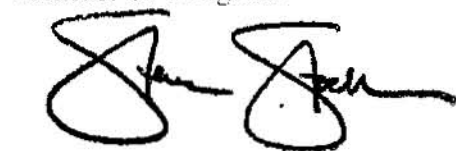

Keith L. Romfus
Member of Congress


Tom Latham
Member of Congress


Jack Kingston
Member of Congress



Steve King
Member of Congress


Mark Meadows
Member of Congress


Steve Stockman
Member of Congress


George Holding
Member of Congress


Walter Jones
Member of Congress


Tom Marino
Member of Congress



August 2, 2013

The Honorable Spencer Bachus
U.S. House of Representatives
2138 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Bachus,

Thank you for your letter about indirect auto lending practices and compliance with anti-discrimination laws, such as the Equal Credit Opportunity Act (ECOA). The Consumer Financial Protection Bureau (Bureau) shares your commitment to ensuring that lending practices are fair and equitable and that credit markets function competitively and efficiently for all consumers and honest businesses. We appreciate the opportunity to work with you on these important goals.

The Equal Credit Opportunity Act

In April 2012, the Bureau published a Lending Discrimination Bulletin in which we issued guidance about compliance with the fair lending requirements of the ECOA and its implementing regulation, Regulation B.¹ In the Lending Discrimination Bulletin, the Bureau reaffirmed, consistent with other federal supervisory and law enforcement agencies, including the Department of Justice (DOJ), Federal Trade Commission (FTC), and each of the federal prudential agencies with regulatory authority over financial institutions,² that the legal doctrine of disparate impact remains applicable as the Bureau exercises its supervision and enforcement authority to enforce compliance with the ECOA and Regulation B.

In the Dodd Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank), Congress gave the Bureau the authority to supervise depository institutions with more than \$10 billion in assets and their affiliates, and certain nonbank financial institutions that provide consumer financial products and services, including mortgage, payday, and student lending. The Bureau's supervision for compliance with ECOA includes coverage of indirect auto lending. The Bureau's ongoing supervision of depository institutions and their affiliates currently includes examinations of ECOA compliance in indirect auto lending. Subject to certain exceptions, the Bureau also has enforcement authority over both banks and nonbanks in the auto lending market, and it will use that authority wherever appropriate to address discrimination.

The Bureau's Indirect Auto Bulletin

¹ Lending Discrimination, CFPB Bulletin 2012-04 (Fair Lending), Apr. 18, 2012 available at http://files.consumerfinance.gov/f/201404_cfpb_bulletin_lending_discrimination.pdf.

² Interagency Task Force on Fair Lending, *Policy Statement on Discrimination in Lending*, 59 Fed. Reg. 18,266 (Apr. 15, 1994).

As you know, we published CFPB Bulletin 2013-02, Indirect Auto Lending and Compliance with ECOA, on March 21, 2013 (Indirect Auto Bulletin) to offer guidance to all indirect auto lenders within the jurisdiction of the Bureau, including both depository institutions and nonbank institutions.³ 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 relevant laws and regulations that apply to indirect auto lending, the Bulletin aims to help indirect auto lenders recognize and mitigate the risk of discrimination resulting from discretionary dealer markup and compensation policies.

You have asked why the notice-and-comment rulemaking process was not utilized in publishing the Bureau’s Indirect Auto Bulletin. That process was not necessary for the Bulletin because the Administrative Procedure Act, which sets out the basic principles by which federal agencies engage in regulatory activity, does not mandate notice and comment for general statements of policy, non-binding informational guidelines, or interpretive memoranda.

Certain policies and practices that allow discretion in pricing can create a significant risk of discrimination on the basis of race, national origin, and other prohibited bases such as sex. This risk is acknowledged in the Bureau’s Supervision and Examination Manual. Historically, the failure to properly or consistently monitor such policies and practices for compliance with anti-discrimination laws has been a contributing factor in discrimination, both in auto lending and in other product markets like mortgages. In developing the Bulletin, the Bureau considered a variety of materials, such as ECOA,⁴ its implementing regulation, Regulation B,⁵ the Official Staff Commentary to Regulation B,⁶ CFPB Bulletin 2012-04 (Fair Lending),⁷ CFPB Supervisory Highlights,⁸ and other materials.

The Bureau’s Indirect Auto Bulletin addresses the specific risk of discrimination caused by indirect auto lenders’ discretionary dealer markup and compensation policies. In the course of the Bureau’s supervisory work, we have found frequent instances where lenders had robust fair lending compliance programs for mortgage lending, but weak or non-existent fair lending compliance programs for other types of consumer lending. Yet, the ECOA prohibits discrimination in credit transactions, reaching many different types of consumer lending. As the Bulletin states, lenders may choose to address the risk of discrimination resulting from certain markup and compensation policies in a variety of ways, including: imposing controls on dealer markup and compensation policies; revising these policies to address unexplained pricing disparities on a prohibited basis; eliminating dealer discretion to mark up buy rates and fairly compensating dealers using another mechanism that does not result in discrimination. For all lenders, the Bulletin also emphasizes the need for self-monitoring as a tool to address fair lending risk. It contains additional suggestions for monitoring and corrective action to mitigate that risk,

³ 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.

⁴ 15 U.S.C. § 1691 *et seq.*

⁵ 12 C.F.R. pt. 1002.

⁶ 12 C.F.R. pt. 1002 Supp. 1.

⁷ Lending Discrimination, CFPB Bulletin 2012-04 (Fair Lending), Apr. 18, 2012 *available at* http://files.consumerfinance.gov/f/201404_cfpb_bulletin_lending_discrimination.pdf.

⁸ Consumer Financial Protection Bureau, *Supervisory Highlights: Fall 2012* (Oct. 31, 2012), *available at* <http://www.consumerfinance.gov/reports/supervisory-highlights-fall-2012>.

including regular analyses to determine whether there are pricing disparities on a prohibited basis across the indirect auto lender's overall portfolio or at the individual dealer level. If differences are found, those analyses may help lenders understand the cause of the disparities as well as potential solutions.

The Indirect Auto Bulletin expressly emphasizes that dealers should be fairly compensated and the guidance offered does not foreclose consumers' ability to negotiate their interest rate on an auto loan.

Analysis of Dealer Markup

Your letter inquired about the details of the "disparate impact methodology" that we use. Our agency is committed to being open and transparent, including in our review of indirect auto lending. The evaluation of whether an indirect auto lender is in compliance with ECOA requires multiple steps.

While fair lending analyses of mortgage lending are simplified by the availability of lender data reported under the Home Mortgage Disclosure Act, this is not the case with indirect auto lending. Information on race, ethnicity, and gender is typically not collected as part of an auto lending transaction. Therefore, the Bureau uses a proxy methodology to differentiate among consumers based upon these characteristics. The concept of using proxies for unavailable data is a widely accepted mathematical and statistical approach used across many disciplines, including, to our understanding, by the auto industry itself for marketing purposes. Various proxy methodologies are publicly available and have been used for decades in a number of different Civil Rights contexts, including voting rights cases, Title VII cases, and constitutional challenges, including jury selection and equal protection matters. In addition, federal banking regulators have made clear that proxy methods may be used in fair lending exams to estimate protected characteristics where direct evidence of the protected characteristic is unavailable.⁹ In keeping with our commitment to transparency, and in line with the approaches of other federal regulators, the Bureau has previously indicated that when we utilize proxy data, we use surnames and geographic location. The Bureau conducts its proxy analysis by using publicly available data from the Social Security Administration and the Census Bureau. We understand that many responsible lenders regularly use proxies in their own fair lending analyses where self-reported race, ethnicity, and gender data are unavailable. There are a variety of proxy methods, and the Bureau has encouraged lenders who are not currently doing so to select a reasonable proxy method that is suitable for their nature, size, and complexity and to monitor their data for fair lending risk.

Each supervisory examination or enforcement investigation is based on the particular facts presented. Thus, in our analyses we consider analytical controls which are appropriate to each particular case in reviewing data to determine whether a specific policy results in disparities. When lenders share with us the nature and results of their own analyses, we are open to hearing specific explanations for the decisions they have made to include particular analytical controls that reflect a legitimate business need. In evaluating whether pricing disparities exist in dealer markup, we typically look to whether there is a statistically significant basis point disparity in the dealer markups received by the prohibited basis group as compared to the control group. The

⁹ See *Interagency Fair Lending Examination Procedures*, at 12-13, available at <http://www.ffiec.gov/PDF/fairlend.pdf> (explaining that "[a] surrogate for a prohibited basis group may be used" in a comparative file review and providing examples of surname proxies for race/ethnicity and first name proxies for sex); see also <http://www.philadelphiafed.org/bank-resources/publications/consumer-compliance-outlook/2012/first-quarter-fair-lending-webinar.cfm>.

Bureau considers on a case-by-case basis whether disparities identified in the data, when considered in view of all other evidence, support a violation of ECOA.

Interagency Coordination

Finally, you have asked for information about the Bureau's coordination with other federal agencies with ECOA responsibilities. The Bureau coordinates closely with the DOJ and other federal agencies to ensure that our fair lending enforcement efforts are consistent, efficient, and effective. For example, the Department of Justice and the Bureau signed a Memorandum of Understanding on December 6, 2012 to strengthen coordination on fair lending enforcement and avoid duplication of our respective federal law enforcement efforts.¹⁰ The FFIEC agencies all report substantial outreach and interagency activity aimed at ensuring creditors' compliance with ECOA and Regulation B, and that fair lending laws are enforced in a consistent and fair manner. The CFPB, along with the DOJ and the Federal Reserve Board of Governors, among others, serve as co-chairs of the Federal Financial Fraud Enforcement Task Force's Non-Discrimination Working Group, which is presenting a webinar on auto lending in August. The CFPB meets regularly with the DOJ, the prudential regulators, and the FTC to discuss ongoing fair lending supervision and enforcement activities, as appropriate. These regular discussions are designed to ensure that supervision and enforcement efforts are well-coordinated.

Thank you for bringing your concerns to the Bureau's attention and for the opportunity to respond. We look forward to working with you on this important issue of economic fairness as we continue to work to help markets operate more effectively for consumers and businesses alike.

Sincerely,



Richard Cordray
Director

cc: The Honorable Shelley Moore Capito
The Honorable Gary Miller
The Honorable Lynn A. Westmoreland
The Honorable Scott Garrett
The Honorable Randy Neugebauer
The Honorable Patrick T. McHenry
The Honorable John Campbell
The Honorable Peter T. King
The Honorable Edward R. Royce
The Honorable Michele Bachmann
The Honorable Stevan Pearce
The Honorable Blaine Luetkemeyer
The Honorable Bill Huizenga
The Honorable Sean P. Duffy

¹⁰ Memorandum of Understanding between the Consumer Financial Protection Bureau and the United States Department of Justice (Dec. 6, 2012), *available at* http://files.consumerfinance.gov/f/201212_cfpb_doj-fair-lending-mou.pdf.

The Honorable Robert Hurt
The Honorable Michael G. Grimm
The Honorable Steve Stivers
The Honorable Stephen Fincher
The Honorable Marlin A. Stutzman
The Honorable Mick Mulvaney
The Honorable Dennis A. Ross
The Honorable Robert Pittenger
The Honorable Ann Wagner
The Honorable Garland “Andy” Barr
The Honorable Tom Cotton
The Honorable Keith L. Rothfus
The Honorable Tom Latham
The Honorable Jack Kingston
The Honorable Steve King
The Honorable Mark Meadows
The Honorable Steve Stockman
The Honorable George Holding
The Honorable Walter Jones
The Honorable Tom Marino

Congress of the United States
Washington, DC 20515

August 5, 2013

The Honorable Richard Cordray
Director
Consumer Financial Protection Bureau
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Dear Director Cordray:

We are writing to urge that you stand up a Consumer Financial Protection Bureau ("CFPB") Advisory Board made up of non-bank lenders, including payday lenders, who currently serve the short-term cash advance needs of millions of working Americans.

The demand for small denomination short-term credit is significant and growing, while supply is increasingly restricted. As Members of Congress from both parties have pointed out, in this area of great consumer need, it is imperative that CFPB's findings and subsequent regulations are based on a comprehensive view of how consumers use these products in the context of other available choices.

The issues we raise here have two critical components. First, non-depository community financial service providers, including payday lenders, have been denied standing within the CFPB, even as specifically called for by the Dodd-Frank Act, which directs that you assemble experts in consumer financial products and services, and seek representation of the interests of covered persons. When the Consumer Advisory Board was being formed in 2012, Members of Congress and others submitted the nominations of several highly qualified industry leaders. All of these eminently qualified industry nominees were rejected. Furthermore, as it has operated during its first year, our concern regarding fair representation of these non-depository financial service providers is heightened. Several meetings, at which issues affecting this industry have been covered, were conducted in closed session, without participation by the industry. This is hardly the manner in which an agency dedicated to fact-driven, open, and transparent, supervision of covered industries should operate.

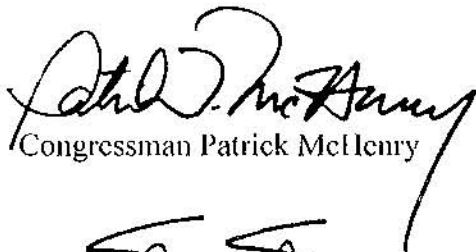
Second, we are concerned that CFPB's recent "Payday Loans and Deposit Advance Products: A White Paper of Initial Data Findings" ("White Paper"), demonstrates a one dimensional and biased approach, lacking a thorough, data driven and open process. The White Paper does not reflect mainstream business practices by the vast majority of vendors who are honest and scrupulous, nor the millions of consumers who use their regulated products responsibly. It ignores the fact that millions of Americans access small dollar short-term credit at non-depository community financial service providers in the form of payday loans and, in many cases, payday loans are the

least expensive or the only form of credit available to them. The vast majority of these lenders adhere to existing comprehensive state laws, and most subscribe to best practices such as extended payment plans designed to protect the few customers who cannot repay on time. Our concern is that absent a scientific and credible process with peer reviewed data and inclusion of all stakeholders, millions of payday advance consumers could be left with no short term credit option other than illegal off shore lenders whose business is already booming in areas where regulated lending is absent.

In an effort to conduct a more credible process, the Bureau should create an Advisory Board representing non-depository community lenders, including payday and other small dollar loan providers. This Advisory Board should operate in a fashion similar to CFPB Advisory Boards representing credit unions and community banks. It should complement the existing Consumer Advisory Board which currently lacks representation of these stakeholders. The establishment of this Advisory Board is essential to fulfill the mandate of the Dodd-Frank Act, engaging all appropriate and necessary stakeholders in the CFPB's regulatory process.

All regulated entities, including non-depository community lenders, must know that the regulations imposed on their businesses have been developed using sound methodology, accurate information, and a transparent process. We strongly encourage you to take this important step to ensure the rulemaking process is thorough, transparent, data-driven, impartial, and engages all appropriate stakeholders throughout the process.

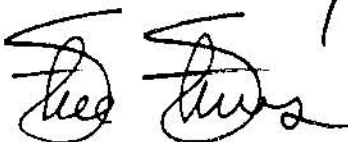
Sincerely,



Congressman Patrick McHenry



Congressman Gary Miller



Congressman Steve Stivers



Congressman Peter King



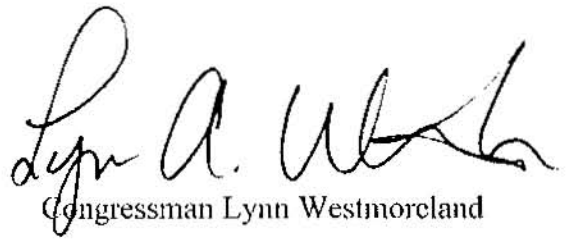
Congressman Spencer Bachus



Congressman Ed Royce



Congressman Scott Garrett



Congressman Lynn Westmoreland



Congressman Randy Neugebauer



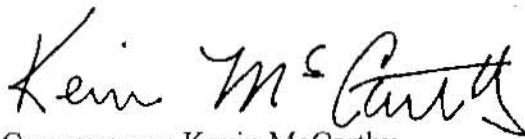
Congressman Blaine Luetkemeyer



Congresswoman Michele Bachmann



Congressman Bill Huizenga



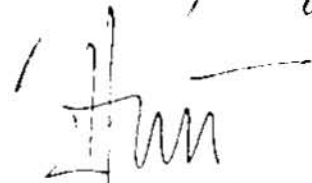
Congressman Kevin McCarthy



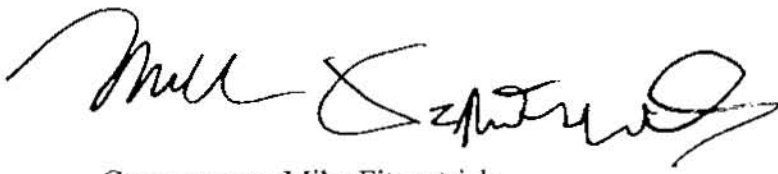
Congressman Sean Duffy



Congressman Steve Pearce



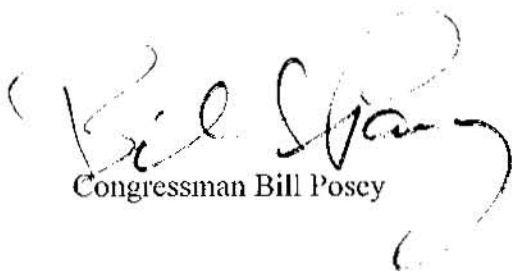
Congressman Robert Hurt



Congressman Mike Fitzpatrick



Congressman Michael Grimm



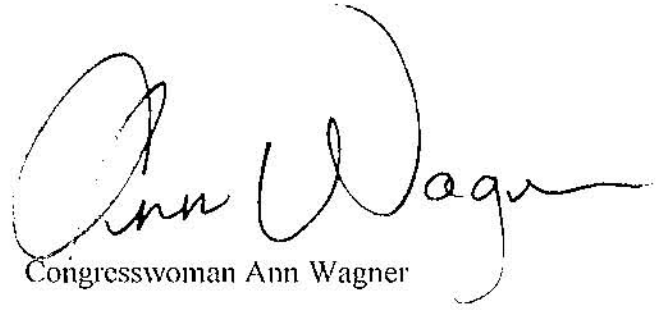
Congressman Bill Posey



Congressman Stephen Fincher




Congressman Marlin Stutzman



Congresswoman Ann Wagner



Congressman Mick Mulvane



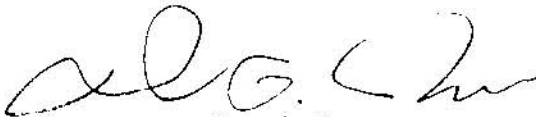
Congressman Andy Barr



Congressman Randy Hultgren



Congressman Thomas Cotton



Congressman Dennis Ross

September 9, 2013

The Honorable Patrick McHenry
U.S. House of Representatives
2129 Rayburn House Office Building
Washington, DC 20515

Dear Representative McHenry,

Thank you for your letter requesting that the Consumer Financial Protection Bureau (Bureau) create an Advisory Board made up of non-bank lenders, including payday lenders. The Bureau shares your commitment to ensuring that its work is informed by a wide variety of external stakeholders reflecting diverse perspectives, including those of nonbanks.

For that reason, the Bureau made certain to include nonbanks on the Bureau's Consumer Advisory Board (CAB). Our CAB's membership includes representation from both depository and a variety of nonbank financial institutions, with almost one-third of the current membership of the CAB representing the nonbank financial services industry. The Bureau anticipates that nominations to replace current time-limited members of the CAB will begin in early 2014.

In addition, the Bureau regularly meets with nonbank providers of financial products and services of all kinds to receive their input and feedback on our work. We recently established the Office of Financial Institutions and Business Liaison, to provide representatives of both bank and nonbank entities with a single point of contact and to help coordinate the Bureau's engagements with the private sector.

The Bureau believes that collaboration and dialogue with all stakeholders, including industry partners, is critical in the development of well-balanced public policy. The Bureau continually interacts with small dollar lending institutions and their trade organizations. In fact, the Bureau routinely meets with the Community Financial Services Association (CFSA), Financial Service Centers of America (FISCA), and their members. The CFSA has met with Bureau staff over 30 times since spring of 2011.

As this dialogue continues, it would be beneficial to all parties involved if participants in the market would share their insight and data to help provide a well-rounded and thorough analysis of the market place. The Bureau encourages and welcomes continued and fulsome discussions.

As you noted, the success of our efforts to make financial markets work better for consumers depends on thorough, transparent, and data-driven processes that respond to consumer credit needs. We will continue to work to ensure that we incorporate the views and perspectives of nonbanks in those processes. Thank you for your continuing interest in the Bureau's work.

Sincerely,



Richard Cordray
Director

*We continue to make ourselves very accessible
to all points of view and find it helpful to
our work — Rich*

*But we can only have so many committees
to be practical, and non-bank lenders
span vastly different markets with
little connection to one another.*

cc: The Honorable Gary Miller, Member of Congress
The Honorable Steve Stivers, Member of Congress
The Honorable Peter King, Member of Congress
The Honorable Spencer Bachus, Member of Congress
The Honorable Ed Royce, Member of Congress
The Honorable Scott Garrett, Member of Congress
The Honorable Lynn Westmoreland, Member of Congress
The Honorable Randy Neugebauer, Member of Congress
The Honorable Blaine Luetkemeyer, Member of Congress
The Honorable Michele Bachman, Member of Congress
The Honorable Bill Huizenga, Member of Congress
The Honorable Kevin McCarthy, Member of Congress
The Honorable Sean Duffy, Member of Congress
The Honorable Steve Pearce, Member of Congress
The Honorable Robert Hurt, Member of Congress
The Honorable Mike Fitzpatrick, Member of Congress
The Honorable Michael Grimm, Member of Congress
The Honorable Bill Posey, Member of Congress
The Honorable Stephen Fincher, Member of Congress
The Honorable Marlin Stutzman, Member of Congress
The Honorable Ann Wagner, Member of Congress
The Honorable Mich Mulvancy, Member of Congress
The Honorable Andy Barr, Member of Congress
The Honorable Randy Hultgren, Member of Congress
The Honorable Thomas Cotton, Member of Congress
The Honorable Dennis Ross, Member of Congress



THE HONORABLE DENNIS ROSS (FL-15)
229 Cannon House Office Building
Washington, DC 20515
Office: 202-225-1252
<http://dennisross.house.gov>

United States House of Representatives
Committee on Financial Services
September 12, 2013

The Semi-Annual Report of the Consumer Financial Protection Bureau
Questions for the Record

Thank you Director Cordray your testimony. I welcome your response to my questions listed below.

- 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?
- 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."
- 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.

- 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
- 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?

Questions for the Record
Committee on Financial Services
U.S. House of Representatives

Hearing held on September 12, 2013
“The Semi-Annual Report of the Consumer Financial Protection Bureau”

Witness: The Honorable Richard Cordray, Director, Consumer Financial Protection Bureau

Rep. Steve Stivers

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?

Rep. Pittenger

Where in the process is the rule for Section 1071 of the Dodd-Frank Act?

Rep Luetkemeyer

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?
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?
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?
4. Do you believe that tribal governments have the right to use the Internet to make loans?
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.
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.
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?

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 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?

Rep. Fincher

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?

Rep. Scott Garrett

- 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?
- 2) How many U.S. consumer accounts the CFPB is monitoring as part of its data collection activities?
- 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?
- 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?
- 5) How many people have access to CFPB databases containing personal consumer financial data? And who are the people that have access?
- 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?
- 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?

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?

Rep. Royce

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?

Rep. Pearce

Rural Definition

Has the agency begun studying ways to improve their definition of “rural”?

What steps with the agency take to develop a new definition? What timelines can be expected?

Data Collection

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?

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?

Has the Director or Deputy Director of the CFPB discussed, at length, the implication of a security breach with staff?

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.

Contractors

Who made the decision to hire ASR Analytics?

Please describe the decision process for hiring contractors.

Rep. Bachus

- 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?
- 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.
 - Has the Bureau asked the FDIC, OCC and DOJ to deny basic banking services to companies in the industry?
 - Does the bureau support the efforts of these agencies to encourage financial institutions not to bank legally licensed lenders in the space?
 - As the primary regulator, is the CFPB planning on issuing a rule on short-term lending for storefront and internet lending business?
 - Do you think it is appropriate for any federal agency to seek to deny access to banking and payments systems to lawfully operating businesses?
 - Does the CFPB need or want the FDIC to assume its responsibilities to ensure online nonbank lenders are complying with applicable law?
 - 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?

Rep. Mulvaney

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.

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.

Question #3: What is the current balance of the Bureau of Consumer Financial Protection Fund ("Bureau Fund")?

Question #4: What has the Bureau Fund earned, either from interest or from the sale of investments/obligations, since its inception?

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.

Question #6: In your recent testimony before the Committee, you discussed the CFPB's authority to regulate debt collectors. Do you believe that it is the CFPB's responsibility to promote additional state regulation?

- 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.
- Please include specific state legislative initiatives and proposed legislation that the CFPB supports.

Questions for the Record – Full Committee

From: Congresswoman Kyrsten Sinema

To: CFPB Director Richard Cordray

Date: Thursday, September 12, 2013

Name: Semi-Annual Report of the Consumer Financial Protection Bureau

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?
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?
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?
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?

Congressman Patrick E. Murphy (FL-18)

Questions for the Record

9-12-13 Hearing on: "The Semi-Annual Report of the Consumer Financial Protection Bureau"

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?
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?
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?

Rep. Bill Foster (IL-11)

Question for the Record – Director Cordray

Full Committee Hearing: September 12, 2013

- 1) 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 expect to do so?

Congress of the United States

Washington, DC 20515

November 5, 2013

The Honorable Richard Cordray
Director
Bureau of Consumer Financial Protection
1700 G Street, NW
Washington, DC 20552

Dear Director Cordray:

We are writing you today to express concern about the implementation period for the mortgage rules that are scheduled to be effective in January 2014.

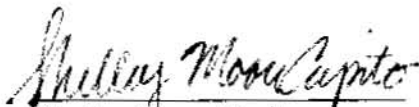
Pursuant to title XIV of the Dodd Frank Wall Street Reform and Consumer Protection Act, the Consumer Financial Protection Bureau (CFPB) promulgated six rules providing new regulations for mortgage products and services in January of this year. These rules will fundamentally change our nation's mortgage market. Most notable is the Ability to Repay and Qualified Mortgage Standards under the Truth in Lending Act (Regulation Z). In addition the CFPB released four amendments to the rules, the most recent being September 13, 2013.

The mortgage rules released in January combined with the amendments released in May, July, and September present financial institutions with over 4,000 pages of new regulations that they must be in compliance by January 2014. This task is especially difficult for community financial institutions that may only have one or two compliance officers. Furthermore, many financial institutions rely on software systems for managing their operations. We have heard concerns from many community financial institutions that they simply will not be able to meet the January 2014 deadline to have their systems on line and in place.

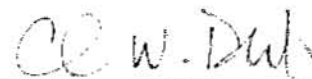
If financial institutions are unable to comply with these rules by the January 2014 deadline there could be significant distortions in the mortgage market affecting the availability of credit for consumers. Therefore, we urge you to defer implementation of these rules until January 1, 2015 in order to ensure financial institutions are able to transition their systems to be in full compliance with the rules.

We thank you in advance for your consideration of this matter and look forward to your response by December 1, 2013.

Sincerely,



Shelley Moore Capito
Member of Congress

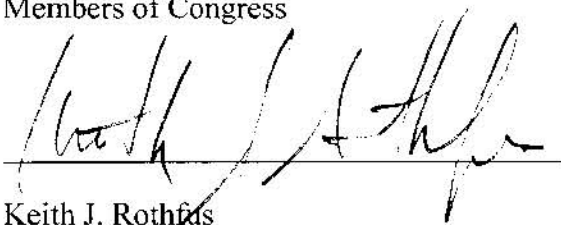


Charles W. Dent
Member of Congress



Erik Paulsen

Members of Congress



Keith J. Rothfus

Member of Congress



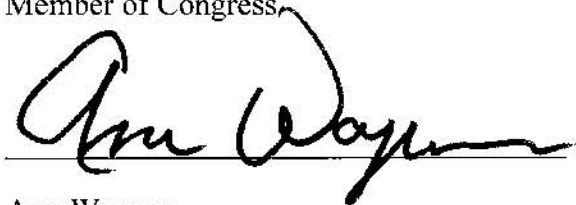
George Holding

Member of Congress



Doug Collins

Member of Congress



Ann Wagner

Member of Congress



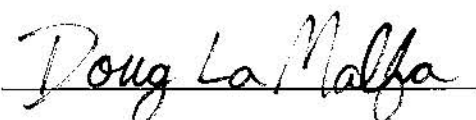
Richard Hudson

Member of Congress



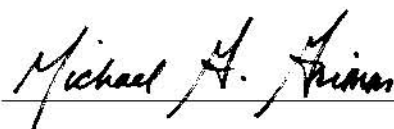
Joseph R. Pitts

Members of Congress



Doug LaMalfa

Member of Congress



Michael G. Grimm

Member of Congress



Mario Diaz-Balart

Member of Congress



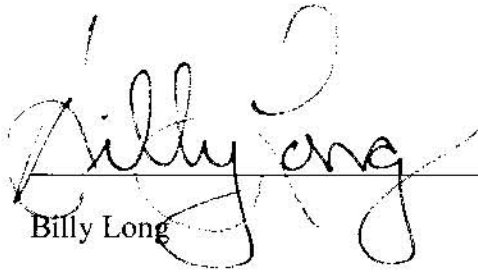
Tom Graves

Member of Congress



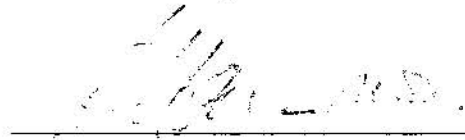
Scott E. Rigell

Member of Congress



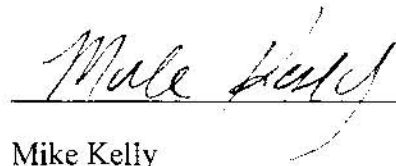
Billy Long

Member of Congress



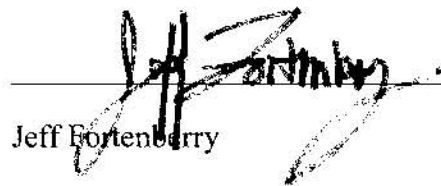
Andy Harris

Member of Congress



Mike Kelly

Member of Congress



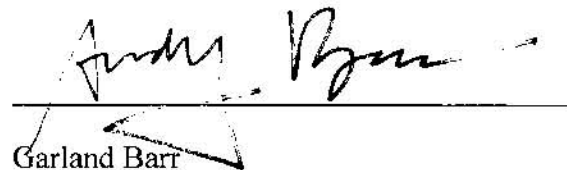
Jeff Fortenberry

Member of Congress



Susan Brooks

Member of Congress



Garland Barr

Member of Congress



David P. Joyce

Member of Congress



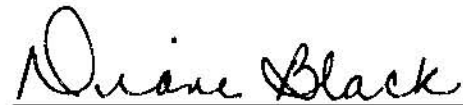
Jim Jordan

Member of Congress



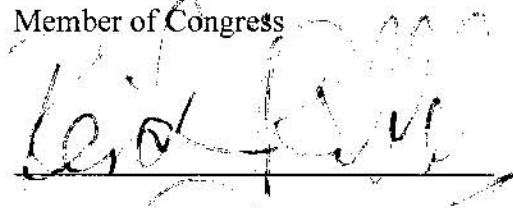
Mark Meadows

Member of Congress



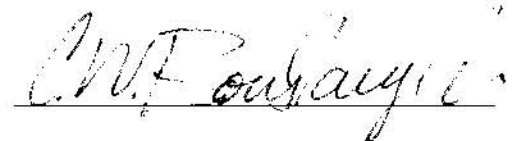
Diane Black

Member of Congress



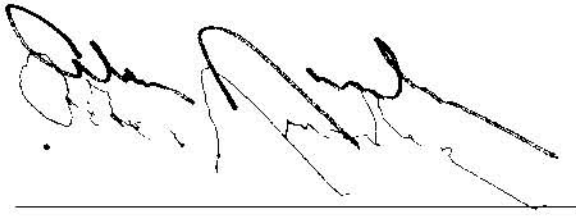
Reid J. Ribble

Member of Congress



Charles W. Boustany, Jr.

Member of Congress



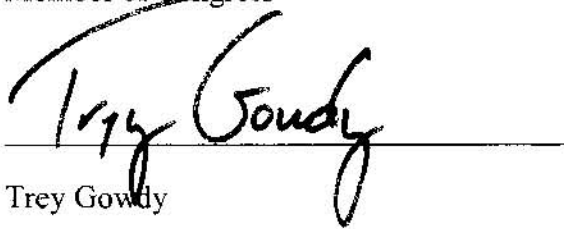
Alan Nunnelee

Member of Congress



Randy Neugebauer

Member of Congress



Trey Gowdy

Member of Congress



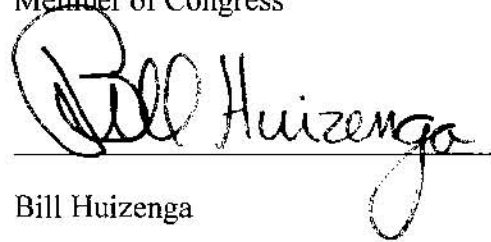
Kristi L. Noem

Member of Congress



Tim Griffin

Member of Congress



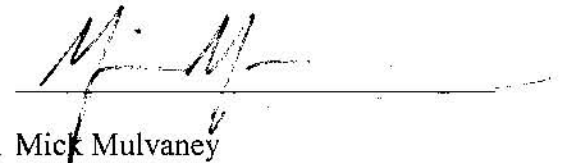
Bill Huizenga

Member of Congress



Sean P. Duffy

Member of Congress



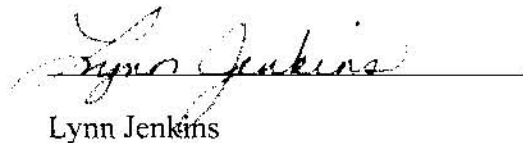
Mick Mulvaney

Member of Congress




Trey Radel

Member of Congress



Lynn Jenkins

Member of Congress



Steve Womack

Member of Congress



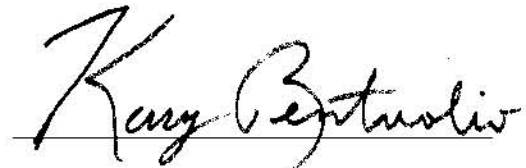
Stephen Lee Fincher

Member of Congress



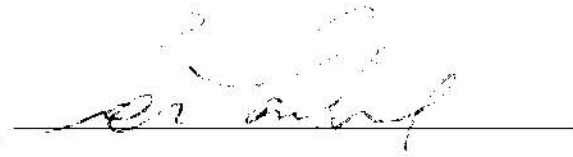
Dennis A. Ross

Member of Congress



Kerry L. Bentivolio

Member of Congress



James Lankford

Member of Congress



David Scott

Member of Congress



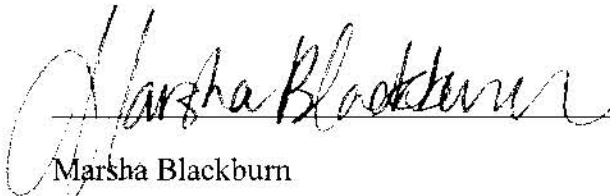
Robert Pittenger

Member of Congress



Scott R. Tipton

Member of Congress



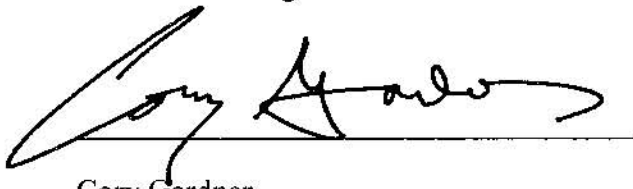
Marsha Blackburn

Member of Congress



Jim Bridenstine

Member of Congress



Cory Gardner

Member of Congress



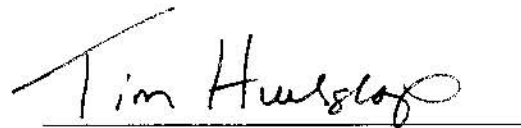
Steve Daines

Member of Congress



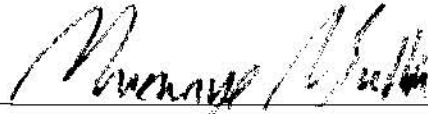
Joseph J. Heck

Member of Congress



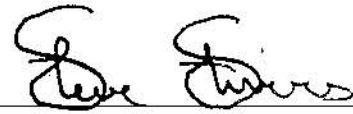
Tim Huelskamp

Member of Congress



Markwayne Mullin

Member of Congress



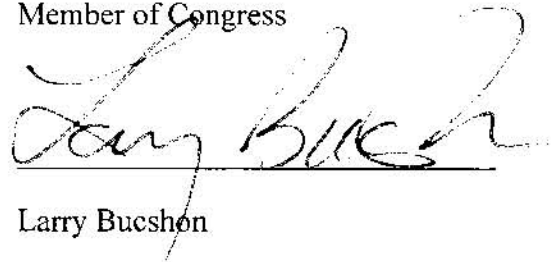
Steve Stivers

Member of Congress



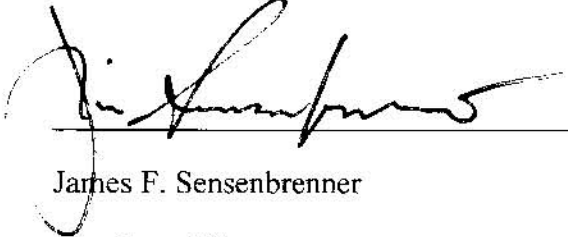
Todd C. Young

Member of Congress



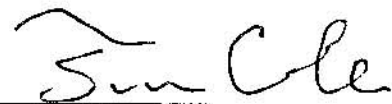
Larry Bucshon

Member of Congress



James F. Sensenbrenner

Member of Congress



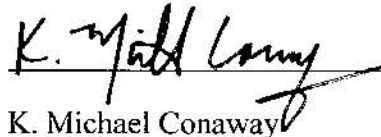
Tom Cole

Member of Congress



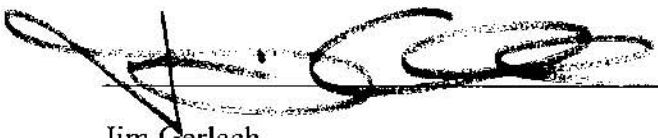
Thomas E. Petri

Member of Congress



K. Michael Conaway

Member of Congress



Jim Gerlach

Member of Congress



John Kline

Member of Congress



Blaine Luetkemeyer

Member of Congress



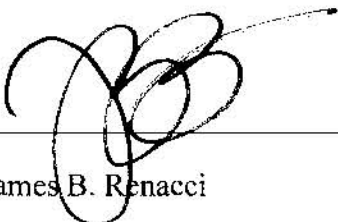
Gary G. Miller

Member of Congress



Robert Hurt

Member of Congress



James B. Renacci

Member of Congress



Lou Barletta

Member of Congress



Patrick J. Tiberi

Member of Congress



Robert Woodall

Member of Congress



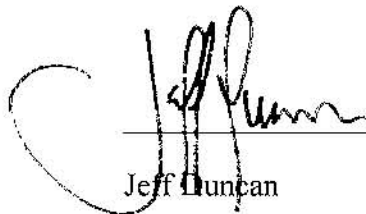
Eric A. Crawford

Member of Congress



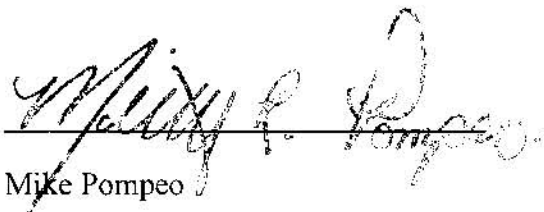
Bill Posey

Member of Congress



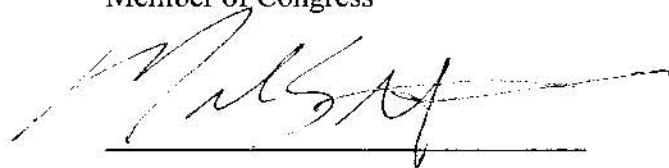
Jeff Duncan

Member of Congress



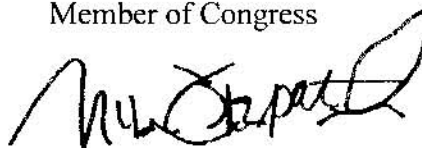
Mike Pompeo

Member of Congress



Marlin A. Stutzman

Member of Congress



Michael G. Fitzpatrick

Member of Congress



Christopher P. Gibson

Member of Congress



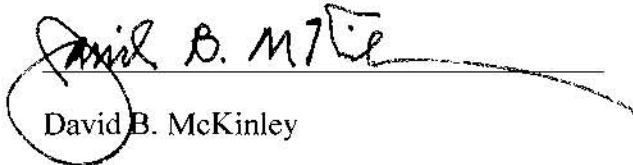
Tom Cotton

Member of Congress



Scott DesJarlais

Member of Congress



David B. McKinley

Member of Congress



Tom Marino

Member of Congress



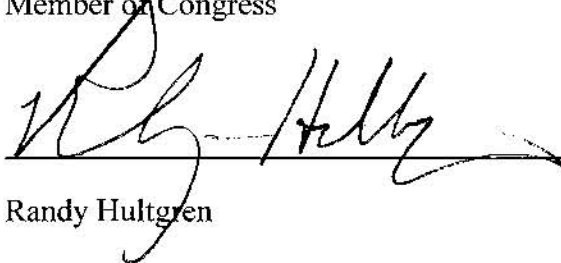
David P. Roe

Member of Congress



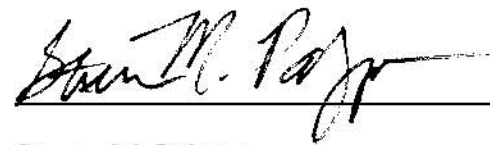
Peter T. King

Member of Congress



Randy Hultgren

Member of Congress



Steven M. Palazzo

Member of Congress



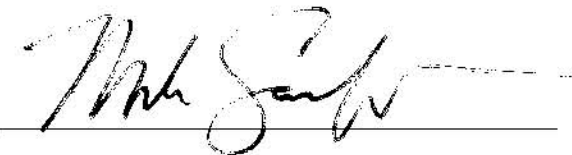
Aaron Schock

Member of Congress



Tom Rice

Member of Congress



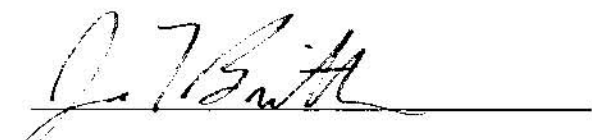
Mark Sanford

Member of Congress



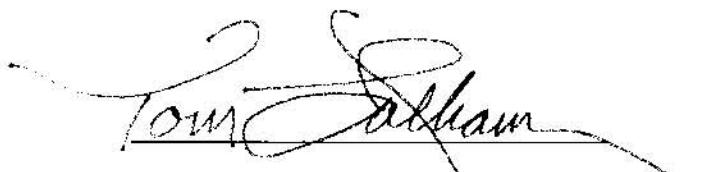
Brett Guthrie

Member of Congress



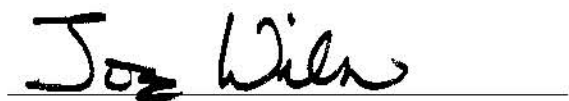
Jason T. Smith

Member of Congress



Tom Latham

Member of Congress



Joe Wilson

Member of Congress



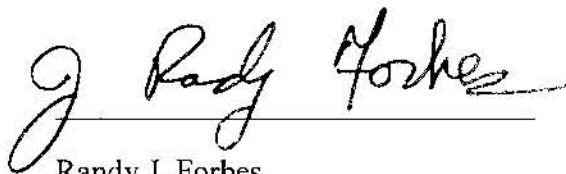
John Barrow

Member of Congress



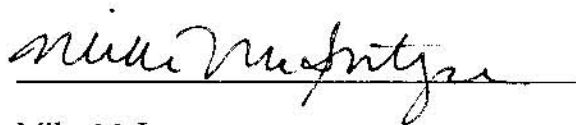
Edward R. Royce

Member of Congress



Randy J. Forbes

Member of Congress



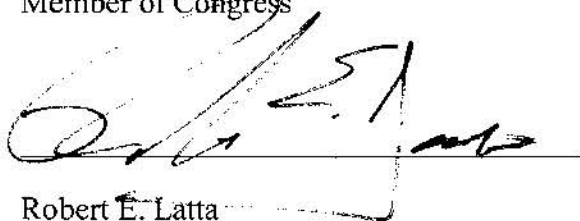
Mike McIntyre

Member of Congress



Michele Bachmann

Member of Congress



Robert E. Latta

Member of Congress



Jim Matheson

Member of Congress



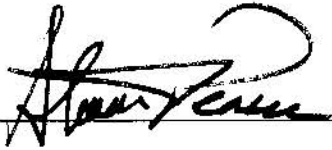
Steve Scalise

Member of Congress



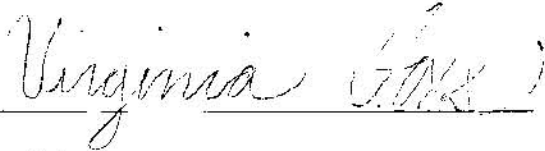
Greg Walden

Member of Congress



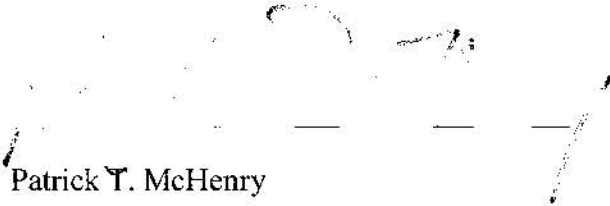
Stevan Pearce

Member of Congress




Virginia Foxx

Member of Congress



Patrick T. McHenry

Member of Congress



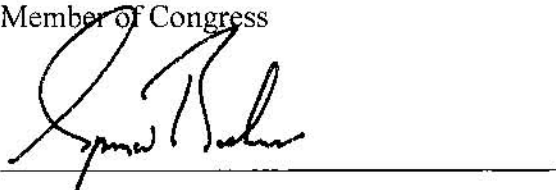
Frank D. Lucas

Member of Congress



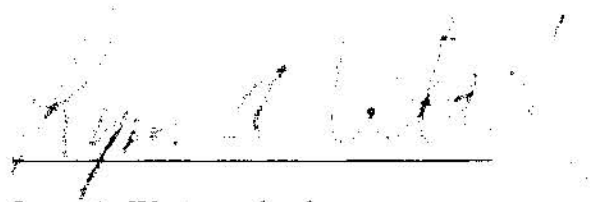
Nick J. Rahall

Member of Congress



Spencer Bachus

Member of Congress




Lynn A. Westmoreland

Member of Congress



Jack Kingston

Member of Congress



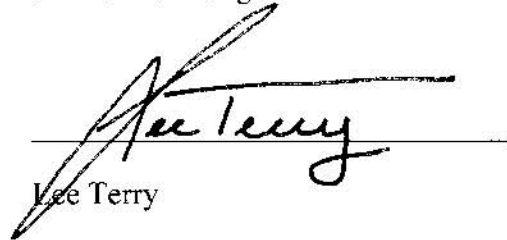
Michael K. Simpson

Member of Congress



Bob Goodlatte

Member of Congress



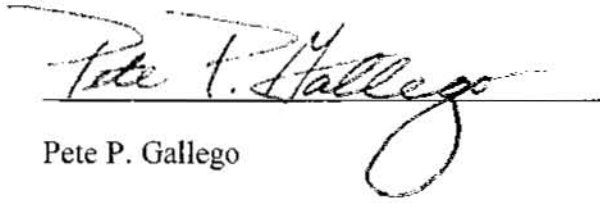
Lee Terry

Member of Congress



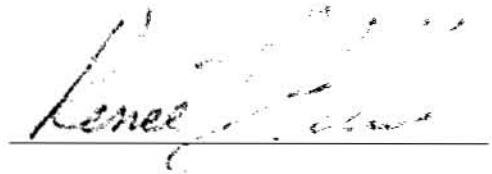
Scott Garrett

Member of Congress



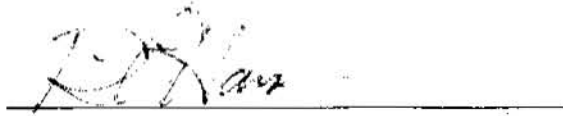
Pete P. Gallego

Member of Congress



Renee L. Ellmers

Member of Congress



Richard L. Hanna

Member of Congress



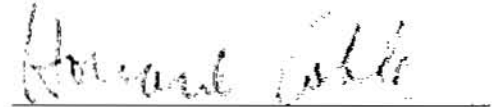
Adrian Smith

Member of Congress




Steve Chabot

Member of Congress



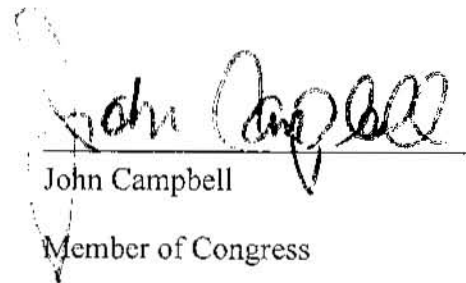
Howard Coble

Member of Congress



Kevin Yoder

Member of Congress



John Campbell

Member of Congress



December 2, 2013

The Honorable Shelley Moore Capito
U.S. House of Representatives
2266 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Capito,

Thank you for your letter about the implementation of our mortgage rules. I appreciate the opportunity to address this issue with you and your colleagues in more detail.

The Consumer Financial Protection Bureau's mortgage rules will be important in addressing some of the most serious problems that had undermined the mortgage market during the financial crisis. Congress established a specific deadline for the effective date of the rules it directed the Bureau to write, and the effective date reflects that deadline. The Ability-to-Repay rule, in particular, has been broadly expected since the passage of the Dodd-Frank Wall Street Reform and Consumer Protection Act in July 2010 and actually requires little more than the sound underwriting practices that have become standard in the years since the crisis. And the general contours of the mortgage servicing rules track the problems that have been identified in this industry for more than five years, most of which were squarely addressed in the standards set by the National Mortgage Servicing Settlement adopted in 2011.

The Bureau shares your concern that regulations should not place unnecessary burdens on community banks. We recognize that, with few exceptions, community banks and credit unions did not engage in the type of risky lending that led to the mortgage crisis. To that end, the Bureau took special care to ensure that our rules are balanced for community banks and credit unions and the consumers they serve. For instance, the Bureau has tailored the Ability-to-Repay rule and the standards for Qualified Mortgages to encourage small creditors to continue providing certain credit products, while carefully balancing consumer protections.

In addition, as we became aware of critical operational or interpretive issues with the rules, we have addressed them. The Bureau made a commitment to respond to substantial interpretive questions that significantly affect implementation decisions in writing through amendments to the official interpretations and, if need be, to the rules themselves. The Bureau issued various amendments over the course of the year with a single aim in mind: to ensure the effectiveness of our rules by making it easier for industry to comply. By addressing and clarifying industry questions, the Bureau has reduced the need for individual institutions to spend time reaching their own uncertain judgments on these matters.

The Bureau has also embarked on an implementation plan to prepare mortgage businesses for the rules that take effect in January. To that end, we published plain-language compliance guides that

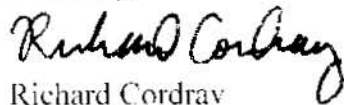
will be updated as necessary. We launched a series of videos explaining our rules. We worked closely with the other financial regulators to develop examination guidelines that reflect a common understanding of what the rules do and do not require, which were published well in advance of the effective date. We intend these efforts to be especially helpful to smaller institutions where regulatory burden weighs more heavily on fewer employees.

We understand this poses a challenge for industry, just as the writing of such a substantial set of mortgage rules by last January posed a significant challenge for our new agency. Had we failed to do so, many key statutory provisions that Congress had enacted, would have taken effect in their own right, which in many respects would have been harder for industry to comply with and much worse for the mortgage market.

Additionally, oversight of the new mortgage rules in the early months will be sensitive to the progress made by those lenders and servicers who have been squarely focused on making good-faith efforts to come into substantial compliance on time – a point that we have also been discussing with our fellow regulators.

It is critical that we move forward so these rules can deliver the new protections intended for consumers and provide the certainty that industry representatives have been seeking. Thank you for your continuing interest in the Bureau's work.

Sincerely,



Richard Cordray
Director

cc: The Honorable Charles Dent
The Honorable Erik Paulsen
The Honorable Joseph R. Pitts
The Honorable Keith J. Rothfus
The Honorable Doug LaMalfa
The Honorable George Holding
The Honorable Michael Grimm
The Honorable Doug Collins
The Honorable Mario Diaz-Balart
The Honorable Ann Wagner
The Honorable Tom Graves
The Honorable Richard Hudson
The Honorable Scott E. Rigell
The Honorable Billy Long
The Honorable David P. Joyce
The Honorable Andy Harris
The Honorable Jim Jordan
The Honorable Mike Kelly

The Honorable Mark Meadows
The Honorable Jeff Fortenberry
The Honorable Diane Black
The Honorable Susan Brooks
The Honorable Reid J. Ribble
The Honorable Andy Barr
The Honorable Charles W. Boustany, Jr.
The Honorable Alan Nunnelee
The Honorable Randy Neugebauer
The Honorable Trey Gowdy
The Honorable Kristi L. Noem
The Honorable Tim Griffin
The Honorable Bill Huizenga
The Honorable Sean Duffy
The Honorable Mick Mulvaney
The Honorable Trey Radcl
The Honorable Lynn Jenkins
The Honorable Steve Womack
The Honorable Stephen Fincher
The Honorable Dennis Ross
The Honorable Kerry L. Bentivolio
The Honorable James Lankford
The Honorable David Scott
The Honorable Robert Pittenger
The Honorable Scott R. Tipton
The Honorable Marsha Blackburn
The Honorable Jim Bridenstine
The Honorable Cory Gardner
The Honorable Steve Daines
The Honorable Joseph J. Heck
The Honorable Tim Huelskamp
The Honorable Markwayne Mullin
The Honorable Steve Stivers
The Honorable Todd C. Young
The Honorable Larry Bucshon
The Honorable James Sensenbrenner
The Honorable Tom Cole
The Honorable Thomas E. Petri
The Honorable Michael Conaway
The Honorable Jim Gerlach
The Honorable John Kline
The Honorable Blaine Luetkemeyer
The Honorable Gary Miller
The Honorable Robert Hurt
The Honorable Bill Posey
The Honorable James B. Renacci

The Honorable Jeff Duncan
The Honorable Lou Barletta
The Honorable Mike Pompeo
The Honorable Patrick J. Tiberi
The Honorable Marlin Stutzman
The Honorable Robert Woodall
The Honorable Michael G. Fitzpatrick
The Honorable Eric A. Crawford
The Honorable Christopher P. Gibson
The Honorable Tom Cotton
The Honorable Scott DeJarlais
The Honorable David B. McKinley
The Honorable Tom Marino
The Honorable David P. Roe
The Honorable Peter T. King
The Honorable Randy Hultgren
The Honorable Steven M. Palazzo
The Honorable Aaron Schock
The Honorable Tom Rice
The Honorable Mark Sanford
The Honorable Brett Guthrie
The Honorable Jason T. Smith
The Honorable Tom Latham
The Honorable Joe Wilson
The Honorable John Barrow
The Honorable Edward R. Royce
The Honorable Randy J. Forbes
The Honorable Mike McIntyre
The Honorable Michele Bachman
The Honorable Robert E. Latta
The Honorable Jim Matheson
The Honorable Steve Scalise
The Honorable Greg Walden
The Honorable Stevan Pearce
The Honorable Lynn Westmoreland
The Honorable Virginia Foxx
The Honorable Jack Kingston
The Honorable Patrick T. McHenry
The Honorable Michael K. Simpson
The Honorable Fred D. Lucas
The Honorable Bob Goodlatte
The Honorable Nick J. Rahall
The Honorable Lee Terry
The Honorable Spencer Bachus
The Honorable Scott Garrett

February 18, 2014

Thank you for testifying at the January 28, 2014, Committee on Financial Services hearing entitled, "The Semi-Annual Report of the Consumer Financial Protection Bureau."

A copy of your transcript has been provided should you wish to make any corrections. Please indicate these corrections directly on the transcript. **Due to the disruption of mail service to the House of Representatives we ask that you fax or e-mail your corrections in lieu of mailing them. Please send your corrections within (15) business days upon receipt to:**

Terrie Allison, Editor
Committee on Financial Services
Fax (202) 225-4254
terrie.allison@mail.house.gov
Phone (202) 225-4548

Rule XI, clause 2(e)(1)(A) of the Rules of the House and Rule 8(a)(1) of the Rules of the Committee state that the transcript of any meeting or hearing shall be "a substantially verbatim account of the remarks actually made during the proceedings, subject only to technical, grammatical, and typographical corrections authorized by the person making the remarks involved." We therefore ask that you keep your corrections to a minimum.

Also included are questions for the record submitted by Chairman Hensarling and Representatives Huizenga, Mulvaney, Barr, Stivers, Luetkemeyer, and Velazquez. We ask that you respond to these questions in writing for the hearing record within 15 days of receipt.

If during the hearing you: (1) offered to submit additional material; or (2) were requested to submit additional material; please submit this material via electronic mail by sending it to terrie.allison@mail.house.gov. If you are unable to submit the material electronically, please contact the Committee staff to arrange for submission.

"The Semi-Annual Report of the Consumer Financial Protection Bureau"
House Committee on Financial Services Hearing
January 28, 2014

Questions for the Record Submitted by Chairman Jeb Hensarling:

Question 1: Director Cordray, page 39 of the Bureau's Financial Report for Fiscal Year 2013, released December 16, 2013, disclosed that the Bureau has entered into an "interagency agreement between the General Services Administration...to provide for services related to the planned renovation of CFPB's Headquarters office space located in Washington, D.C." Additionally, on December 19, 2013, the Bureau released its "CFO update report for the fourth quarter of fiscal year 2013," the first page of which disclosed that Bureau obligations made during the fourth quarter included:

"\$145.1 million to the General Services Administration to provide for a range of services related to the renovation of CFPB's headquarters building. In addition to the actual renovation of both the interior and exterior of the building, services also include project management, contract management, environmental management, construction oversight and administration, and other technical services."

- (a) Please produce a copy of the interagency agreement that the Bureau has entered into with the GSA regarding the Bureau's planned renovation.
- (b) Please produce copies of all renovation-related documents the Bureau has filed with the National Capital Planning Commission and U.S. Commission on Fine Arts.
- (c) When do you plan to file the Bureau's final plans with the National Capital Planning Commission?

Question 2: The Occupancy Agreement between the Office of the Comptroller of the Currency (OCC) and the Bureau was signed on February 17, 2012, the month following your recess appointment as Director of the Bureau, which occurred on January 4, 2012. Yet in your testimony, you stated "That was an agreement signed before I became director." Were you mistaken about the date upon which the Occupancy Agreement was signed, or were you indicating that the circumstances of your recess appointment did not yet endow you with the legal authority to act as the Director of the Bureau?

Question 3: The Occupancy Agreement between the OCC and the Bureau provides that "The CFPB will be responsible for the cost of any improvements it may make to the Premises" and "The CFPB bears the responsibility for the cost of operation, maintenance, repair of the space as well as the capital improvement cost of replacement of all base building structures and systems necessary to keep the building structures and systems in good maintenance and repair." Why would you agree to these contract terms for a building the Bureau does not own?

Question 4: In your testimony, you described your headquarters building as a "tough building," a "deteriorated building" and a "classic white elephant" that "must have been used pretty heavily." You further stated that "If I were a consumer I would be complaining a lot about the building if I owned it."

- (a) Did you have any inspection or appraisal reports or other information available to you at the time you committed the Bureau to its long-term Occupancy Agreement with the OCC that would have given you an indication of the condition of the building? If so, please produce dated copies of any such documents.
- (b) If not, why did you not conduct due diligence on the condition of the building before committing the Bureau to an investment of over \$250 million in total annual rent payments over the Occupancy Agreement's 20-year term?

Question 5: Regarding the Bureau's Occupancy Agreement with the OCC:

- (a) Which specific Bureau employees were responsible for negotiating and approving the Bureau's Occupancy Agreement with the OCC?
- (b) Does the buck stop with you or were other Treasury or Bureau employees also responsible for committing the Bureau to this Occupancy Agreement?

Question 6: According to an audit report released by the Treasury Department's Office of the Inspector General on December 20, 2013, the OCC engaged a private consulting firm in 2011 to perform a study to value the building at 1700 G Street, NW for sale and rental purposes. The Treasury IG report further states that:

"The study valued the building at approximately \$153.7 million. At the time of the study, OCC knew that CFPB was willing to occupy the entire building under triple-net rent terms, which requires the lessee to pay for net real estate taxes on the leased asset, net building insurance, and net common area maintenance. The results of the study found that the net present value of renting the property under a triple net rent contract for 10 years slightly exceeded the net present value of selling the building."

This IG report would seem to indicate that the Bureau's willingness to enter into lease terms favorable to the OCC induced the OCC to rent the building to the Bureau rather than sell it to another party. Do you agree or disagree with the Treasury IG's characterization of these events?

Question 7: The study referenced in the Treasury IG report was conducted by Ernst & Young and completed on February 4, 2011.

- (a) Which individual served as the leader or acting Director of the Bureau on this date?
- (b) Which Bureau or Treasury employee(s) negotiated or communicated with the OCC on behalf of the Bureau regarding lease terms during this time period?

Question 8: In your testimony regarding the Bureau's decision to lease the OCC building at 1700 G Street, NW, you indicated that "we worked with GSA to try to understand what space was available in Washington, D.C., and there's very limited space for an agency with over a thousand employees." You also stated that "we looked around at surrounding areas as well." Please provide this Committee with copies of all documents prepared by the Bureau, the General Services Administration or any private contractor or consultant prior to February 17, 2012 that reference or evaluate the Bureau's commercial real estate lease or purchase opportunities.

Question 9: In your testimony regarding the Bureau's planned renovation of the OCC building at 1700 G Street, NW, you indicated that "We're going to have to vacate the building while this is going on."

- (a) When will the Bureau relocate its first employee from the headquarters building?
- (b) How many total employees will be reassigned to another office location while the building at 1700 G Street NW is under renovation?
- (c) Will all impacted employees be reassigned to a new location on a rolling basis or all at once?
- (d) How long will CFPB employees currently working at 1700 G Street NW be reassigned to a temporary location?
- (e) What will be the total costs of vacating the building and renting an alternate facility?
- (f) What alternate office location has been selected for vacated employees?
- (g) When was the contract for an alternate office location signed?
- (h) Please provide us with a copy of these lease agreement.
- (i) How many square feet of office space will be occupied by the Bureau and at what cost?
- (j) Please provide this Committee with all relevant details and documents substantiating your responses to these questions.

Question 10: Please provide this Committee with copies of the Bureau's contract(s), including all amendments, with the architecture firm Skidmore, Owings & Merrill LLP.

Question 11: Please provide this Committee with copies of any documents, including but not limited to any architectural or design plans, renderings, illustrations, electronic files and e-mail communications, provided to the Bureau by Skidmore, Owings & Merrill concerning the renovation 1700 G Street, NW.

Question 12: Regarding the Bureau's planned renovations:

- (a) When does the Bureau expect to award a design build contract to renovate 1700 Street, NW?
- (b) What procurement process will be used?
- (c) When will construction commence?

Question 13: During your testimony before the Committee on September 12, 2013, Rep. Rothfus asked you about salary levels for Bureau employees, and you responded by stating:

"Again, the federal banking agencies are on a different pay scale than the GS scale. One of the things I want to note that's very important here – our statute requires us, it requires us – this is the law of the land that we're 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're one percent lower average salary than the Federal Reserve. So we're complying with the law."

- (a) So that the Committee may properly compare the Bureau's compensation structure with that of the Board of Governors of the Federal Reserve System, please provide a copy of the Bureau's salary structure, including all pay classes, grades, steps, and locality adjustments.
- (b) Additionally, please provide a Microsoft Excel file containing Bureau employee salary data, organized by the following column headings:

- Employee, Fellow, Intern Name,
- Title,
- Pay Class,
- Pay Grade,
- Division,
- Office,
- Hire Date,
- Starting Salary or Hourly Wage at Hire Date,
- Amount of any Signing Bonus Awarded,
- Amount of any Relocation Incentive Awarded,
- Amount of any additional financial incentive awarded,
- Date(s) of any Raises(s) Awarded
- Amount(s) of any Raise(s) Awarded
- Date of Promotion (if applicable),
- New Title after Promotion (if applicable),
- New Salary or Hourly Wage after Promotion (if applicable),
- Current Annual Salary or Hourly Wage,
- Departure Date (if applicable),
- Annual Salary or Hourly Wage at Departure Date (if applicable),
- Annual Bonus awarded in 2011 (indicate calendar or fiscal year),
- Annual Bonus awarded in 2012, and
- Annual Bonus awarded in 2013.

Question 14: The Bureau's contract service inventory list for FY 2013 shows that the Bureau paid Harvard University for two different programs held in Cambridge, Massachusetts: \$37,500 for a "Harvard Law School Executive/Legal Education Program" and \$69,000 for "registration fees for Bureau staff members to attend senior executive seminar(s)."

- (a) Please produce copies of all records associated with these programs, including but not limited to any pre-solicitation requests for quotes, the quotes submitted to the Bureau by Harvard, any contracts signed between Harvard and the Bureau, any travel, lodging, and meal vouchers associated with any Bureau employee, a complete list of every Bureau employee who attended either of these programs, and any materials provided to program participants.
- (b) Why were these programs not mentioned in the Bureau's December 2013 report on "Growing our Human Capital," even though the report listed fifteen other "training and workforce development initiatives" instituted by the Bureau in 2013?
- (c) Why did you select Harvard to provide this program?
- (d) There are many nationally-recognized Universities in the greater DC area with similar capabilities, the selection of which would have minimized travel expenses. Did you not consider these universities to provide the programs for your senior employees? Why was it necessary to send your senior employees to Cambridge, MA to receive this training?
- (e) Why was this seminar not held at the Bureau's headquarters instead of in Cambridge, MA?
- (f) How much money would have been saved if the Bureau had hosted this program rather than sending its employees to Harvard?

Question 15: On May 28, 2013, the CPFB published a pre-solicitation notice to solicit quotes for "various Senior/Executive Manager workshops similar to the Harvard Kennedy School of Government programs."

- (a) Was this the pre-solicitation notice that resulted in the awards and programs referenced in question 14 above?
- (b) How many quotes did the Bureau receive?
- (c) With a pre-solicitation notice phrased in this way, it would appear that the Bureau's selection of Harvard's quotes was a foregone conclusion, was it not?

Question 16: The Bureau's contract service inventory lists for FY 2012 and FY 2013 list a number of contracts the Bureau has awarded to companies for "paid search marketing services." Please produce copies of any such contracts, including but not limited to the contracts associated with the following awards.

- \$122,513 paid to Fleishman-Hillard, Inc. on 3/16/2012;
- \$94,692 paid to PCG Enterprises on 6/8/2012;
- \$237,300 paid to Digital Firefly Marketing on 8/21/2012; and
- \$280,637 paid to Fleishman-Hillard, Inc. on 6/14/2013.

Question 17: The Bureau's contract service inventory lists for FY 2012 and FY 2013 list a number of contracts the Bureau has awarded to a company named IDEO, LLC for "branding services." Please produce copies of any contracts awarded to any company for "branding services," including copies of all contracts awarded to IDEO, LLC.

Question 18: Please produce copies of any contracts awarded to GMMB, Inc., the Corporation for Enterprise Development, and the National Consumer Law Center.

Question 19: Section 1017(d)(2) of the Dodd-Frank Act provides that amounts deposited in the Bureau's Consumer Financial Civil Penalty Fund may be used only for "payments to the victims of activities for which civil penalties have been imposed" or "for the purpose of consumer education and financial literacy programs." However, page 25 of the Bureau's Fiscal Year 2013 Financial Report discusses the Bureau's Civil Penalty Fund and states that in Period 1, "\$1.6 million was set aside for any administrative costs."

- (a) What is the legal authority upon which the Bureau relied for using funds in the Civil Penalty Fund for "any administrative costs"?
- (b) Please provide a full accounting of all administrative costs incurred specifically related to the Civil Penalty Fund.
- (c) Please indicate whether the administrative costs will solely be used for purposes of the Civil Penalty Fund.

Question 20: On a subpage of the Bureau's website entitled "Doing Business With Us," the Bureau discloses that it plans to build a "national database on US households' use of consumer financial products." Further, the Bureau discloses that it planned to solicit bids for this database in the first quarter of Fiscal Year 2014. Please produce all records referencing or relating to this "national database on US households use of consumer financial products."

Question 21: On April 24, 2013, the Bureau released a "White Paper" on Payday Loans and Deposit Advance Products. Page 4 of this document states: "This white paper summarizes the *initial findings* of the CFPB's analysis of payday loans and deposit advance." (Emphasis added).

- (a) In light of the fact that the Bureau's White Paper only presented "initial findings," why does the Bureau's unified rulemaking agenda already list "Payday Loans and Deposit Advance Products" in the Bureau's "Prerule" stage of rulemaking?
- (b) Why is the Bureau, according to the Office of Information and Regulatory Affairs (OIRA), "considering whether rules governing these products are warranted under CFPB authorities, and if so what types of rules would be appropriate" without first completing its research and issuing a White Paper containing finalized research and findings?
- (c) Will you commit to finalizing the Bureau's research before proposing any rule to regulate these products?
- (d) The Bureau often cites its objective, data-driven approach to policy research and analysis. In the name of transparency, will you immediately make all data, methodologies and analysis underlying the Bureau's initial research and findings available to the public for peer review?

Question 22: On December 12, 2013, the Bureau released a report entitled "Arbitration Study Preliminary Results." The Committee understands that the Bureau obtained

information that formed the basis of its findings by issuing orders to financial institutions to provide it with copies of their standard-form consumer account agreements.

- (a) To how many financial institutions did the Bureau issue these orders?
- (b) Why was this information collection not noticed in the *Federal Register*?
- (c) Why was this collection not first approved by the Office of Information and Regulatory Affairs (OIRA)?
- (d) Why did these orders not contain a valid OMB approval number?
- (e) When does the Bureau plan to release a follow-up or subsequent study regarding arbitration?
- (f) Will you make all data, methodologies, and analysis underlying this report available to the public for peer review?

Question 23: Will you please provide the Committee with a current list of every Bureau employee or contractor who has access to information contained within the Bureau's credit card database, national mortgage database, loan-level database, and consumer credit panel?

Question 24: Has any data collected as part of the Bureau's market monitoring efforts, including data collected or retained in its credit card database, national mortgage database, loan-level database, and consumer credit panel, ever led directly or indirectly to a Bureau investigation or enforcement action? If so, please fully describe all such instances in which this has occurred.

Question 25: Does the Bureau have a memorandum of understanding (MOU) with the Financial Stability Oversight Council, Office of Financial Research, U.S. Department of the Treasury or Internal Revenue Service? If so, please provide copies of all such memoranda to this Committee.

Question 26: Are you open to creating an advisory opinion process whereby lenders and other regulated entities can petition the Bureau for an opinion on whether a proposed product or service is likely to be found lawful and compliant by the Bureau? This process is used by many other regulatory agencies and provides greater certainty to market participants and encourages product innovation, which benefits consumers. In your view, could the Bureau adopt such an advisory opinion process by rule, or is legislation required?

Question 27: Are you open to providing the public advance notice of the release of any enforcement bulletin and regulatory guidance and affording the public the chance to comment on any such bulletin or guidance? Such a process could provide the public with an additional opportunity to provide the Bureau with helpful feedback, even in instances where the Bureau is simply restating its view of existing law and regulations. If you do not support providing the public with this opportunity, please articulate your reasons for opposing such a process. In your view, could the Bureau adopt such a notice-and-comment process by rule, or is legislation required?

Question 28: I am concerned that the Bureau is undertaking investigations that duplicate similar efforts undertaken by other state and federal agencies, which is an inefficient use of limited law enforcement resources.

- (a) Without revealing the identity of any company under current investigation, please state the number of Bureau investigations currently underway in which another state or federal agency is conducting an investigation of the same company or of the same or similar activities.
- (b) Please state the percentage of Bureau investigations in which another state or federal agency issued a subpoena, civil investigative demand, or otherwise obtained information from the same company being investigated before the Bureau did so?
- (c) Finally, is the Bureau currently investigating any company that is not currently considered to be a financial services company? If so, please describe the products or services provided by any such company and the legal basis for the Bureau's authority to investigate such companies.

Questions for the Record Submitted by Rep. Bill Huizenga
"The Semi-Annual Report of the Consumer Financial Protection Bureau"
January 28, 2014

Questions for the Hon. Richard Cordray, Director, Consumer Financial Protection Bureau

Thank you for your appearance before the January 28, 2014, House Financial Services Committee hearing to discuss the semi-annual report of the CFPB. To follow up on the discussion, I would like to submit the below background and questions to the aforementioned witness and have the answers included in the official hearing record.

On January 14, 2014, the Financial Services Subcommittee on Financial Institutions and Consumer Credit held a hearing on the recently enacted Ability to Repay rule and its Qualified Mortgage (QM) definition.

In testimony, Bill Emerson, the Vice Chairman of the Mortgage Bankers Association (MBA) and CEO of Quicken Loans, which is headquartered in my home state of Michigan, made a series of recommendations for how the CFPB could improve the Ability to Repay rule so it better serves consumers and promotes the vibrant flow of safe and affordable mortgage credit. Among MBA's recommendations are increasing the threshold for smaller balance loans, establishing a "right to cure" calculation errors and other processing mistakes, providing better written guidance, and raising the APOR tolerances.

I understand the CFPB is considering making adjustments to the Ability to Repay rule later this year.

- What is the Bureau's timeframe for publishing amendments to the Ability to Repay (APR/QM) rule?
- Is the CFPB considering revising the "points and fee" threshold for smaller loans? Currently, loans with a balance of less than \$100,000 are able to qualify as QM loans with higher "points and fees," ranging from 3 percent to as high as 8 percent for the smallest loans. Would you agree that setting the definition closer to the national average of \$219,000 would improve access to credit for low- and moderate-income Americans?
- Is the CFPB considering providing lenders with the ability to "cure" mortgages that were intended to be QMs but, through a calculation error or other processing mistake, did not fit into the strict definition? Without such a procedure, lenders will tend to avoid transactions at the boundaries of QM – an outcome at odds with your stated goals for the new rule.
- Is the CFPB considering establishing a better process for the provision of written guidance? In his testimony, Mr. Emerson noted that the absence of timely, authoritative written guidance has resulted in industry confusion and understandable reluctance to offer consumers certain beneficial loan features such

as bona fide discount points that help them reduce their interest rate and monthly payment.

- Is the CFPB considering raising the APOR/APR thresholds to qualify as QM safe harbor loans? Only mortgages where the APR is less than 150 basis points over the applicable benchmark APOR qualify. Increasing the spread to 200-250 basis points would extend QM loans to a greater number of borrowers, satisfying their credit needs with sustainable and affordable loans.

Questions for the Record submitted by Rep. Mick Mulvaney (R-SC)

Committee on Financial Services

Hearing on "The Semi-Annual Report of the Consumer Financial Protection Bureau"

Witness: The Honorable Richard Cordray, Director, Consumer Financial Protection Bureau

Hearing Date: January 28, 2014

Question #1:

A recent report issued by the Philadelphia Federal Reserve Bank under its Working Paper Series found that stricter regulation of third-party collectors is associated with creditors extending fewer lines of credit and reducing the amount of credit offered – all of which ultimately harms consumers. The report concluded that "financial regulation that institutes strong consumer protection must be balanced with creditor rights in order for the latter to extend consumer credit in the first place." As the Bureau engages in its rulemaking on the debt collection industry, how will you ensure that there is balance between strong consumer protection and creditor rights?

Question #2:

In response to a question from Rep. Meeks about the importance of ensuring access to small-dollar credit, you mentioned several different products, including payday loans and "certain types of installment loans." I share your understanding that small-dollar lending serves an important function for many borrowers, especially those who may not utilize traditional banking services, and hope the Bureau will work to ensure the continued viability and availability of these products.

You indicated that the Bureau plans to "move ahead with making some policy judgments and regulations in this area." As you do so, please provide to me:

- The Bureau's definition of "installment loan" and how the Bureau is distinguishing between the different types of installment loans that you referred to during the hearing.
- The features of installment loans that, in the opinion of the Bureau, provide value to consumers.
- The features of installment loans that are of concern to the Bureau.

Question #3:

In response to questions from Rep. Luetkemeyer, you emphasized that "online lenders that are legitimate and valid deserve protection against online lenders that are undercutting them, violating the law, not complying with the same requirements that they comply with." I applaud you for this statement, and for your recognition that "there's a lot of online lending that is perfectly proper and valid, and may even cut some costs over physical, in-person lending."

You also mentioned that you have been working with state attorneys general to resolve issues that arise from the complex nature of online regulation. In addition to state attorneys general, are you working on these issues in cooperation with the Federal Deposit Insurance Corporation or the Department of Justice?

As the primary regulator for payday lenders, how will you ensure that recourse is available to legitimate online lenders who may have been negatively impacted by enforcement or regulations intended to stamp out illegitimate lenders?

Question #4:

The CFPB's April 2013 white paper on "Payday Loans and Deposit Advance Products" looks at "sustained use" of payday loans, and then states that such use "may become harmful for consumers when they are used to make up for chronic cash flow shortages."

- If "chronic cash flow shortages" are the underlying problem, it seems unlikely that regulating "sustained use" is the solution. Do you agree?
- Isn't the potential regulation of sustained use simply another way of regulating the cost that consumers may pay for a particular financial product, in this case payday loans?
- Doesn't Dodd-Frank, by prohibiting the CFPB from setting a usury rate, prohibit regulation of the cost of a financial product?

The same white paper also fails to provide sufficient granular data to explain the measure of sustained use, which is necessary in order to determine if such use is beneficial or harmful to the consumer.

- How do you respond to this significant oversight, and don't you agree it must be addressed before the white paper can be part of the basis for CFPB rulemaking?
- Do you foresee any other research being released by CFPB regarding payday lending prior to any rulemaking?

Question #5:

The Bipartisan Policy Center published a report in September 2013 that listed several concerns with the CFPB's transparency efforts. In part, BPC found that after a June 2013 forum, "CFPB held an ostensibly public follow-up meeting. The meeting, however, was open only to those consumer groups, industry members and government officials who received a personal invitation from the CFPB."

BPC also noted that CFPB fails to publish notices of its field hearings in the *Federal Register* and often referred to hearings in blog posts just a few days in advance of a hearing without providing the level of disclosure found in Federal Register notices from other regulators. BPC also criticized the CFPB for occasionally providing vague descriptions of the hearing topics.

Alarmingly, BPC found that there were instances where CFPB did not provide **any** notice at all of public hearings, including for its hearings on overdraft fees and payday lending.

- What federal regulations must CFPB comply with regarding notice of public meetings and hearings?
- Does CFPB have any additional internal requirements for publishing notice of public meetings?
- How does the CFPB define a public meeting? Does a meeting where attendance was limited to invitees meet the definition of a public meeting?
- If the public is excluded from CFPB meetings, either directly by exclusive invitations or indirectly by inadequate notice, how is the Bureau accomplishing your stated goal of increased transparency?
- Are you willing to submit to the Committee a plan of action for the upcoming months to improve transparency at the CFPB?

Rep. Andy Barr, Questions for the Record
Pertaining to the 1/28/14 Cordray Hearing

Director Cordray –

As the CFPB is aware, many community banks originated balloon loans as the bulk of their consumer real estate lending portfolio. These banks must take action when a balloon loan they currently have in their portfolio matures.

Unfortunately some borrowers may not show a verifiable income sufficient to qualify for a new loan under the ability-to-repay standards, even though they have never actually missed a payment on their existing balloon loan and have a clean credit history.

- **The community banks in my district are wondering whether the ability-to-repay rule requires them to foreclose on a borrower who has never missed a payment. Should the community bank, mindful of past performance of the loan, willfully disregard the ability-to-repay rule and rewrite the loan based on its best judgment and close knowledge of the borrower, or should the bank begin foreclosure proceedings, notwithstanding the borrower's prior record, since the borrower cannot pay off the matured loan?**
- **Given these concerns, would you support a legislative fix that would grandfather into the qualified mortgage safe harbor balloon loans with a history of performance and which are currently held in portfolio by the community bank?**

In addition, during the hearing, I asked you about a series of nondiscriminatory factors that could explain why one consumer might pay less for an auto loan obtained through an auto dealer, compared to another consumer. If one of these factors is the reason why prices vary from consumer to consumer, there is no unlawful discrimination. Hence, to do a proper comparison, these variables need to be pulled out of the CFPB's analysis when alleging disparate impact.

You conceded during the hearing that some of these factors are "relevant." My question concerns whether these "relevant" factors were properly considered in CFPB's analysis of disparate impact.

Please answer Yes or No to the following (if "No" please state a reason why):

- **Is the amount financed considered when CFPB's is alleging disparate impact discrimination in indirect auto financing?**
- **Is borrower creditworthiness considered, including the efforts by the dealer to arrange financing for the consumer?**
- **Is the presence of a competing offer from another financing source considered?**
- **Is the length of the loan considered?**

- **Is the presence of a manufacturer's discount of the rate considered?**

Finally, the Bureau has repeatedly asserted, including in a response to my office, that the Indirect Auto Bulletin is exempted from the Administrative Procedure Act's (APA) Notice of Proposed Rulemaking (NPRM) requirements. Specifically, the Bureau stated that the Bulletin falls under the exemption "for general statements of policy, non-binding informational guidelines, or interpretive memoranda."

- **Under which of these exceptions to the APA does the Bureau feel it can circumvent the standard rulemaking procedures, particularly NPRM? Simply, which of the following categories does the Bulletin fall under: a general statement of policy, a non-binding informational guideline, or interpretive memoranda?**
 - **Even under this exemption, the APA requires agencies to publish these rules within the *Federal Register*. Has the Bureau published a notification of the issuance of the Bulletin in the *Federal Register*? If not, does the Bureau intend to?**
 - **It is clear from the legislative history of the APA that Congress did not intend for these exceptions from the law's notice and comment requirements to be a loophole for the agencies to expedite the promulgation of rules. What is the agency's rationale for using this exception?**
 - **Since the Bulletin appears to be intended to change behavior with the force of law, how can the Bureau claim that it only applies to intra-agency behavior in the manner of a statement of policy, informational guidelines, or rules of agency organization, procedure or practice?**
 - **How does the agency intend to keep Congress, the public, and industry stakeholders notified on the proposal, promulgation, and implementation of rules addressing disparate impact and the justification of these rules?**

Congressman Steve Stivers
Questions for the Record
"Semi-Annual Report of the Consumer Financial Protection Bureau"
January 28, 2014

Questions for Dir. Cordray:

- 1.) A recent *Washington Post* story quoted Deepak Gupta, the Bureau's former Litigation Counsel and Senior Counsel for Enforcement Strategy as saying:

"Sometimes you couldn't write down your thinking, because it could wind up in front of some hostile congressional committee...I would use the word paranoia, except paranoia implies that it's not justified."

This admission comes on the heels of a July 2013 report that the Bureau is coaching its employees to "FOIA-proof" their Outlook calendars by instructing them to "avoid annotating entries with agendas, detailed discussions," and "minimize attachments to your calendar appointments."

- **Is it a widespread practice at the Bureau to avoid documenting its activities so as to evade Congressional scrutiny? Was Professor Gupta acting contrary to Bureau policy? Have you made it clear to Bureau staff that it is not in the Bureau's interest to frustrate a Congressional inquiry?**
 - **I have a bill that creates a Senate confirmed independent inspector general for the CFPB (H.R. 3770). Would you agree or support this bill which would provide Congress additional oversight of your agency?**
- 2.) In the same *Washington Post* story, Leonard Chanin, the former head of rulemaking at the CFPB made the following comments about your organization: "I lost faith that the agency would become a truly independent entity and carefully balance consumer costs and access to credit with consumer protection," Chanin said..." There is great risk in assuming you know what is best for the consumer..."
- **Do these comments trouble you in any regard? Do you see it as your job to remove decision making ability from consumers and transfer it to the Bureau staff? Why would Mr. Chanin make these comments if this was not an issue at the Bureau?**

3.) In response to questions about forms of “nondiscretionary compensation” of dealers that indirect auto lenders can evaluate, Bureau staff has indicated that “flat fees” are but one form of such compensation. At the auto finance forum in November 2013, Bureau staff said that other forms of “nondiscretionary compensation” could include flat percentages per amount financed and/or tying dealer compensation to the amount financed and the loan term. Both of these options seem like variation of flat fees.

- **Are there examples of “nondiscretionary compensation” that the CFPB can share with industry?**
- **Should the vehicle finance industry expect a “large participant” rulemaking in 2014?**

Proposed Questions
Rep. Blaine Luetkemeyer (MO-03)
“The Semi-Annual Report of the Consumer Financial Protection Bureau”
Committee on Financial Services
January 28, 2014

1. The No FEAR Act requires federal agencies to post quarterly summaries on its public website pertaining to EEO complaints filed with the agency. Is it correct that in the most recent No FEAR Act report 23 employees filed an Equal Employment Opportunity complaint against the bureau?
2. The No FEAR Act disclosure indicates 11 out of the 23 complaints are either pending or have been withdrawn. This means that 12 of these complaints have been disposed of in some manner. What happened with these complaints, and were they resolved favorably for the employees?
3. The Bureau seems to have taken it upon itself to regulate certain financial products based on the notion that they could contain an element of discrimination. Should Congress be conducting more rigorous oversight of CFPB to ensure the Bureau is not violating principles it claims to represent?
4. After meeting with officials from both the Department of Justice (DOJ) and the Federal Deposit Insurance Corporation (FDIC), both agencies have admitted to some sort of wrongdoing by their respective staffs regarding online lenders. DOJ and FDIC have both clarified in writing that legal lenders should have no problem maintaining relationships with financial institutions. Will you issue any formal or informal guidance or correspondence which indicates that it is acceptable for institutions to do business with online lenders operating within the law?
5. A report recently released by the Inspector General of the United States Postal Service (USPS) suggested that USPS move into the lending space and offer small dollar short-term loans. How do you respond to this report? Does CFPB support the notion that USPS is a qualified lender or should consider entry into the lending and/or financial services space? If it was to move into this or a similar business, how would CFPB oversee USPS?
6. I found several of your responses to my Questions for the Record, submitted following your appearance before the Committee on September 12th, troubling and nonresponsive. Below, you will find one such response illustrating my concern:

Luetkemeyer Question: “Do you believe that tribal governments have the right to use the internet to make loans”.

Cordray 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.”

Please answer the following question with either "yes" or "no": Do you believe tribal governments have the right to use the Internet to make loans?

7. It has come to my attention that there has been and continues to be coordination between the Department of Labor (DOL) and CFPB on the DOL fiduciary rulemaking. Please explain in detail the coordination that exists on this matter between DOL and your Bureau, and all roles, including formal and information roles, CFPB is taking in conjunction with this rulemaking.
8. Has CFPB coordinated with the Securities and Exchange Commission (SEC) on the SEC fiduciary rulemaking? If so, in what capacity?

Name: Nydia Velazquez

Hearing: The Semi-Annual Report of the Consumer Financial Protection Bureau

Date of Hearing: January 28, 2014, 10 am

Question for the Record:

We have learned that as a consequence of CFPB implementation of Dodd-Frank requirements for background checks under the Loan Officer Compensation provisions, lenders and loan servicing companies have started to add additional employee validation requirements as a standard for any and all vendors, including subcontractors and their sub-agents. In fact, such requirements are now being applied to such routine property preservation services as mowing lawns or inspections of vacant property that are performed by thousands of small businesses. These activities are well outside the normal duties performed by a loan officer. Overly-broad application of the background checks policy is costly to small businesses and does not materially affect the quality of lending practices. Can and will CFPB issue a guidance document that will clarify the intent and scope of the DFA Loan Officer Compensation provisions regarding background checks, clarifying that the employee validation requirements are limited to loan officers and individuals who perform the normal duties of loan officers?

Congress of the United States
Washington, DC 20515

February 3, 2015

The Honorable Richard Cordray
Director
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

Dear Director Cordray:

The Consumer Financial Protection Bureau (CFPB) has begun to use the authority granted to it under the Dodd-Frank Act to regulate the short-term lending industry, we feel that certain key principles should be adhered to in any rulemaking.

As you have stated yourself, the short-term lending industry provides a vital service to consumers in states that have enacted laws allowing this product. Consumers choose short-term loans to meet their needs, often as their best option compared to their other product choices. Having a well-regulated short-term lending industry is important to both consumers and the US economy.

With that in mind, we believe there are five key principles that the Bureau must adhere to as it drafts its short-term lending rules. Adhering to these principles will result in rules that protect consumers while maintaining their access to credit, and protect jobs and small businesses. These five principles are:

1. MAINTAIN A DATA-DRIVEN APPROACH

All rules or regulations for the short-term lending industry, or any other industry, should be based on quality and transparent research and data. Supervisory and regulatory decision-making needs to result from large scale data analysis and tested research, not anecdotal or agenda-driven rhetoric. Where such clear data-driven results are not present supporting the need for regulatory intervention in certain areas of the short-term lending market, the CFPB should engage in additional research and data collection before beginning the rulemaking process.

2. CONSIDER THE IMPACT ON SMALL BUSINESSES

As the CFPB formulates rulemaking for the short-term lending industry, we urge you to consider any potential impact on small businesses. When businesses have to devote excessive time and energy to keep up with compliance costs, this lessens their ability to provide access to credit to consumers, and everyone loses. Our neighborhoods need to continue to have access to all of these services, and they need to be provided by regulated and licensed companies. We want to continue to see neighborhood financial centers that provide stability and employees that consumers can trust. These small businesses not only provide access to credit through use of their own capital, but also employment opportunities.

3. CONSIDER THE IMPACT ON RURAL COMMUNITIES

As part of the Dodd-Frank Act, in prescribing a rule, the CFPB must consider the impact on consumers in rural areas (*See Section 1022 (b)(2)(A)(ii)*). Overzealous regulations can have the unintended consequence of disproportionately impacting rural or underserved areas. If the CFPB restricts options for consumers within their neighborhood or area, they will often turn to illegal, unscrupulous lenders to meet their credit needs.

Colorado is such an example where recently-enacted short-term lending laws have led to rural areas being disproportionately adversely impacted. After new regulations in Colorado went into effect, the number of stores in Colorado was cut in half. This has resulted in consumers being forced to travel great distances to receive loans, or losing the benefit of this type of credit because of lack of access in their area.

4. CONDUCT COST/BENEFIT ANALYSIS

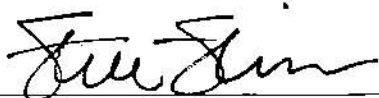
Any proposed rule for the short-term lending industry must contain a thorough qualitative and quantitative cost-benefit analysis. We are concerned that overly aggressive restrictions on the short-term lending industry will reduce access to credit in the marketplace. Excessive restrictions could create a business environment that is not economically viable for many lenders, and one that disproportionately impacts companies, including small businesses, forcing them to shut down operations. Such a result would eliminate a critical choice for many consumers who rely on short-term credit.

5. CONSIDER STATE MODELS

As the CFPB studies payday loans and how consumers use them, we ask you to review the many states that have passed short-term lending laws and use these as a model for any national regulations. We believe that these states have set an example for regulators of successfully balancing the dual needs of consumer protection and access to credit. The short-term credit market is well-regulated in many states due to years of study and discussion by lawmakers and regulators who have worked with consumer groups, the industry and other stakeholders to ensure the right balance of access to credit with consumer protections. The CFPB should be careful to consider state laws, which reflect the wishes of American citizens using the product within their state.

We encourage the CFPB to continue to study the short-term lending industry with the goal of being able to provide workable and sustainable regulation for this needed source of consumer credit. Going forward, it is important for you and for all of us to continue to learn about the nuances of this industry, and how we can all work together to better serve consumers in need of short-term loans.

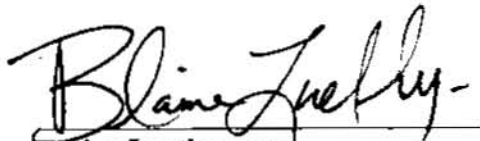
Sincerely,



Steve Stivers
Member of Congress




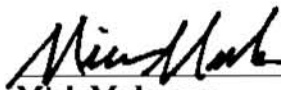
Randy Neugebauer
Member of Congress



Blaine Luetkemeyer
Member of Congress



Scott Garrett
Member of Congress

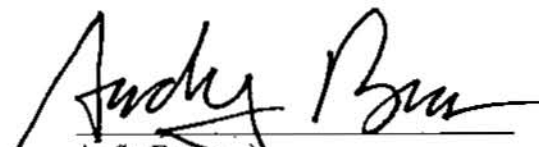

Bill Huizenga
Member of Congress


Lynn Westmoreland
Member of Congress

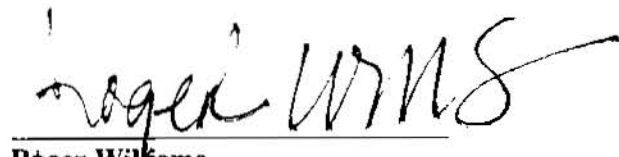

Mick Mulvaney
Member of Congress


Dennis Ross
Member of Congress


Stephen Fincher
Member of Congress


Andy Barr
Member of Congress


Robert Pittenger
Member of Congress


Roger Williams
Member of Congress



March 2, 2015

The Honorable Mick Mulvaney
U.S. House of Representatives
2419 Rayburn House Office Building
Washington, DC 20515

Dear Congressman Mulvaney:

Thank you for your letter about short-term lending and recommending to the Consumer Financial Protection Bureau (Bureau) certain principles for our work on regulations applicable to the short-term lending industry. I welcome the opportunity to address the Bureau's rulemaking process with you.

As you know, the Bureau has the authority to enforce Federal consumer financial laws and to promulgate rules implementing those laws. The Bureau also has the authority to supervise nondepository payday lenders and larger financial institutions for compliance with these laws. We are currently in the pre-rule phase of our work on short-term lending and are considering appropriate regulatory action to address consumer harm in this market.

Our rulemaking activities incorporate the principles that you urge us to adopt in considering regulation applicable to the short-term lending industry—namely that we take a data-driven approach, consider the impact of small businesses and on rural communities, conduct an analysis of costs and benefits of any rulemaking, and consider regulation already employed by the states, which have extensive experience regulating small dollar lending. As the Bureau considers federal regulation of these products, we welcome the expertise which states can share with us. At the Bureau, we want to ensure that consumers are offered the same benefits and protections no matter where the consumer is, which institution extends the credit, or what type of license the institution uses to operate.

The Bureau's Division of Research, Markets, and Regulations studies consumer financial markets and conducts research on consumer behavior and market practices. In April 2013 and March 2014 the Office of Research published analyses of borrowing patterns on short-term payday loans. Economists and market experts at the Bureau continue to consider and analyze available information to identify risks to consumers and inform the Bureau's policy decisions.

When the Bureau does promulgate regulations, the agency is required pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) to consider the potential benefits and costs to consumers and to industry—including considering any impacts on access to the affected financial products or services. In addition, the Dodd-Frank Act requires the Bureau to specifically consider the impacts of any proposed rules on small banks and credit unions and on consumers in rural communities.

Additionally, the Regulatory Flexibility Act requires the Bureau to obtain input from small businesses through a formalized process prior to publishing a notice of proposed rulemaking. Specifically, when the Bureau is considering proposals that would have a significant impact on a substantial number of small entities we convene a panel of representatives from the Bureau, the Small Business Administration's Office of Advocacy, and the Office of Management and Budget to gather input from representatives of small businesses that would be affected.

As the Bureau considers appropriate regulation for the short-term lending market, we also look to the work of the states—just as we do for other rulemakings. We are conscious of the importance of state regulation in the context of any rules the Bureau might promulgate regarding short-term lending, including both the lessons that can be drawn from state experiences regulating this market and the potential interactions between possible CFPB rules and existing state frameworks.

Thank you for your continuing interest in the Bureau's work. I look forward to working with you on this important issue as the Bureau continues to help markets work better for consumers.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard Cordray".

Richard Cordray
Director



Congress of the United States

House of Representatives

April 17, 2015

The Honorable Richard Cordray
Director
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, D.C. 20552

Dear Director Cordray:

We write to express our concern about the Consumer Financial Protection Bureau's (Bureau) Notice of Proposed Rulemaking for prepaid cards and similar products. As you know, one aspect of the Bureau's statutory mission is to facilitate consumer access to financial products by promoting innovation and competition in the market. This aspect of the Bureau's mission is critical for unbanked and underbanked consumers, who all too often have less access to financial products and services. We, too, support improving access to financial services for this group of consumers and believe the Bureau is uniquely positioned to help facilitate this goal.

The proposed prepaid card rule, however, could needlessly increase the cost of prepaid cards for consumers and limit their access to new and innovative features and services. We therefore encourage you to develop clear and practical regulations that empower consumers who use prepaid cards, rather than relegating them to a second tier financial system with limited access and choice. In particular, we are concerned that the proposed rules for opt-in overdraft protection and other similar services may eliminate companies' ability to offer these features that consumers have said they want and at times need access to in order to meet their spending needs. Furthermore, this could directly impact the roughly 68 million unbanked or underbanked consumers in the United States who already have little or no access to traditional financial services.

Prepaid cards can provide secure, cost-effective, and flexible payment options for consumers, businesses, and federal, state, and local governments. Consumers value the accessibility of prepaid cards, including the fact that they can obtain these products at retail stores, and that they are often less expensive than other products, such as check cashing services.

We are also concerned that the breadth of the Bureau's proposed rule has the potential to stifle innovation in the prepaid market and limit consumer choice. The proposed rule as published in the Federal Register is approximately 235 pages and covers a broader range of products than the Bureau considered in its Advance Notice of Proposed Rulemaking (ANPR). For example, the proposed rule, unlike the ANPR, covers more than just general-purpose reloadable cards, products like mobile and other electronic prepaid accounts, peer-to-peer payment products, virtual currency and other products that are still in development.


The expansive scope of the proposed rule raises a real risk that the final rule may stifle innovation in the prepaid market by imposing a one-size-fits-all approach to a highly diverse and flexible range of financial service products that serve a critical need. This could hamper competition and ultimately harm the access that all consumers – and especially unbanked and underbanked consumers – have to financial products and services.


As you finalize your prepaid rule, we would appreciate your attention to these important issues. Prepaid, mobile and peer-to-peer products provide consumers with convenient, cost effective, and diverse payment options. It is important that your final rule preserve the benefits that consumers seek when they choose to use prepaid cards.

Thank you for your consideration.

Sincerely,

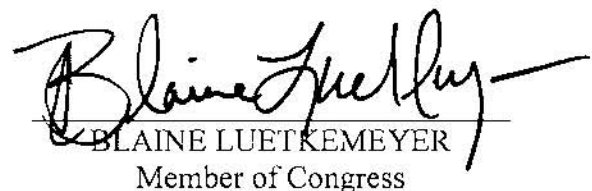

STEVE STIVERS
Member of Congress

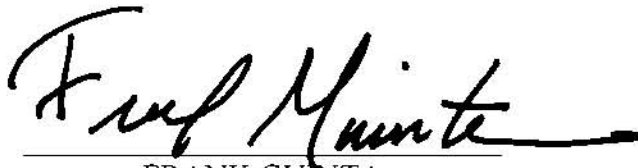

DAVID SCOTT
Member of Congress


RANDY NEUGEBAUER
Member of Congress


SCOTT GARRETT
Member of Congress


BILL HUIZENGA
Member of Congress


BLAINE LUETKEMEYER
Member of Congress



FRANK GUINTA
Member of Congress



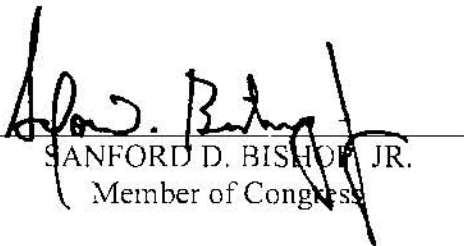
RUBEN HINOJOSA
Member of Congress



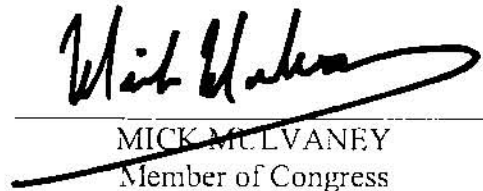
LYNN WESTMORELAND
Member of Congress



MIA LOVE
Member of Congress



SANFORD D. BISHOP JR.
Member of Congress



MICK MCLVANEY
Member of Congress



MARCIA FUDGE
Member of Congress



ANN WAGNER
Member of Congress



DAVID SCHWEIKERT
Member of Congress



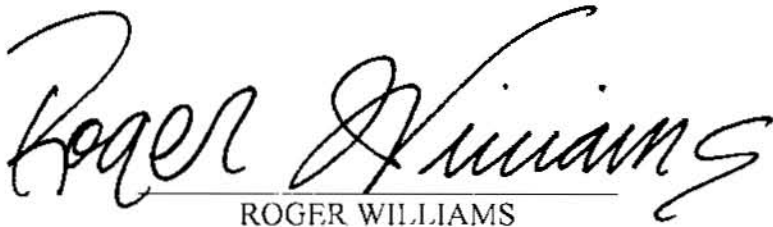
ROBERT J. DOLD
Member of Congress



ANDY BARR
Member of Congress



SCOTT TIPTON
Member of Congress



ROGER WILLIAMS
Member of Congress



MARLIN A. STUTZMAN
Member of Congress



STEVE PEARCE
Member of Congress



Consumer Financial Protection Bureau

May 7, 2015

The Honorable Mick Mulvaney
U.S. House of Representatives
2419 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Mulvaney:

Thank you for your comment letter on the Consumer Financial Protection Bureau's Notice of Proposed Rulemaking regarding prepaid accounts. We appreciate your feedback regarding the importance of access to financial products that can help consumers meet their spending needs. We remain committed to ensuring that unbanked and underbanked consumers are able to participate in a financial system with access to a variety of financial products and services, including prepaid accounts.

As detailed in the proposal, the Bureau has evaluated a range of potential approaches to overdraft services and credit features on prepaid accounts in connection with this rulemaking. The approach we proposed in the Notice of Proposed Rulemaking was designed to appropriately balance the need and desire of some consumers to access credit in connection with prepaid products and the need for guard rails to make sure such credit is offered with protections similar to those that apply to other card-based credit (*i.e.*, credit cards). As we work towards finalizing the prepaid proposal, we will continue to evaluate the likely impact of such provisions, including their impact on other types of products that may be offered in compliance with a final rule.

We also appreciate your concerns about over-regulation and the risk that it could stifle innovation or competition in the financial services market. At the Bureau, we believe that consumer-friendly innovation holds great potential for achieving our mission of making the consumer finance market work for consumers. We also believe that regulation of the prepaid market should be clear and consistent across different product types. In developing the proposal, we engaged in an in-depth outreach process with a variety of relevant stakeholders, including through the publication of an Advanced Notice of Proposed Rulemaking. Although the Advanced Notice of Proposed Rulemaking focused on general-purpose reloadable cards, it also asked broader questions regarding the potential definitional scope for a prepaid rulemaking. While an Advanced Notice of Proposed Rulemaking is not a required part of the rulemaking process under the Administrative Procedures Act, the over 220 comments we received in response helped inform the scope of the Bureau's proposal.

We are committed to ensuring that our rule on prepaid accounts and all of our regulations reflect the Bureau's thorough and balanced consideration of relevant viewpoints. As such, we are pleased that the proposal has garnered such a robust and meaningful public response: in addition to your letter, the Bureau is in the process of reviewing more than 35,000 comments submitted on the

prepaid proposal by consumers, industry members, trade associations, consumer advocacy groups, government agencies, and other interested parties. We are reviewing these comments now, as we continue to evaluate how consumers' spending needs can be met safely and transparently.

Once again, I appreciate your interest in providing feedback on our proposal, and I would be happy to meet with you to discuss your concerns at any time.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard", written in a cursive style.

Richard Cordray
Director

Questions for the Record submitted by Rep. Mick Mulvaney (R-SC)
Committee on Financial Services

Hearing entitled "Examining Regulatory Burdens – Regulator Perspective"

Witness: Mr. David Silberman, Associate Director, Office of Research, Markets & Regulations,
Consumer Financial Protection Bureau

Hearing Date: April 23, 2015

Question #1: During your appearance before this Committee, I asked you about the CFPB's report entitled "Small Business Advisory Review Panel For Potential Rulemakings for Payday, Vehicle Title, and Similar Loans Outline of Proposals Under Consideration and Alternatives Considered." In that report, on pages 44-45, the CFPB found:

"The two potential requirements, amortization and off-ramp, have similar estimated effects on the number of loans that could be made. Total loan volume is estimated to decline by between 55 percent and 62 percent...

The amortization requirement is estimated to have a larger effect on principal and fees because the second and third loans in a sequence would be required to be smaller than the first loan. The impact on total fees of the amortization requirement is estimated to be between 71 percent and 76 percent, while the impact of the off-ramp requirement is estimated to be between 60 percent and 65 percent...

This may affect monoline lenders, those specializing in payday lending, particularly severely. Given those impacts, it is likely the case that the number of monoline stores that could operate profitably within a given geographic market would decrease. Some stores might diversify their product offerings, including offering other forms of covered loans, while others might close. The proposals under consideration could, therefore, lead to substantial consolidation in the short-term payday and vehicle title lending market."

Specifically, I asked about the process the CFPB used and the data relied on to develop a proposed rule that would cause consumers to lose access to 60% or more of available short term credit, effectively depriving customers of a needed line of credit.

You testified that the CFPB engaged in a three year process with the "largest data set of loan level anonymized data" to develop this rule. When I asked for this data, you said it was confidential supervisory data and you were not sure if you could provide it to our Committee.

Sir, I have been informed by staff that such data is routinely provided to our Committee for oversight and investigation purposes. As such, please provide the data you relied on to develop the proposed rule and report mentioned above. In addition to that data, please provide the data used to determine that the perceived harm to consumers from short term credit, such as payday loans, justified eliminating consumer access to 60% of loans in the marketplace and driving a majority of lenders out of business.

Questions for the Record submitted by Rep. Mick Mulvaney (R-SC)
Committee on Financial Services

Hearing entitled "Examining Regulatory Burdens – Regulator Perspective"

Witness: Mr. David Silberman, Associate Director, Office of Research, Markets & Regulations,
Consumer Financial Protection Bureau

Hearing Date: April 23, 2015

Question #1: During your appearance before this Committee, I asked you about the CFPB's report entitled "Small Business Advisory Review Panel For Potential Rulemakings for Payday, Vehicle Title, and Similar Loans Outline of Proposals Under Consideration and Alternatives Considered." In that report, on pages 44-45, the CFPB found:

"The two potential requirements, amortization and off-ramp, have similar estimated effects on the number of loans that could be made. Total loan volume is estimated to decline by between 55 percent and 62 percent...

The amortization requirement is estimated to have a larger effect on principal and fees because the second and third loans in a sequence would be required to be smaller than the first loan. The impact on total fees of the amortization requirement is estimated to be between 71 percent and 76 percent, while the impact of the off-ramp requirement is estimated to be between 60 percent and 65 percent...

This may affect monoline lenders, those specializing in payday lending, particularly severely. Given those impacts, it is likely the case that the number of monoline stores that could operate profitably within a given geographic market would decrease. Some stores might diversify their product offerings, including offering other forms of covered loans, while others might close. The proposals under consideration could, therefore, lead to substantial consolidation in the short-term payday and vehicle title lending market."

Specifically, I asked about the process the CFPB used and the data relied on to develop a proposed rule that would cause consumers to lose access to 60% or more of available short term credit, effectively depriving customers of a needed line of credit.

You testified that the CFPB engaged in a three year process with the "largest data set of loan level anonymized data" to develop this rule. When I asked for this data, you said it was confidential supervisory data and you were not sure if you could provide it to our Committee.

Sir, I have been informed by staff that such data is routinely provided to our Committee for oversight and investigation purposes. As such, please provide the data you relied on to develop the proposed rule and report mentioned above. In addition to that data, please provide the data used to determine that the perceived harm to consumers from short term credit, such as payday loans, justified eliminating consumer access to 60% of loans in the marketplace and driving a majority of lenders out of business.

Congress of the United States
Washington, DC 20515

May 20, 2015

The Honorable Richard Cordray
Director
Consumer Financial Protection Bureau
1700 G Street, N.W.
Washington, D.C. 20552

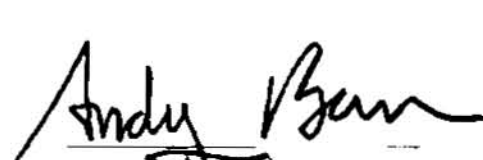
Dear Director Cordray:

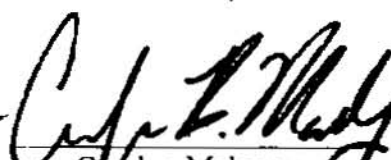
The undersigned Members of Congress acknowledge that the Consumer Financial Protection Bureau (CFPB or Bureau) has done significant work on the TILA-RESPA Integrated Disclosure (TRID) regulation. Nevertheless, this complicated and extensive rule is likely to cause challenges during implementation, which is currently scheduled for August 1, 2015, that could negatively impact consumers. As you know, the housing market is highly seasonal, with August, September, and October consistently being some of the busiest months of the year for home sales and settlements. By contrast, January and February are consistently the slowest months of the year for real estate activity. We therefore encourage the Bureau to announce and implement a "grace period" for those seeking to comply in good faith from August 1st through the end of 2015.

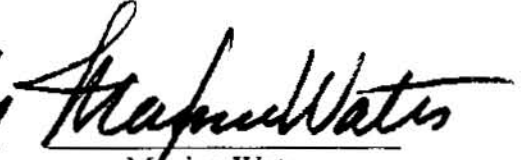
Even with significant advance notice, understanding how to implement and comply with this regulation will only become clear when the industry gains experience using these new forms and processes in real-life situations. As the TRID regulation does not provide lenders an opportunity to start using the new disclosure form prior to the August 1st implementation date, market participants will not be able to test their systems and procedures ahead of time, which increases the risk of unanticipated disruptions on August 1st. That is why we believe that a grace period for those seeking to comply in good faith from August 1st through the end of 2015 would be particularly useful in these circumstances. During this time, industry can provide data to the CFPB on issues that arise so that the Bureau and industry can work together to remove impediments to the effectiveness of the rule.

Thank you for your time and consideration. If we may be of assistance, please do not hesitate to contact us.

Sincerely,


Andy Barr
MEMBER OF CONGRESS


Carolyn Maloney
MEMBER OF CONGRESS


Maxine Waters
MEMBER OF CONGRESS

Louise M. Haughton
MEMBER OF CONGRESS

Eddie Bernice Johnson
MEMBER OF CONGRESS

Judith S. Gish
MEMBER OF CONGRESS

Paul W. Tonko
MEMBER OF CONGRESS

Edi L. Engel
MEMBER OF CONGRESS

Barbara A. Vucelja
MEMBER OF CONGRESS

Steve Israel
MEMBER OF CONGRESS

Allyson L. Schwartz
MEMBER OF CONGRESS

Robert E. Latta
MEMBER OF CONGRESS

Mike Colman
MEMBER OF CONGRESS

Tom Graves
MEMBER OF CONGRESS

Bob D. Latta
MEMBER OF CONGRESS

Ben Ray Lujan
MEMBER OF CONGRESS

John Kline
MEMBER OF CONGRESS

NY-23
MEMBER OF CONGRESS

John M. McCarroll
MEMBER OF CONGRESS

Tim Walberg
MEMBER OF CONGRESS

Christi Pomeroy
MEMBER OF CONGRESS

Mimi Han
MEMBER OF CONGRESS
41-5

Mark E. Amodeo
MEMBER OF CONGRESS

Frank D. Lucas
MEMBER OF CONGRESS

Hal Rogers
MEMBER OF CONGRESS

AMM
MEMBER OF CONGRESS

David Bishop
MEMBER OF CONGRESS

Brett Guthrie
MEMBER OF CONGRESS

Jonathan P. Hummel
MEMBER OF CONGRESS

Shirley Frick
MEMBER OF CONGRESS

John R. Mayfield
MEMBER OF CONGRESS

Wendy Fitzgerald
MEMBER OF CONGRESS

Tom Cate
MEMBER OF CONGRESS

Timothy Kuntz
MEMBER OF CONGRESS

Madeline J. Brubaker
MEMBER OF CONGRESS

Dan Jones
MEMBER OF CONGRESS

Al Green
MEMBER OF CONGRESS

Charles B. Foye
MEMBER OF CONGRESS

Joe Courtney
MEMBER OF CONGRESS

Clare L. Hastings
MEMBER OF CONGRESS

Matt Salmon
MEMBER OF CONGRESS

Leonard Lance
MEMBER OF CONGRESS

James L. (W-05)
MEMBER OF CONGRESS

Virginia Fox
MEMBER OF CONGRESS

Mike Simpson
MEMBER OF CONGRESS

Ed Royce
MEMBER OF CONGRESS

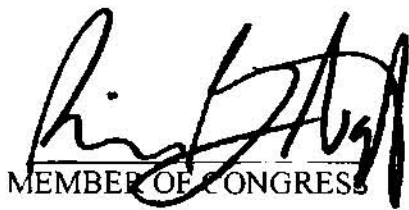
Ernst
MEMBER OF CONGRESS

Patricia McCrory
MEMBER OF CONGRESS

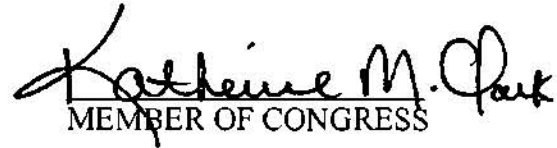
Walter B. Jones
MEMBER OF CONGRESS

Mike Lee
MEMBER OF CONGRESS

Chris Smith
MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS

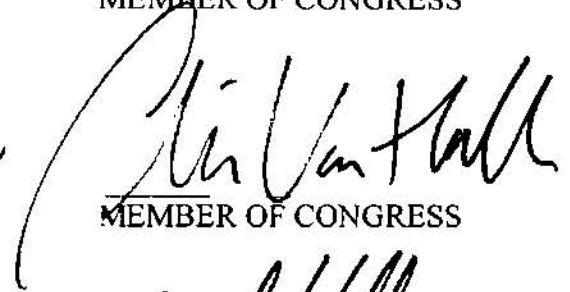

MEMBER OF CONGRESS

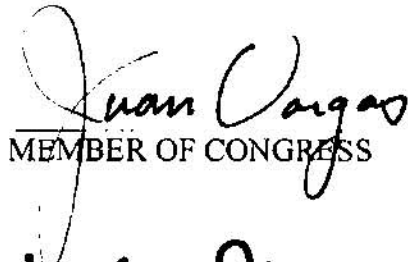

MEMBER OF CONGRESS


MEMBER OF CONGRESS

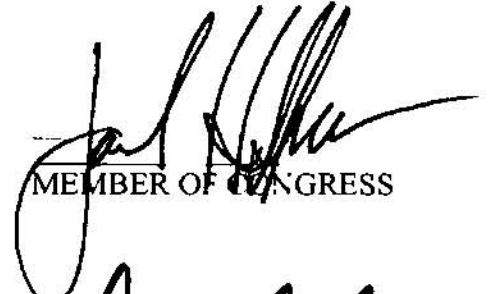

MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS

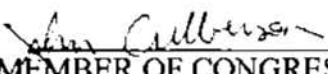

MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS



MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS

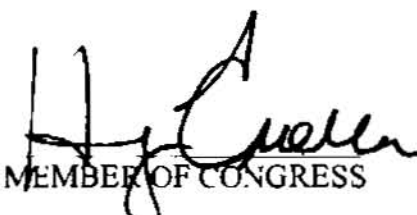

MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS



MEMBER OF CONGRESS


MEMBER OF CONGRESS



MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS



MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS

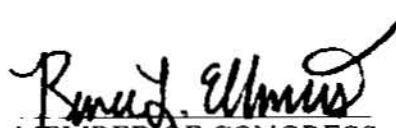

MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS

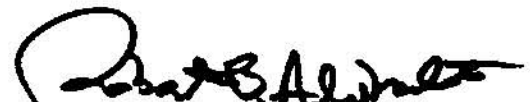

MEMBER OF CONGRESS


MEMBER OF CONGRESS



MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS



MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS

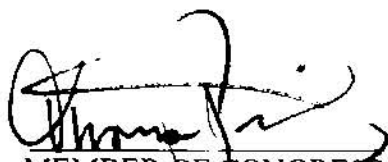

MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS

Amil D. Ntice
MEMBER OF CONGRESS

Richard Hudson
MEMBER OF CONGRESS

Jim Wayne
MEMBER OF CONGRESS

[Signature]
MEMBER OF CONGRESS

My Pongso
MEMBER OF CONGRESS

Jim McEwen
MEMBER OF CONGRESS

[Signature]
MEMBER OF CONGRESS

US-05- Darby
MEMBER OF CONGRESS

Tom Em
MEMBER OF CONGRESS

Ed Rouzer
MEMBER OF CONGRESS

John Blah
MEMBER OF CONGRESS

S. Hols
MEMBER OF CONGRESS

Bruce Solisquin
MEMBER OF CONGRESS

Martha Riley
MEMBER OF CONGRESS

Luke Meier
MEMBER OF CONGRESS

Carl L. Buddy Carter
MEMBER OF CONGRESS

Glen Goodman
MEMBER OF CONGRESS

Park R. Weber
MEMBER OF CONGRESS

Mike Bishop
MEMBER OF CONGRESS

Eric H. Jenkins
MEMBER OF CONGRESS

R. W. All
MEMBER OF CONGRESS

F. Vels
MEMBER OF CONGRESS

Da Brink
MEMBER OF CONGRESS

David Gray
MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS



MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS



MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS



MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS


MEMBER OF CONGRESS

Ron Costello
MEMBER OF CONGRESS

Denny Heck
MEMBER OF CONGRESS

Jackie Walorski
MEMBER OF CONGRESS

Tom Ryall
MEMBER OF CONGRESS

Josh W. Zeen
MEMBER OF CONGRESS

John
MEMBER OF CONGRESS

Jeff Miller
MEMBER OF CONGRESS

Mark V. Amodeo
MEMBER OF CONGRESS

Thomas Massie
MEMBER OF CONGRESS

Chuck Flier
MEMBER OF CONGRESS

Erik Paulsen
MEMBER OF CONGRESS



Page 2

1400 G Street, N.W. Washington, D.C. 20552

June 3, 2015

The Honorable Andy Barr
U.S. House of Representatives
1432 Longworth House Office Building
Washington, D.C. 20515

The Honorable Carolyn B. Maloney
U.S. House of Representatives
2308 Rayburn House Office Building
Washington, D.C. 20515

Dear Representatives Barr and Maloney:

Thank you for your letter about implementation of the TILA-RESPA Integrated Disclosure Rule, which we finalized nineteen months ago to carry out the law enacted by Congress. We share your desire for a smooth and successful implementation of the Rule, and we continue to work closely with all stakeholders to support that goal. Like you, we recognize that successful implementation poses challenges to industry and benefits both industry and consumers, but in any event requires close collaboration between industry and the Consumer Financial Protection Bureau.

As you may know, the Bureau has taken many steps to support industry implementation and to help creditors, vendors, and others affected by the Rule to better understand, operationalize, and prepare to comply with the Rule's new streamlined disclosures. Since the Rule was first published in November 2013, we have made it a point to engage directly and intensively with financial institutions and vendors through a formal regulatory implementation project. The Bureau's regulatory implementation project for the Rule includes the following:

- **Inter-agency coordination.** In-depth exam procedures were approved by the Federal Financial Institutions Examination Council in February 2015 and published by CFPB on April 1, 2015. The Bureau's own examination procedures incorporating the FFIEC exam procedures were published on May 4, 2015.
- **Publish "readiness guide," plain-language guides, and other resources.** The "readiness guide" includes a broad check-list of things for industry to do prior to the Rule's effective date. The Bureau has also published a compliance guide, a guide to the new integrated disclosure forms, and an illustrative timeline.¹
- **Publish amendments and updates to the Rule in response to industry requests.** In January 2015, after extensive outreach to stakeholders, the Bureau adopted two minor modifications and technical amendments to the Rule to smooth compliance for industry.²

¹ These resources are available at www.consumerfinance.gov/regulatory-implementation/tila-respa/.

² 80 FR 8767 (Feb. 19, 2015).

- **Provide unofficial staff guidance.** Bureau staff attorneys have provided oral guidance in response to over 750 regulatory interpretation inquiries, received from trade associations and through the CFPB RegInquiries@cfpb.gov email address since the Rule was issued.
- **Engage with stakeholders.** Bureau staff have provided remarks and addressed questions about the Rule and related implementation matters at over 40 formal events and over 50 informal stakeholder meetings since the Rule was issued.
- **Conduct webinars.** The Bureau has conducted a series of five free, publicly available webinars, available for viewing through the Bureau's website,³ that provide guidance on how to interpret and apply specific provisions.
- **Clarify misunderstandings.** Today we are releasing a fact sheet explaining the limited circumstances when the Rule requires that the consumer be provided an additional three-day review period. Only three specific changes require an additional three-day review period: (1) an increase in the APR of greater than 1/8 of a percentage point for a fixed-rate loan or 1/4 of a percentage point for an adjustable-rate loan (decreases in the APR based on a decrease in the interest rate or fees charged do not trigger a delay); (2) the addition of a prepayment penalty; and (3) changes in the loan product, from a fixed-rate to an adjustable-rate loan, for example. Importantly, *no other changes* require a delay for re-disclosure.

Your letter raises a further important matter. As you have suggested, the Bureau's work to support the implementation of the Rule does not end on the effective date of August 1, as we continue to work with industry, consumers, and other stakeholders to answer questions, provide guidance, and support a smooth transition for the mortgage market. As we do so, and in response to considerable input we have received from you and your constituents, I have spoken with our fellow regulators to clarify that our oversight of the implementation of the Rule will be sensitive to the progress made by those entities that have squarely focused on making good-faith efforts to come into compliance with the Rule on time. My statement here of this approach is intended to ease some of the concerns we have heard about this transition to new processes in the coming months and is consistent with the approach we took to implementation of the Title XIV mortgage rules in the early months after the effective dates in January 2014, which has worked out well.

As always, thank you for your strong interest in the Bureau's work, and I personally appreciate your oversight efforts. I hope you can see, here again, that we listen closely and consider carefully how we can best address the issues that you raise as we all pursue this important advance in consumer protection and disclosure authorized by Congress. Please contact me if you have any additional questions or Bureau staff can meet with your staff, should that be helpful to you.

Sincerely,



Richard Cordray
Director

³ These webinars are available at <http://www.consumerfinance.gov/regulatory-implementation/tifa-respan>.

cc: The Honorable Ralph Abraham, Member of Congress
The Honorable Alma S. Adams, Ph.D., Member of Congress
The Honorable Robert Aderholt, Member of Congress
The Honorable Pete Aguilar, Member of Congress
The Honorable Rick Allen, Member of Congress
The Honorable Mark Amodei, Member of Congress
The Honorable Lou Barletta, Member of Congress
The Honorable Joe Barton, Member of Congress
The Honorable Joyce Beatty, Member of Congress
The Honorable Dan Benishck, Member of Congress
The Honorable Donald S. Beyer, Member of Congress
The Honorable Gus Bilirakis, Member of Congress
The Honorable Mike Bishop, Member of Congress
The Honorable Sanford D. Bishop, Jr., Member of Congress
The Honorable Marsha Blackburn, Member of Congress
The Honorable Madeleine Bordallo, Member of Congress
The Honorable Charles W. Boustany, Jr., M.D., Member of Congress
The Honorable Brendan Boyle, Member of Congress
The Honorable Kevin Brady, Member of Congress
The Honorable Dave Brat, Member of Congress
The Honorable Jim Bridenstine, Member of Congress
The Honorable Mo Brooks, Member of Congress
The Honorable Susan W. Brooks, Member of Congress
The Honorable Julia Brownley, Member of Congress
The Honorable G.K. Butterfield, Member of Congress
The Honorable Bradley Byrne, Member of Congress
The Honorable Lois Capps, Member of Congress
The Honorable Michael E. Capuano, Member of Congress
The Honorable Tony Cárdenas, Member of Congress
The Honorable John Carney, Member of Congress
The Honorable Earl L. "Buddy" Carter, Member of Congress
The Honorable Kathy Castor, Member of Congress
The Honorable Steve Chabot, Member of Congress
The Honorable David Cicilline, Member of Congress
The Honorable Katherine Clark, Member of Congress
The Honorable Emanuel Cleaver, Member of Congress
The Honorable Mike Coffman, Member of Congress
The Honorable Tom Cole, Member of Congress
The Honorable Chris Collins, Member of Congress
The Honorable Doug Collins, Member of Congress
The Honorable Gerald E. Connolly, Member of Congress
The Honorable John Conyers, Jr., Member of Congress
The Honorable Paul Cook, Member of Congress
The Honorable Jim Costa, Member of Congress
The Honorable Ryan Costello, Member of Congress

The Honorable Joe Courtney, Member of Congress
The Honorable Kevin Cramer, Member of Congress
The Honorable Henry Cuellar, Ph.D., Member of Congress
The Honorable John Culberson, Member of Congress
The Honorable Diana DeGette, Member of Congress
The Honorable John Delaney, Member of Congress
The Honorable Mark DeSaulnier, Member of Congress
The Honorable Scott DesJarlais, Member of Congress
The Honorable Ted Deutch, Member of Congress
The Honorable Debbie Dingell, Member of Congress
The Honorable Bob Dold, Member of Congress
The Honorable Sean P. Duffy, Member of Congress
The Honorable Jeff Duncan, Member of Congress
The Honorable Keith Ellison, Member of Congress
The Honorable Renee Ellmers, Member of Congress
The Honorable Tom Emmer, Member of Congress
The Honorable Eliot Engel, Member of Congress
The Honorable Anna G. Eshoo, Member of Congress
The Honorable Elizabeth Esty, Member of Congress
The Honorable Stephen Fincher, Member of Congress
The Honorable Michael Fitzpatrick, Member of Congress
The Honorable Chuck Fleischmann, Member of Congress
The Honorable John Fleming, Member of Congress
The Honorable Randy Forbes, Member of Congress
The Honorable Jeff Fortenberry, Member of Congress
The Honorable Bill Foster, Member of Congress
The Honorable Virginia Foxx, Member of Congress
The Honorable Trent Franks, Member of Congress
The Honorable Rodney Frelinghuysen, Member of Congress
The Honorable John Garamendi, Member of Congress
The Honorable Scott Garrett, Member of Congress
The Honorable Bob Gibbs, Member of Congress
The Honorable Chris Gibson, Member of Congress
The Honorable Bob Goodlatte, Member of Congress
The Honorable Trey Gowdy, Member of Congress
The Honorable Gwen Graham, Member of Congress
The Honorable Kay Granger, Member of Congress
The Honorable Tom Graves, Member of Congress
The Honorable Garret Graves, Member of Congress
The Honorable Al Green, Member of Congress
The Honorable Morgan Griffith, Member of Congress
The Honorable Glenn Grothman, Member of Congress
The Honorable Frank Guinta, Member of Congress
The Honorable Brett Guthrie, Member of Congress
The Honorable Richard Hanna, Member of Congress
The Honorable Gregg Harper, Member of Congress

The Honorable Alcee L. Hastings, Member of Congress
The Honorable Denny Heck, Member of Congress
The Honorable Jaime Herrera Beutler, Member of Congress
The Honorable Jody Hice, Member of Congress
The Honorable Brian Higgins, Member of Congress
The Honorable French Hill, Member of Congress
The Honorable Jim Himes, Member of Congress
The Honorable Rubén Hinojosa, Member of Congress
The Honorable George Holding, Member of Congress
The Honorable Mike Honda, Member of Congress
The Honorable Richard Hudson, Member of Congress
The Honorable Tim Huelskamp, Member of Congress
The Honorable Jared Huffman, Member of Congress
The Honorable Bill Huizenga, Member of Congress
The Honorable Randy Hultgren, Member of Congress
The Honorable Robert Hurt, Member of Congress
The Honorable Steve Israel, Member of Congress
The Honorable Evan Jenkins, Member of Congress
The Honorable Lynn Jenkins, Member of Congress
The Honorable Bill Johnson, Member of Congress
The Honorable Eddie Bernice Johnson, Member of Congress
The Honorable David Jolly, Member of Congress
The Honorable Walter Jones, Member of Congress
The Honorable John Katko, Member of Congress
The Honorable William R. Keating, Member of Congress
The Honorable Mike Kelly, Member of Congress
The Honorable Joe Kennedy, Member of Congress
The Honorable Dan Kildee, Member of Congress
The Honorable Derek Kilmer, Member of Congress
The Honorable Ron Kind, Member of Congress
The Honorable Peter King, Member of Congress
The Honorable Steve King, Member of Congress
The Honorable Adam Kinzinger, Member of Congress
The Honorable John Kline, Member of Congress
The Honorable Ann McLane Kuster, Member of Congress
The Honorable Raúl Labrador, Member of Congress
The Honorable Doug LaMalfa, Member of Congress
The Honorable Leonard Lance, Member of Congress
The Honorable Rick Larsen, Member of Congress
The Honorable John B. Larson, Member of Congress
The Honorable Robert Latta, Member of Congress
The Honorable John Lewis, Member of Congress
The Honorable Ted Lieu, Member of Congress
The Honorable Dan Lipinski, Member of Congress
The Honorable Frank A. LoBiondo, Member of Congress
The Honorable Dave Loebsack, Member of Congress

The Honorable Zoe Lofgren, Member of Congress
The Honorable Mia Love, Member of Congress
The Honorable Frank Lucas, Member of Congress
The Honorable Ben Ray Lujan, Member of Congress
The Honorable Michelle Lujan Grisham, Member of Congress
The Honorable Cynthia Lummis, Member of Congress
The Honorable Stephen Lynch, Member of Congress
The Honorable Sean Patrick Maloney, Member of Congress
The Honorable Kenny Marchant, Member of Congress
The Honorable Tom Marino, Member of Congress
The Honorable Thomas Massie, Member of Congress
The Honorable Betty McCollum, Member of Congress
The Honorable James P. McGovern, Member of Congress
The Honorable Patrick McHenry, Member of Congress
The Honorable David McKinley, Member of Congress
The Honorable Mark Meadows, Member of Congress
The Honorable Patrick Meehan, Member of Congress
The Honorable Luke Messer, Member of Congress
The Honorable John Mica, Member of Congress
The Honorable Jeff Miller, Member of Congress
The Honorable Gwen Moore, Member of Congress
The Honorable Mick Mulvaney, Member of Congress
The Honorable Patrick E. Murphy, Member of Congress
The Honorable Grace Napolitano, Member of Congress
The Honorable Dan Newhouse, Member of Congress
The Honorable Kristi Noem, Member of Congress
The Honorable Richard Nolan, Member of Congress
The Honorable Rich Nugent, Member of Congress
The Honorable Pete Olson, Member of Congress
The Honorable Bill Pascrell, Jr., Member of Congress
The Honorable Erik Paulsen, Member of Congress
The Honorable Donald M. Payne, Jr., Member of Congress
The Honorable Steve Pearce, Member of Congress
The Honorable Ed Perlmutter, Member of Congress
The Honorable Chellie Pingree, Member of Congress
The Honorable Robert Pittenger, Member of Congress
The Honorable Mark Pocan, Member of Congress
The Honorable Ted Poe, Member of Congress
The Honorable Bruce Poliquin, Member of Congress
The Honorable Mike Pompeo, Member of Congress
The Honorable Bill Posey, Member of Congress
The Honorable David Price, Member of Congress
The Honorable Tom Price, Member of Congress
The Honorable Charles B. Rangel, Member of Congress
The Honorable Tom Reed, Member of Congress
The Honorable Dave Reichert, Member of Congress

The Honorable Jim Renacci, Member of Congress
The Honorable Reid Ribble, Member of Congress
The Honorable Kathleen Rice, Member of Congress
The Honorable Tom Rice, Member of Congress
The Honorable Cedric Richmond, Member of Congress
The Honorable Scott Rigell, Member of Congress
The Honorable Martha Roby, Member of Congress
The Honorable Harold Rogers, Member of Congress
The Honorable Mike Rogers, Member of Congress
The Honorable Todd Rokita, Member of Congress
The Honorable Peter Roskam, Member of Congress
The Honorable Dennis Ross, Member of Congress
The Honorable Keith Rothfus, Member of Congress
The Honorable David Rouzer, Member of Congress
The Honorable Ed Royce, Member of Congress
The Honorable Bobby L. Rush, Member of Congress
The Honorable Steve Russell, Member of Congress
The Honorable Tim Ryan, Member of Congress
The Honorable Matt Salmon, Member of Congress
The Honorable David Schweikert, Member of Congress
The Honorable David Scott, Member of Congress
The Honorable Bobby Scott, Member of Congress
The Honorable Jim Sensenbrenner, Member of Congress
The Honorable Pete Sessions, Member of Congress
The Honorable Terri Sewell, Member of Congress
The Honorable Brad Sherman, Member of Congress
The Honorable Bill Shuster, Member of Congress
The Honorable Mike Simpson, Member of Congress
The Honorable Kyrsten Sinema, Member of Congress
The Honorable Albio Sires, Member of Congress
The Honorable Louise Slaughter, Member of Congress
The Honorable Adrian Smith, Member of Congress
The Honorable Chris Smith, Member of Congress
The Honorable Jason Smith, Member of Congress
The Honorable Jackie Speier, Member of Congress
The Honorable Steve Stivers, Member of Congress
The Honorable Marlin Stutzman, Member of Congress
The Honorable Mark Takano, Member of Congress
The Honorable Mike Thompson, Member of Congress
The Honorable Glenn Thompson, Member of Congress
The Honorable Pat Tiberi, Member of Congress
The Honorable Dina Titus, Member of Congress
The Honorable Paul Tonko, Member of Congress
The Honorable David Trott, Member of Congress
The Honorable Michael Turner, Member of Congress
The Honorable Fred Upton, Member of Congress

The Honorable Chris Van Hollen, Member of Congress
The Honorable Juan Vargas, Member of Congress
The Honorable Filemon Vela, Member of Congress
The Honorable Ann Wagner, Member of Congress
The Honorable Tim Walberg, Member of Congress
The Honorable Mark Walker, Member of Congress
The Honorable Jackie Walorski, Member of Congress
The Honorable Randy Weber, Member of Congress
The Honorable Daniel Webster, Member of Congress
The Honorable Peter Welch, Member of Congress
The Honorable Brad Wenstrup, Member of Congress
The Honorable Bruce Westerman, Member of Congress
The Honorable Lynn Westmoreland, Member of Congress
The Honorable Ed Whitfield, Member of Congress
The Honorable Roger Williams, Member of Congress
The Honorable Joe Wilson, Member of Congress
The Honorable Robert J. Wittman, Member of Congress
The Honorable Rob Woodall, Member of Congress
The Honorable John Yarmuth, Member of Congress
The Honorable David Young, Member of Congress
The Honorable Todd Young, Member of Congress

Will the new mortgage disclosures delay my closing?

The answer is NO for just about everybody.

For mortgage applications submitted on or after August 1, 2015, lenders must give you new, easier-to-use disclosures about your loan three business days before closing.

This gives you time to review the terms of the deal before you get to the closing table.

Many things can change in the days leading up to closing. Most changes will not require your lender to give you three more business days to review the new terms before closing. The new rule allows for ordinary changes that do not alter the basic terms of the deal.

Only **THREE** changes require a new 3-day review:

1. **The APR (annual percentage rate) increases** by more than 1/8 of a percent for fixed-rate loans or 1/4 of a percent for adjustable loans.¹ A **decrease in APR will not** require a new 3-day review if it is based on changes to interest rate or other fees.
2. **A prepayment penalty is added**, making it expensive to refinance or sell.
3. **The basic loan product changes**, such as a switch from fixed rate to adjustable interest rate or to a loan with interest-only payments.

¹ Lenders have been required to provide a 3-day review for these changes in APR since 2009.

NO OTHER changes require a new 3-day review:

There has been much misinformation and mistaken commentary around this point. Any other changes in the days leading up to closing do not require a new 3-day review, although the lender will still have to provide an updated disclosure.

For example, the following circumstances *do not* require a new 3-day review:

- **Unexpected discoveries on a walk-through** such as a broken refrigerator or a missing stove, even if they require seller credits to the buyer.
- **Most changes to payments made at closing**, including the amount of the real estate commission, taxes and utilities proration, and the amount paid into escrow.
- **Typos found at the closing table.**

Congress of the United States
Washington, DC 20515

June 17, 2015

The Honorable Richard Cordray
Director
Bureau of Consumer Financial Protection
1700 G Street, NW
Washington, DC 20552

Dear Director Cordray:

We write to express our concerns with the *Arbitration Study*¹ that was recently released by the Consumer Financial Protection Bureau.

Under the Dodd-Frank Act, Congress delegated to the Bureau the authority to issue a rule regulating the use of arbitration agreements in consumer financial agreements, but required the Bureau to conduct an arbitration study as a prerequisite to regulation such that the “findings in [any] such rule shall be consistent with the study.”² Thus, the decision as to whether the Bureau should prohibit consumer arbitration agreements is based on the findings and veracity of the study.

Unfortunately, the process that led to the Bureau’s *Arbitration Study* has not been fair, transparent, or comprehensive. The Bureau ignored requests from senior Members of Congress for basic information about the study preparation process. The Bureau also ignored requests to disclose the topics that would be covered by the study, and failed to provide the general public with any meaningful opportunities to provide input on the topics. Because the materials were kept behind closed doors, the final *Arbitration Study* included entire sections that were not included in the preliminary report that was provided to the public.³

As a result, the flawed process produced a fatally-flawed study. Rather than focusing on the critical question – whether regulating or prohibiting arbitration will benefit consumers – and devising a plan to address the issues relevant to resolving that question, the Bureau failed to provide even the most basic of comparisons needed to evaluate the use of arbitration agreements.

For example, the Bureau failed to estimate the transaction costs associated with a consumer pursuing a claim in federal court as compared to arbitration. The Bureau also failed to estimate the ability of a consumer to successfully pursue a claim in federal court without a lawyer, despite the fact that consumers often are self-represented successfully in arbitration proceedings. The

¹ Consumer Financial Protection Bureau, *Arbitration Study Report to Congress, Pursuant to Dodd-Frank Wall Street Reform and Consumer Protection Act § 1028(a)* (2015) [hereinafter *Arbitration Study*], available at http://files.consumerfinance.gov/f/201503_cfpb_arbitration-study-report-to-congress-2015.pdf.

² Dodd-Frank Wall Street Reform and Consumer Protection Act, 12 U.S.C. § 5518(b) (2015).


³ See *Arbitration Study* at 9.

absence of comparison to even these basic data points throws suspicion on where other useful information has been sidestepped, if not willfully ignored.

For ninety years, since the enactment of the Federal Arbitration Act in 1925, there has been – as the Supreme Court explained in a recent unanimous opinion – “an ‘emphatic federal policy in favor of arbitral dispute resolution.’”⁴ When the consumers’ path to justice is impeded by a court system that is slow and costly, it is clearer than ever that Americans need alternative dispute resolution procedures that are fair, more accessible, less costly, and more efficient.

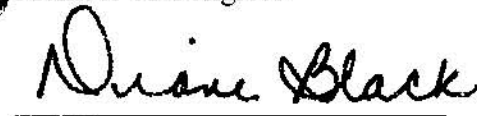
We therefore call upon the Bureau to reopen the study process, seek public comment, and provide the necessary cost-benefit analysis for understanding how a similarly situated consumer would fare in arbitration versus a lawsuit. Any rulemaking proceeding in the absence of such minimally fair procedures would be premature, biased, and fail to comply with Congress’s intent in conferring this authority on the Bureau.

Sincerely,

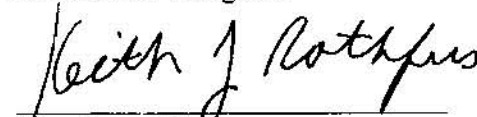

PATRICK MCHENRY
Member of Congress

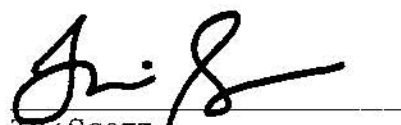

Member of Congress

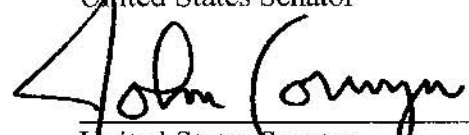

Member of Congress


Member of Congress

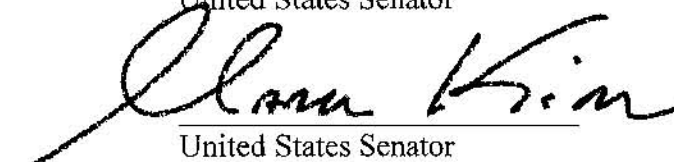

Member of Congress

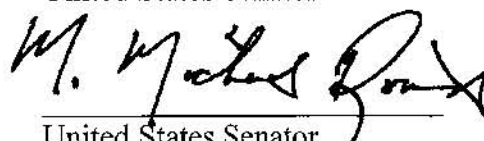

Member of Congress


TIM SCOTT
United States Senator


United States Senator

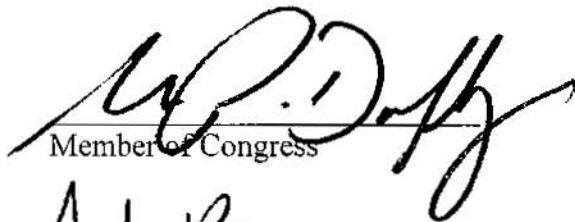

United States Senator


United States Senator


United States Senator

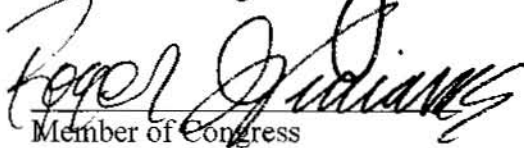

United States Senator

⁴ KPMG LLP v. Cocchi, 132 S.Ct. 23, 25, (2011) (per curiam) (quoting Mitsubishi Motors Corp. v. Soler Chrysler-Plymouth, Inc., 473 U.S. 614, 631 (1985)).



Member of Congress


Member of Congress

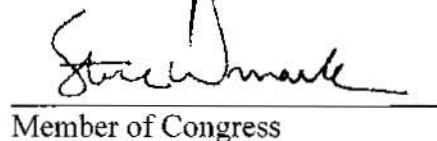

Member of Congress


Member of Congress


Member of Congress

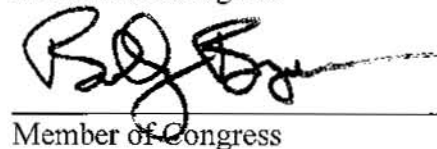

Member of Congress

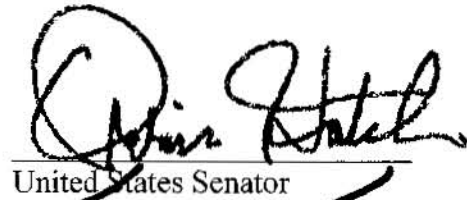

Member of Congress


Member of Congress

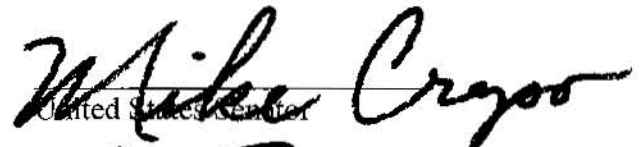

Member of Congress


Member of Congress


Member of Congress


United States Senator


United States Senator


United States Senator


United States Senator

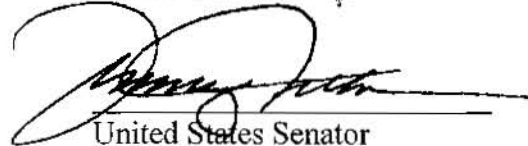

United States Senator

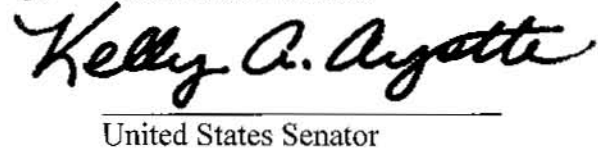

United States Senator


United States Senator


United States Senator


United States Senator


United States Senator


United States Senator

Hon. Richard Cordray

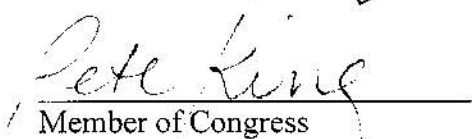
June 17, 2015

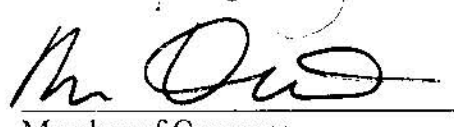
Page 4


Member of Congress

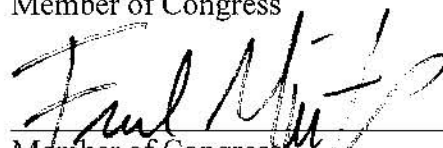

Member of Congress


Member of Congress

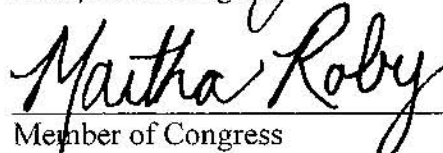

Member of Congress


Member of Congress

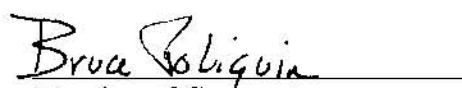

Member of Congress



Member of Congress

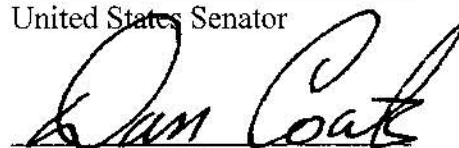

Member of Congress


Member of Congress

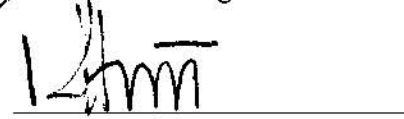

Member of Congress

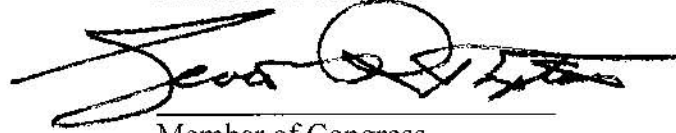

Member of Congress

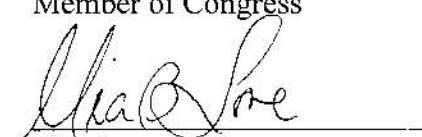

United States Senator


United States Senator


Member of Congress


Member of Congress


Member of Congress


Member of Congress

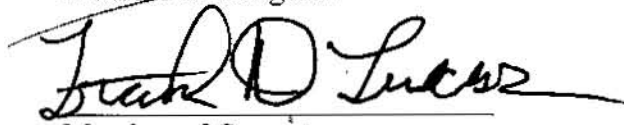

Member of Congress


Member of Congress

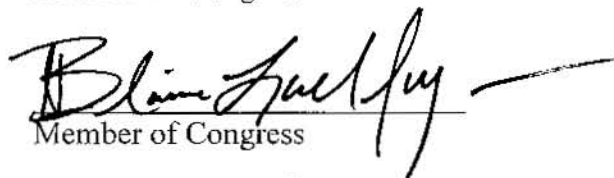

Member of Congress


Member of Congress

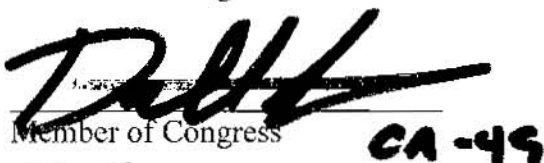

Member of Congress


Member of Congress

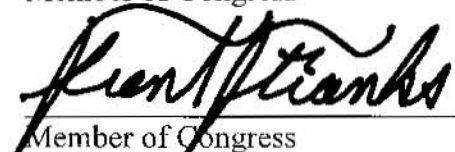

Member of Congress

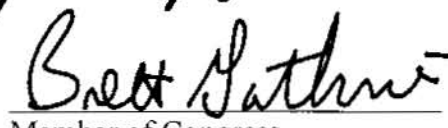

Member of Congress

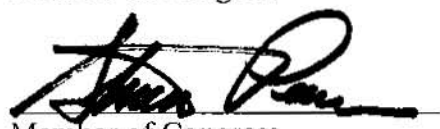

Member of Congress


Member of Congress CA-49


Member of Congress


Member of Congress


Member of Congress


Member of Congress

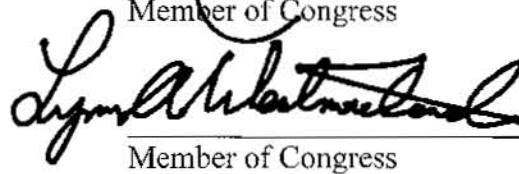

Member of Congress

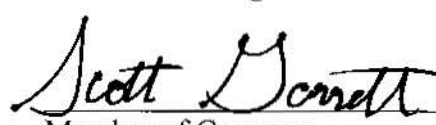

Member of Congress


Member of Congress

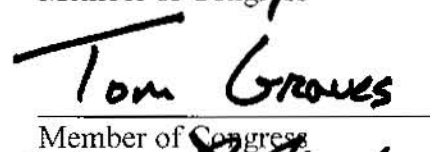

Member of Congress


Member of Congress

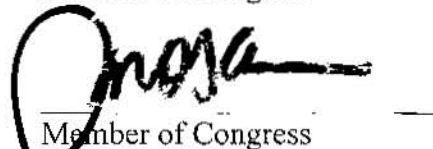

Member of Congress

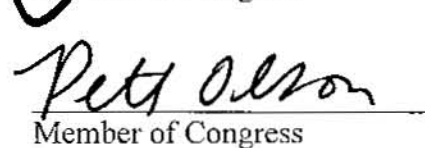

Member of Congress

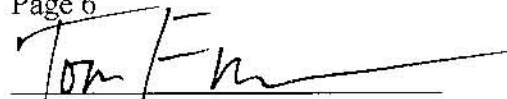

Member of Congress



Member of Congress


Member of Congress



Member of Congress

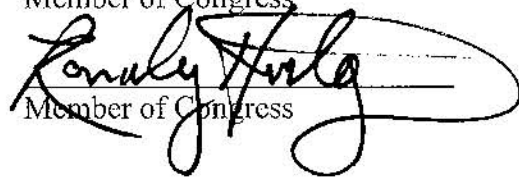

Member of Congress

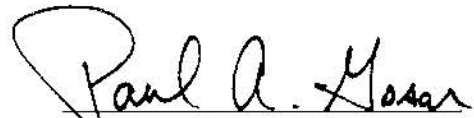

Member of Congress


Member of Congress


Member of Congress


Member of Congress


Member of Congress


Member of Congress


Member of Congress


Member of Congress


Member of Congress

**“Examining Regulatory Burdens – Regulator Perspective”
House Committee on Financial Services,
Financial Institutions and Consumer Credit Subcommittee
Questions for the Record
April 23, 2015**

Questions for David Silberman, Associate Director for Research, Markets, and Regulations, from Congressman Royce:

Question 1

Mr. Silberman, the Dodd Frank Act includes several provisions designed to exclude the business of insurance from the purview of the Consumer Financial Protection Bureau. The Act defines the term the business of insurance to include not only underwriting and reinsurance of risk, but also all acts necessary to the underwriting and reinsuring and the activities related to underwriting and reinsuring, including acts and activities conducted by officers, directors, agents, employees and other persons authorized to act on behalf of such persons. The “acts and activities” under that definition clearly include, and were intended by Congress to include, the sales and marketing of insurance. Since there should be no confusion of Congressional intent on this issue, have there been any internal CFPB conversations to the contrary?

Response

As you note, the Consumer Financial Protection Act (CFPA) of the Dodd-Frank Wall Street Reform and Consumer Protection Act, which created the Consumer Financial Protection Bureau (Bureau) and sets out its authority, includes provisions relating to the “business of insurance.” The CFPA refers in several places to “financial products or services,” and, in particular, “consumer financial products or services.”¹ The CFPA provides an “exclusion” from the definition of “financial product or service” that indicates that the term “does not include . . . the business of insurance.”² Additionally, the CFPA indicates that “[t]he Bureau may not define as a financial product or service, by regulation or otherwise, engaging in the business of insurance.”³ In addition to the provisions of the CFPA that refer to the “business of insurance,” which appear to be the subject of your question, the CFPA also contains provisions relating to “insurance.” For instance, the CFPA limits the Bureau’s authority over “persons regulated by a State insurance regulator.”⁴

¹ See 12 U.S.C. 5481(15) (defining “financial product or service”); 12 U.S.C. 5481(5) (defining “consumer financial product or service”); see also, e.g., 12 U.S.C. 5531(a) (providing Bureau authority to take certain action “to prevent a covered person or service provider from committing or engaging in an unfair, deceptive, or abusive act or practice under Federal law in connection with any transaction with a consumer for a consumer financial product or service, or the offering of a consumer financial product or service”).

² 12 U.S.C. 5481(15)(C).

³ 12 U.S.C. 5517(m).

⁴ See 12 U.S.C. 5517(f).

The CFPA defines the “business of insurance” as “the writing of insurance or the reinsuring of risks by an insurer, including all acts necessary to such writing or reinsuring and the activities relating to the writing of insurance or the reinsuring of risks conducted by persons who act as, or are, officers, directors, agents, or employees of insurers or who are other persons authorized to act on behalf of such persons.”⁵ You indicate that the “acts and activities” under this definition “clearly include, and were intended by Congress to include, the sales and marketing of insurance,” and ask whether there have “been any internal CFPB conversations to the contrary.” To the best of my knowledge, I am not aware of internal conversations within the Bureau indicating that the sale and marketing of insurance are not included in the “business of insurance” for the purposes of this definition.

Questions for all witnesses, from Congressman Luetkemeyer:

Question 1

As you know, the Riegle Community Development Act of 1994 requires federal banking regulators to conduct a cost-benefit analysis for any rule promulgated. Has your agency adhered to this statutory requirement on all rules promulgated?

Response

The Consumer Financial Protection Bureau (Bureau) is not subject to the Riegle Community Development and Regulatory Improvement Act of 1994 (Act). Section 301 of the Act defines “Federal banking agency” as having the same meaning as in Section 3 of the Federal Deposit Insurance Act (FDIA). Under Section 3 of the FDIA, “Federal banking agency” means: 1) the Comptroller of the Currency; 2) the Board of Governors of the Federal Reserve System; or 3) the Federal Deposit Insurance Corporation.⁶

Please also see response to Question 2.

Question 2

Has your agency conducted the requisite cost-benefit analyses for rulemakings associated with and stemming from the Dodd-Frank Wall Street Reform and Consumer Protection Act?

Response

Yes. As required under Section 1022 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), when the Bureau prescribes a rule under the Federal consumer financial laws, it considers the potential benefits and costs of the regulation to consumers and to persons engaged in offering or providing consumer financial products or services, including the potential reduction of access by consumers to such products or services, the impact on depository institutions and credit unions with \$10 billion or less in total assets, and the impact on consumers in rural areas.

⁵ 12 U.S.C. 5481(3).

⁶ 12 U.S.C. 1813(z).

In addition, Section 1022 of the Dodd-Frank Act requires that within five years after the effective date of any significant rule or order adopted by the Bureau under Federal consumer financial law, the Bureau must publish a report of its assessment of the rule or order's effectiveness in meeting the purpose and objectives of the Consumer Financial Protection Act of 2010 and any other stated goals for the particular rule or order.⁷ The Bureau is committed to this review and, as required under the Dodd-Frank Act, will seek public comment before publishing such reports.

Moreover, shortly after opening our doors in 2011, the Bureau issued a Request for Information to help identify priorities for streamlining inherited regulations. As a result of this early initiative the Bureau identified certain requirements regarding delivery of annual privacy notices under the Gramm-Leach-Bliley Act as unduly burdensome to financial institutions. As a result, in October 2014, the Bureau finalized a rule to allow bank and nonbank financial institutions under certain conditions to post privacy notices online instead of distributing an annual paper copy. As part of the Bureau's commitment to achieving tailored and effective regulations, the Bureau engages in a rigorous process to ensure that its regulations are not outdated, unnecessary, or unduly burdensome.

Questions for David Silberman, Associate Director for Research, Markets, and Regulations, from Congressman Luetkemeyer:

Question 3

CFPB's payday lending White Paper and Data Point research paper have many defects, many of which have been recognized by the Bureau. The recent payday proposal points to a small, parochial Pew study that lacks objectivity. The CFPB claims to be a data - driven agency. How does the CFPB select data on which it bases its studies? Does CFPB analyze all data on a given subject, or all data provided to the Bureau on a given subject? Finally, how does the CFPB utilize and/or incorporate data that does not support a proposed rule?

Response

The Bureau has published two reports detailing its analysis of borrowing patterns with payday loans and deposit advance products.

- In April 2013, the Bureau published a White Paper with initial findings on consumer use of short-term payday loans and deposit advance products.⁸
- In March 2014, the Bureau published a Data Point containing further analysis of the data on short-term payday loans.⁹

Both the White Paper and Data Point contained analysis of de-identified data obtained from a number of storefront payday lenders through the supervisory process. The dataset used includes information on over 12 million loans in 30 states, and each lender provided data for a 12-month time period occurring within 2011 and 2012.

⁷ 12 U.S.C. § 5512(d), Pub. L. 111-203, Title X, § 1022(d) (July 21, 2011).

⁸ Available at: http://files.consumerfinance.gov/f/201304_cfpb_payday-dap-whitepaper.pdf.

⁹ Available at: http://files.consumerfinance.gov/f/201403_cfpb_report_payday-lending.pdf.

The Bureau has received another set of data on high-cost installment loans offered by a combination of online and storefront lenders. The Bureau has conducted analysis on this dataset that may inform its rulemaking. We are also analyzing various additional data sources regarding auto title and installment lending, as well as additional sources on payday lending. We are continuing to supplement these analyses. The Bureau will make the results of this research available so that all stakeholders can comment on it as part of the rulemaking process.

As part of its study of the markets for payday, vehicle title and similar loans, the Bureau—in addition to its own research, market monitoring, and supervisory experience—has reviewed relevant academic studies, policy papers, and various other sources of evidence about the impact of these loans on consumers. The Bureau has reviewed academic studies and survey data which industry representatives have cited as supportive of their view that payday borrowers benefit from use of the product. The Bureau has also reviewed a number of studies that draw different conclusions regarding consumer welfare. Bureau staff will continue to review available literature and other evidentiary sources and review and analysis of these sources will inform and be reflected in our rulemaking proposal.

Bureau staff continues to study these markets. When the Bureau issues a formal rulemaking proposal, a detailed discussion will be provided of the evidence the proposal is based on and the underlying legal authority. Members of the public will have a chance to consider the proposal and provide comments and additional information before the Bureau issues a final rule.

Question 4

Why did the CFPB select August 1, 2015, as the date for TRID implementation?

Response

On June 24th, the Bureau issued a proposed amendment to the TILA-RESPA Integrated Disclosure rule, which proposes to move the rule's effective date to October 3, 2015. The Bureau is issuing the proposal to correct an administrative error that would have delayed the effective date of the rule by at least two weeks.

The Bureau is proposing a new effective date of Saturday, October 3. The Bureau believes that a brief delay until early October would minimize the delay-related costs to consumers and those institutions that have worked the hardest at getting ready. We also believe that a brief delay would allow all institutions a chance to adjust to the new effective date and provide for smoother implementation, benefitting both industry and consumers. The Bureau further believes that scheduling the effective date on a Saturday may facilitate implementation by giving industry time over the weekend to launch new systems configurations and to test systems. A Saturday launch is also consistent with existing industry plans tied to the original effective date of Saturday, August 1. The proposal will be open for public comment until July 7.

Prior to making the decision to correct for an administrative error, the Bureau had carefully considered the appropriate effective date when issuing the final rule titled, "Integrated Mortgage Disclosures Under the Real Estate Settlement Procedures Act (Regulation X) and the Truth in Lending Act (Regulation Z)" (Integrated Disclosures Rule or Rule) in November of 2013. Because the Integrated Disclosures Rule, also known as the Know Before You Owe rule, will provide important benefits to consumers, the Bureau was interested in making it effective as

soon as possible. However, the Bureau also understood that the Integrated Disclosures Rule would require creditors, mortgage brokers, and settlement agents to make extensive revisions to their software, to change their dealings and information sharing practices with each other and other settlement service providers, and to retrain their staffs. The Bureau solicited comment on when the Integrated Disclosures Rule should be effective. In particular, the Bureau sought comment on how much time industry needed to make these changes, and specifically requested details on the required updates and changes to systems and other measures that would be required to implement the rule and the amount of time needed to make those changes. After careful consideration, the Bureau decided that August 1, 2015, was an appropriate effective date for the rule.

In making that decision, the Bureau believed that the implementation period was consistent with the statutory purposes of the integrated disclosure requirements in Dodd-Frank Act Sections 1098 and 1100A and past periods provided by Federal regulatory agencies for the implementation of mortgage disclosure rulemakings. The Bureau also believed that this period, on balance, would afford industry sufficient time to implement comprehensive systems changes, integrate business practices into the new regulatory requirements of the Integrated Disclosures Rule, and train staff, all of which will ensure the final rule fully provides the substantial benefits for consumers intended by the Bureau.

The Bureau recognizes that successful implementation poses challenges to industry, provides benefits to both industry and consumers, and in any event requires close collaboration between industry and the Bureau.

As you may know, the Bureau has taken many steps to support industry implementation and to help creditors, vendors, and others affected by the Integrated Disclosures Rule to better understand, operationalize, and prepare to comply with the Rule's new streamlined disclosures. Since the Integrated Disclosures Rule was first issued in November 2013, we have made it a point to engage directly and intensively with financial institutions and vendors through a formal regulatory implementation project. The Bureau's regulatory implementation project for the Rule includes the following:

- **Inter-agency coordination.** In-depth exam procedures were approved by the Federal Financial Institutions Examination Council in February 2015 and published by the Bureau on April 1, 2015. The Bureau's own examination procedures incorporating the FFIEC exam procedures were published on May 4, 2015.
- **Publish "readiness guide," plain-language guides, and other resources.** The "readiness guide" includes a broad check-list of things for industry to do prior to the Rule's effective date. The Bureau has also published a compliance guide, a guide to the new integrated disclosure forms, and an illustrative timeline.¹⁰

¹⁰ These resources are available at www.consumerfinance.gov/regulatory-implementation/tila-respa/.

- **Publish amendments and updates to the Rule in response to industry requests.** In January 2015, after extensive outreach to stakeholders, the Bureau adopted two minor modifications and technical amendments to the Rule to smooth compliance for industry.¹¹
- **Provide unofficial staff guidance.** Bureau staff attorneys have provided oral guidance in response to over 1100 regulatory interpretation inquiries, received from trade associations and through the CFPB_RegInquiries@cfpb.gov email address since the Rule was issued.
- **Engage with stakeholders.** Bureau staff have provided remarks and addressed questions about the Rule and related implementation matters at over 40 formal events and over 50 informal stakeholder meetings since the Rule was issued.
- **Conduct webinars.** The Bureau has conducted a series of five free, publicly available webinars, available for viewing through the Bureau's website,¹² that provide guidance on how to interpret and apply specific provisions.

As previously stated by Director Cordray, the Bureau's oversight of the implementation of the Rule will be sensitive to the progress made by those entities that have squarely focused on making good-faith efforts to come into compliance with the Rule on time. This approach is consistent with the approach the Bureau took to implementation of the Title XIV mortgage rules in the early months after the effective dates in January 2014.

Question 5

The CFPB's response to an April 8, 2015, letter from Chairman Hensarling and the Financial Services subcommittee chairs reads "Your letter also stresses the importance of clarity for financial institutions and examinations staff...The Bureau shares this view, and for this reason we make our Supervision and Examination Manual public on our website." The OCC sent a letter to its exam force, as has the NCUA. The FDIC has changed its examination procedure. Why does the CFPB refuse to issue a simple memorandum?

Response

I understand that Director Cordray's May 7, 2015 letter to you may have touched on this matter. As the Director noted in that letter, this matter relates to reputational risk, which "goes to the safety and soundness of a financial institution[,] . . . [a] primary concern for prudential regulators, but one outside the Bureau's principal responsibilities and expertise." Hence while guidance on this matter could be of substantial relevance to examiners at the prudential regulators, it would be of much less relevance to Bureau examiners, who do not conduct safety and soundness examinations.

As the Director noted in his letter, he shares your view that supervisory decisions should be made on a case-by-case basis rather than through judgment of an entire industry. This point was made by the Director to the Bureau's entire workforce during an All-Hands call in May.

¹¹ 80 FR 8767 (Feb. 19, 2015).

¹² These webinars are available at <http://www.consumerfinance.gov/regulatory-implementation/tila-respa/>.

Questions for David Silberman, Associate Director for Research, Markets, and Regulations, from Congressman Mulvaney:

Question 1

During your appearance before this Committee, I asked you about the CFPB's report entitled "Small Business Advisory Review Panel For Potential Rulemakings for Payday, Vehicle Title, and Similar Loans Outline of Proposals Under Consideration and Alternatives Considered." In that report, on pages 44-45, the CFPB found:

"The two potential requirements, amortization and off-ramp, have similar estimated effects on the number of loans that could be made. Total loan volume is estimated to decline by between 55 percent and 62 percent...

The amortization requirement is estimated to have a larger effect on principal and fees because the second and third loans in a sequence would be required to be smaller than the first loan. The impact on total fees of the amortization requirement is estimated to be between 71 percent and 76 percent, while the impact of the off-ramp requirement is estimated to be between 60 percent and 65 percent...

This may affect monoline lenders, those specializing in payday lending, particularly severely. Given those impacts, it is likely the case that the number of monoline stores that could operate profitably within a given geographic market would decrease. Some stores might diversify their product offerings, including offering other forms of covered loans, while others might close. The proposals under consideration could, therefore, lead to substantial consolidation in the short-term payday and vehicle title lending market."

Specifically, I asked about the process the CFPB used and the data relied on to develop a proposed rule that would cause consumers to lose access to 60% or more of available short term credit, effectively depriving customers of a needed line of credit.

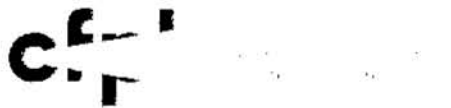
You testified that the CFPB engaged in a three year process with the "largest data set of loan level anonymized data" to develop this rule. When I asked for this data, you said it was confidential supervisory data and you were not sure if you could provide it to our Committee.

Sir, I have been informed by staff that such data is routinely provided to our Committee for oversight and investigation purposes. As such, please provide the data you relied on to develop the proposed rule and report mentioned above. In addition to that data, please provide the data used to determine that the perceived harm to consumers from short term credit, such as payday loans, justified eliminating consumer access to 60% of loans in the marketplace and driving a majority of lenders out of business.

Response

On December 12, 2013, the Consumer Financial Protection Bureau (Bureau) produced a number of records to the House Financial Services Committee (Committee) including analyses relied upon in the Bureau's own work in developing its proposed rule and previous white papers on this

issue. Committee staff have made clear that they make such records available to Committee Members for review. Some of the data relied upon by the Bureau in developing its proposed rule is highly sensitive and confidential supervisory information and business information belonging to lenders. This data is secured in a database on a protected server at the Bureau. In February 2014, in response to a letter request from Chairman Hensarling, Bureau staff briefed Committee staff on the contents of this database. This briefing, held at the Bureau, included demonstration of the database's operation as well as electronic access to some of the secured data. Routine production of this confidential data would not be feasible or permissible.



1700 Constitution Avenue, N.W. Washington, DC 20036

July 15, 2015

The Honorable Patrick McHenry
U.S. House of Representatives
2334 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Tim Scott
United States Senate
250 Hart Senate Office Building
Washington, D.C. 20510

Dear Congressman McHenry and Senator Scott:

Thank you for your letter regarding the Consumer Financial Protection Bureau's study and report to Congress on pre-dispute arbitration clauses. The Bureau welcomes feedback on these issues as we continue to engage with you and other stakeholders on our work.

The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 directed the Bureau to undertake and publish a number of studies, including a study and report to Congress on pre-dispute arbitration clauses. In our Arbitration Study,¹ we examined pre-dispute arbitration clauses in a number of different product markets, such as: credit cards, checking accounts, payday and other small dollar loans, general purpose reloadable prepaid cards, private student loans, auto purchase loans, and mobile wireless agreements.

The Bureau's process for the Arbitration Study has been fair, transparent, and comprehensive, including solicitation of stakeholder feedback at multiple stages throughout the process. The Bureau began work on the study in 2012 with a Request for Information to the general public, seeking specific suggestions to help identify the appropriate scope of the study, as well as appropriate methods and sources of information for conducting the study. The Bureau received more than 60 comments in response.

The Arbitration Study reflects many of the comments received from outside stakeholders. For instance, certain commentators suggested that the Bureau not only study arbitration but also review litigation in courts. In fact, the Bureau's review of state, federal, and small claim litigation records significantly outnumbered its review of consumer arbitration records. Bureau staff examined the prevalence of arbitration clauses and their terms in nearly 850 consumer-finance agreements. Bureau staff also reviewed more than 1,800 consumer finance arbitration disputes filed over a three-year period, more than 3,400 individual federal court lawsuits, 562 consumer finance class actions in state and federal courts, 400 consumer financial class action settlements, and 42,000 credit card cases filed in selected small claims court in 2012. Additional commenters urged the Bureau to study the relative effectiveness of public enforcement actions and private class action litigation. The Bureau's Arbitration Study includes a comparative assessment through an analysis

¹ See Arbitration Study (March 2015) available at http://files.consumerfinance.gov/f/201503_cfpb_arbitration_study_report-to-congress-2015.pdf.

of more than 1,100 state and federal public enforcement actions and associated class action filings.² Commenters also recommended that the Bureau release a draft study plan, identifying the substantive topics the study would encompass. As part of the Bureau's ongoing efforts in this undertaking and to inform the public and interested stakeholders of our progress in December 2013, the Bureau released over 160 pages of Preliminary Results. The Preliminary Results included a detailed roadmap of the Bureau's plans for future work and presented detailed findings on three specific workflows that were further refined in the release of the Arbitration Study.³

Given the breadth of the Bureau's analysis, as well as our solicitation of stakeholder feedback at multiple stages throughout the process, I am confident that the Bureau's Arbitration Study represents the single most comprehensive empirical analysis of consumer financial arbitration and litigation ever conducted.⁴

Ultimately, the Arbitration Study found that tens of millions of consumers are covered by arbitration clauses, but few know that this is the case or understand the impact on their ability to bring claims. The Bureau also found that consumers rarely consider bringing claims against companies on their own, particularly small claims. Moreover, no evidence was found that these clauses lead to lower prices for consumers. The Dodd-Frank Act granted the Bureau the authority to prohibit, limit, or impose conditions on the use of arbitration clauses in consumer finance agreements by regulation if the Bureau finds that doing so is in the public interest and for the protection of consumers. After considering the findings of the Arbitration Study, the Bureau has decided to commence a rulemaking process regarding pre-dispute arbitration agreements used in connection with consumer financial products or services. As the Bureau moves forward with this process, we welcome the opportunity to hear from you and other stakeholders.

During the process of conducting the Arbitration Study, the Bureau met with and received feedback from stakeholders, including industry organizations, consumer advocates, and provided briefings to Congressional staff to ensure that the Bureau was producing the most comprehensive and balanced work possible. Moreover, before the Bureau issues a regulatory proposal, the Bureau will put forward an outline of proposals under consideration and convene a Small Business Review Panel to receive input from Small Entity Representatives regarding the proposals under consideration. This process will also provide an opportunity for further input from other stakeholders. Following the conclusion of that process, the Bureau anticipates issuing a regulatory

² *Id.* at Section 9.

³ See Arbitration Study Preliminary Results (Dec. 12, 2013) at Chapter 6 ("Future Work"); available at http://files.consumerfinance.gov/f/201312_cfpb_arbitration_study_preliminary-results.pdf.

⁴ The Arbitration Study does, in fact, estimate the transaction costs associated with pursuing a claim in federal court as compared to arbitration. See Study at Section 4, pages 10-12 (comparing fee requirements and the possibility of waived or advanced fees, involved with filing a dispute in federal court, small claims court, and before the American Arbitration Association). Similarly, the Arbitration Study notes that consumers rarely brought *pro se* claims in federal court. See Study at Section 6 (reporting that only 5.6% of the individual disputes we studied in federal court and only two class actions were filed by *pro se* plaintiffs). Finally, the Study contains extensive comparative data. For example, there were roughly 600 consumer arbitration cases per year in the product markets that we studied – and only about 25 cases per year involved affirmative claims of \$1,000 or less. Consumers filed an annual average of about 1,200 individual federal lawsuits about the same products (except auto purchase loans) and rarely brought claims in small claims courts against major credit card issuers. In marked comparison, roughly 32 million consumers were eligible for relief through consumer financial class action settlements in federal court each year.

proposal, at which time, the procedures governing notice-and-comment rulemaking and the Bureau's rulemaking practices will provide additional opportunity for stakeholder participation.

The Bureau is dedicated to a marketplace characterized by fair, transparent, and responsible business practices. We believe that strong consumer protection is an asset to honest businesses, because it ensures that everyone is playing by the same rules, which supports fair competition and fair treatment of consumers. We will endeavor to maintain those priorities and goals as we move forward.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard Cordray".

Richard Cordray
Director

cc: The Honorable Steve Stivers, Member of Congress
The Honorable Kristi Noem, Member of Congress
The Honorable Robert Aderholt, Member of Congress
The Honorable Lamar Smith, Member of Congress
The Honorable Steve Womack, Member of Congress
The Honorable Tom Graves, Member of Congress
The Honorable Peter King, Member of Congress
The Honorable Trent Franks, Member of Congress
The Honorable Paul Gosar, Member of Congress
The Honorable Mark Walker, Member of Congress
The Honorable Bradley Byrne, Member of Congress
The Honorable Bret Guthrie, Member of Congress
The Honorable Bob Goodlatte, Member of Congress
The Honorable Marsha Blackburn, Member of Congress
The Honorable Robert Pittenger, Member of Congress
The Honorable Sean Duffy, Member of Congress
The Honorable Randy Neugebauer, Member of Congress
The Honorable Scott Rigell, Member of Congress
The Honorable Bill Huizenga, Member of Congress
The Honorable Andy Barr, Member of Congress
The Honorable Dave Trott, Member of Congress
The Honorable Mick Mulvaney, Member of Congress
The Honorable Tom Cole, Member of Congress
The Honorable Ann Wagner, Member of Congress
The Honorable Jaime Herrera Beutler, Member of Congress
The Honorable Martha Roby, Member of Congress
The Honorable Richard Hudson, Member of Congress

The Honorable Luke Messer, Member of Congress
The Honorable Rod Blum, Member of Congress
The Honorable French Hill, Member of Congress
The Honorable John Ratcliffe, Member of Congress
The Honorable Blaine Luetkemeyer, Member of Congress
The Honorable Tom Marino, Member of Congress
The Honorable Blake Farenthold, Member of Congress
The Honorable Frank Guinta, Member of Congress
The Honorable Louie Gohmert, Member of Congress
The Honorable Roger Williams, Member of Congress
The Honorable Frank Lucas, Member of Congress
The Honorable Scott Garrett, Member of Congress
The Honorable Stephen Fincher, Member of Congress
The Honorable Darrell Issa, Member of Congress
The Honorable David Schweikert, Member of Congress
The Honorable Pete Olson, Member of Congress
The Honorable Ron DeSantis, Member of Congress
The Honorable Mia Love, Member of Congress
The Honorable Lynn Westmoreland, Member of Congress
The Honorable Diane Black, Member of Congress
The Honorable Chris Collins, Member of Congress
The Honorable Ed Royce, Member of Congress
The Honorable Tom Emmer, Member of Congress
The Honorable Steve Pearce, Member of Congress
The Honorable Mike Fitzpatrick, Member of Congress
The Honorable Bill Posey, Member of Congress
The Honorable Keith Rothfus, Member of Congress
The Honorable Kevin Yoder, Member of Congress
The Honorable Robert Hurt, Member of Congress
The Honorable Dennis Ross, Member of Congress
The Honorable Doug Collins, Member of Congress
The Honorable Randy Hultgren, Member of Congress
The Honorable Scott Tipton, Member of Congress
The Honorable Marlin Stutzman, Member of Congress
The Honorable Bruce Poliquin, Member of Congress
The Honorable Andy Harris, Member of Congress
The Honorable Peter Roskam, Member of Congress
The Honorable Mark Meadows, Member of Congress
The Honorable David Vitter, United States Senator
The Honorable Thom Tillis, United States Senator
The Honorable Tom Cotton, United States Senator
The Honorable Roy Blunt, United States Senator
The Honorable Michael Enzi, United States Senator
The Honorable Mike Rounds, United States Senator
The Honorable David Perdue, United States Senator
The Honorable Patrick Toomey, United States Senator

The Honorable John Barrasso, United States Senator
The Honorable Jerry Moran, United States Senator
The Honorable Daniel Coats, United States Senator
The Honorable Mike Crapo, United States Senator
The Honorable Kelly Ayotte, United States Senator
The Honorable John Cornyn, United States Senator
The Honorable Mark Kirk, United States Senator
The Honorable Orrin Hatch, United States Senator
The Honorable John Boozman, United States Senator
The Honorable Johnny Isakson, United States Senator

Congress of the United States
Washington, DC 20515

July 31, 2015

The Honorable Richard Cordray
Director
United States Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

Dear Director Cordray:

We write concerning the Consumer Financial Protection Bureau's (CFPB) impending rulemaking process designed to regulate short-term lending options. Each of us recognizes the importance of preventing predatory lending practices in this market, and strongly supports robust safeguards to ensure that consumers are protected. At the same time, we also appreciate the significance of ensuring that low to moderate-income Americans, who often do not qualify for more traditional financial products, maintain access to a variety of legal and regulated credit options.

To date, several states have implemented regulatory regimes that have successfully enabled consumers to secure desperately needed short-term credit in a regulated environment that protects them from economic harm. We ask that as you move forward with this rulemaking process, you work in consultation with industry stakeholders to ensure a fair and transparent process. Furthermore, we request that you conduct field trials in specific markets to gain a deeper understanding of how any proposed regulations will work in practice. Indeed, the best interests of the consumer can only truly be advanced when we ensure that lending practices are both fair and transparent, while also making certain that Americans most in need are not further restricted in their credit options. Any rule that unnecessarily restricts access to credit should be reconsidered.

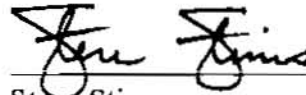
In closing, we sincerely hope that we can work together to ensure consumers are protected and also have access to a variety of short-term credit. We are concerned that individuals who rely on the availability of short-term and small-dollar loans to make ends meet will be forced to turn to more expensive alternatives potentially resulting in a phenomenon that is hardly the financial protection that the CFPB seeks to accomplish through this regulatory scheme.

We look forward to your prompt response.

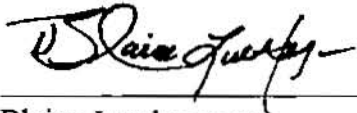
Sincerely,




Alcee L. Hastings
Member of Congress



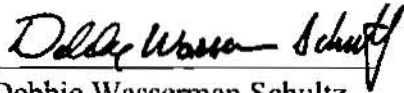
Steve Stivers
Member of Congress



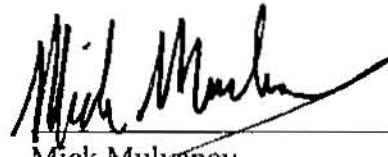
Blaine Luetkemeyer
Member of Congress



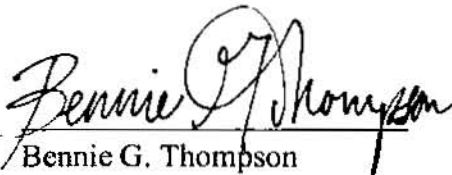
Patrick Murphy
Member of Congress



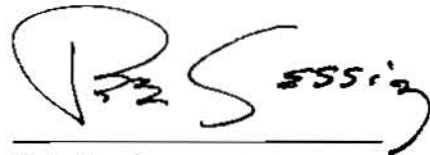
Debbie Wasserman Schultz
Member of Congress



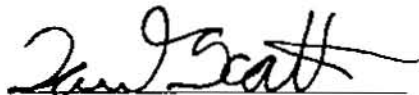
Mick Mulvaney
Member of Congress



Bennie G. Thompson
Member of Congress



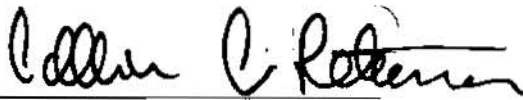
Pete Sessions
Member of Congress



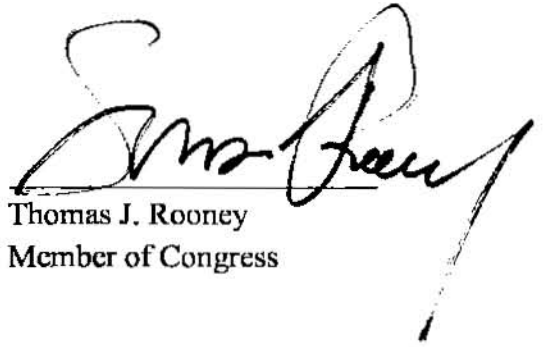
David Scott
Member of Congress



Dennis A. Ross
Member of Congress



Colin C. Peterson
Member of Congress



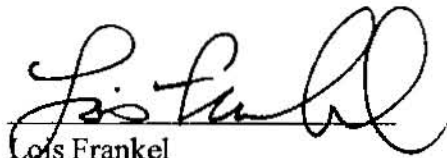
Thomas J. Rooney
Member of Congress



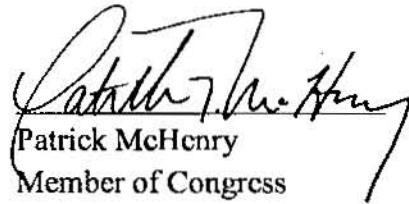
Kyrsten Sinema
Member of Congress



Bill Posey
Member of Congress



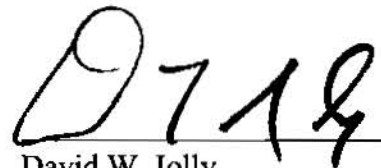
Lois Frankel
Member of Congress



Patrick McHenry
Member of Congress



Brad Sherman
Member of Congress




David W. Jolly
Member of Congress

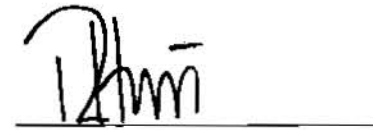



Tony Cardenas
Member of Congress

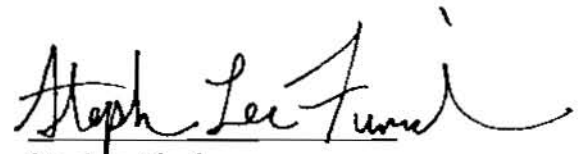



David Schweikert
Member of Congress



Henry Cuellar
Member of Congress



Robert Hurt
Member of Congress


Gregory W. Meeks
Member of Congress


Stephen Fincher
Member of Congress


Jim Costa
Member of Congress


Alan Grayson
Member of Congress


Owen Graham
Member of Congress


Corrine Brown
Member of Congress



Consumer Financial
Protection Bureau

1700 G Street NW, Washington, DC 20552

September 28, 2015

The Honorable Alcee Hastings
U.S. House of Representatives
2353 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Steve Stivers
U.S. House of Representatives
1022 Longworth House Office Building
Washington, D.C. 20515

The Honorable Blaine Luetkemeyer
U.S. House of Representatives
2440 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressmen Hastings, Stivers, and Luetkemeyer:

Thank you for your letter about the Consumer Financial Protection Bureau's work on payday lending. I welcome the opportunity to continue our discussion of the Bureau's proposals and consumers' need for affordable consumer financial products and services.

The Bureau recognizes that the states have adopted a variety of different approaches to regulating small-dollar lending. As we consider federal regulation of these products, we have carefully analyzed these different state models. The Bureau continues to evaluate the effects of different state law restrictions on limiting harms to consumers and permitting continued access to credit to help consumers meet their financial needs. The Bureau would like to ensure that consumers are offered certain minimum benefits and protections no matter where they are located, as states are free to maintain their own parallel regulatory systems.

As the Bureau considers federal regulation of payday lending, we continue to solicit feedback from a variety of stakeholders, including industry participants, consumer advocates, and state and federal regulators. We have talked directly to regulators and policy makers at field hearings and in other settings across the country, and we appreciate the insights provided by other regulators who have implemented state regulatory frameworks.

As you know, the outline of proposals under consideration the Bureau released in March and the Small Business Review Panel that followed generated important early input as the Bureau prepares to move into a full rulemaking process. As part of that process, the Bureau will continue to seek input from a wide range of stakeholders. Moreover, once the Bureau issues its proposed rule, the public, including industry participants, consumer advocates, and state and

consumerfinance.gov

federal regulators, will be invited to submit written comments, which will all be carefully considered before final regulations are issued. Any final rule will have a designated implementation period for industry to come into compliance. Whenever the Bureau promulgates regulations, the agency is required, pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act, to consider the potential benefits and costs to consumers and to industry, including considering any impacts on access to consumer financial products and services resulting from the rule.

Thank you for your continued interest in the Bureau's payday lending work. I look forward to working with you on this and other consumer financial protection matters of importance to you and your constituents.

Sincerely,



Richard Cordray
Director

cc: The Honorable Patrick Murphy, Member of Congress
The Honorable Debbie Wasserman Schultz, Member of Congress
The Honorable Mick Mulvaney, Member of Congress
The Honorable Bennie G. Thompson, Member of Congress
The Honorable Pete Sessions, Member of Congress
The Honorable David Scott, Member of Congress
The Honorable Dennis Ross, Member of Congress
The Honorable Colin C. Peterson, Member of Congress
The Honorable Thomas J. Rooney, Member of Congress
The Honorable Kyrsten Sinema, Member of Congress
The Honorable Bill Posey, Member of Congress
The Honorable Lois Frankel, Member of Congress
The Honorable Patrick McHenry, Member of Congress
The Honorable Brad Sherman, Member of Congress
The Honorable David W. Jolly, Member of Congress
The Honorable Tony Cardenas, Member of Congress
The Honorable David Schweikert, Member of Congress
The Honorable Henry Cuellar, Member of Congress
The Honorable Robert Hurt, Member of Congress
The Honorable Gregory W. Meeks, Member of Congress
The Honorable Stephen Fincher, Member of Congress
The Honorable Jim Costa, Member of Congress

The Honorable Alan Grayson, Member of Congress
The Honorable Gwen Graham, Member of Congress
The Honorable Corrine Brown, Member of Congress

Congress of the United States
Washington, DC 20515

September 29, 2015

The Honorable Richard Cordray
Director
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, D.C. 20552

Re: CFPB Should Work with Stakeholders on Prepaid Account Rule

Dear Director Cordray:

We are writing today to express our concerns with the Consumer Financial Protection Bureau's (the "Bureau's") Notice of Proposed Rulemaking for Prepaid Accounts (the "Proposed Rule"). The Bureau should avoid imposing overly burdensome restrictions on providers that would prevent them from meeting the growing and diverse consumer demand for innovative prepaid products.

Prepaid cards provide a broad array of consumers, including students, workers, and government benefit recipients, with revolutionary ways to access, spend, and manage their money. In fact, prepaid cards are such a safe and effective payment tool, the U.S. Department of Treasury uses them as an alternative to paper checks to disburse federal benefits saving millions of dollars on an annual basis. Below you will find recommendations we believe will ensure that the Bureau meets our shared goal of empowering consumers with valuable financial tools while maintaining a vibrant prepaid marketplace.

Coverage of the Proposed Rule. The Proposed Rule casts a wide net through its extremely broad definition of prepaid accounts, which even includes products outside of the prepaid sphere such as mobile wallets, and person to person (P2P) transfers. We believe the definition of prepaid account should only cover prepaid products that consumers use as primary transaction accounts, where they would expect to receive similar protections as debit cards connected to traditional checking accounts.

Consumer Disclosures. The Bureau should work to develop *a single*, easy to understand pre-acquisition fee disclosure. The Proposed Rule requires multiple fee disclosures (a short-form and long-form disclosure) to be made available before a consumer "acquires" a prepaid card. According to the Bureau's own research, consumers do not find the long-form disclosure helpful when comparing products. As a result, the Bureau should not mandate the use of the long-form disclosure, and it should work with industry stakeholders to better define the contents of the short form disclosure to be more useful to consumers in comparing prepaid products.

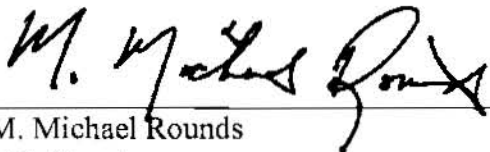
Implementation Deadline. The Bureau should extend its implementation deadline until 24 months following publication of the final rule. With all of the new disclosure and packaging requirements for such a complex financial product as well as the development and operational

changes necessary to comply with the Proposed Rule, a nine-month effective date is unrealistic and does not take into account that millions of prepaid cards in the marketplace today will need to be destroyed or replaced.

Overdraft. Lastly, the CFPB should continue to allow discretionary overdrafts on prepaid accounts without subjecting prepaid accounts with these features to full Regulation Z coverage, which could lead to their elimination from the market. Instead, the Bureau should provide common sense guard rails that protect consumers while enabling the continued access to short-term micro credit (e.g., amounts less than \$150) so that consumers have the ability to purchase items, such as necessities, in between pay checks.

We strongly encourage the Bureau to work closely with stakeholders and Congress as your staff drafts the final rule. We believe more external engagement with prepaid market participants will be essential in helping the Bureau reach the appropriate balance between protecting consumers and ensuring the continued growth of America's fastest growing form of payment.

Sincerely,



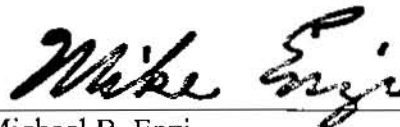
M. Michael Rounds
U.S. Senator



Mike Crapo
U.S. Senator



Tom Cotton
U.S. Senator



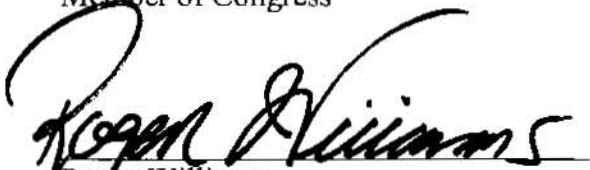
Michael B. Enzi
U.S. Senator



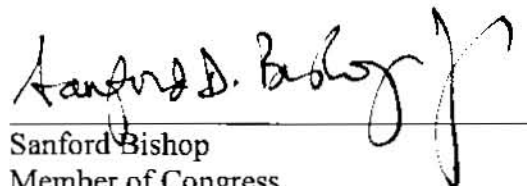
Scott Tipton
Member of Congress



Randy Neugebauer
Member of Congress



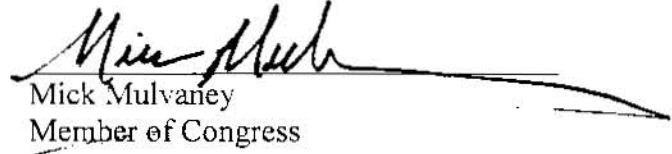
Roger Williams
Member of Congress



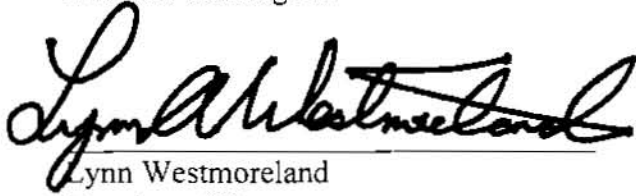
Sanford Bishop
Member of Congress



Andy Barr
Member of Congress



Mick Mulvaney
Member of Congress



Lynn Westmoreland
Member of Congress



French Hill
Member of Congress



Frank Lucas
Member of Congress



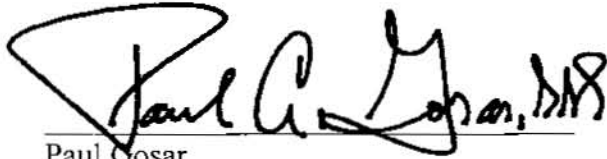
Kenny Marchant
Member of Congress



Steve Stivers
Member of Congress



Blaine Luetkemeyer
Member of Congress



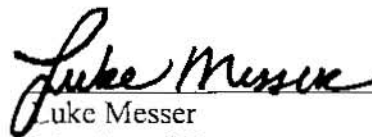
Paul Gosar
Member of Congress



Bill Huizenga
Member of Congress



Dennis Ross
Member of Congress



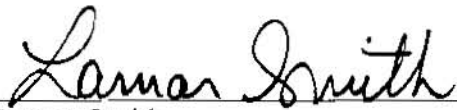
Luke Messer
Member of Congress



Scott Garrett
Member of Congress



Frank Guinta
Member of Congress



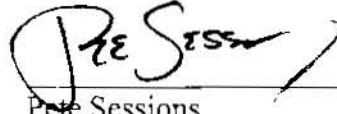
Lamar Smith
Member of Congress



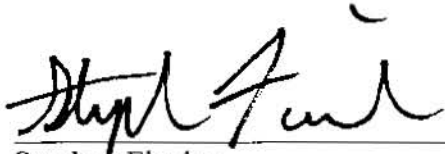
Ann Wagner
Member of Congress



Sean Duffy
Member of Congress



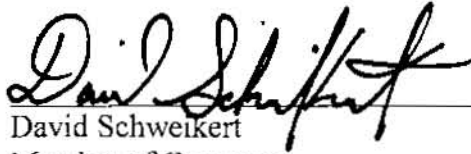
Pete Sessions
Member of Congress



Stephen Fincher
Member of Congress



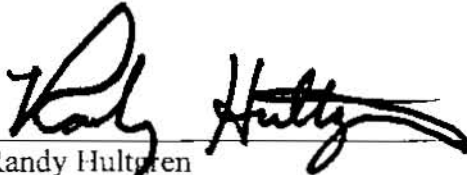
Trent Franks
Member of Congress



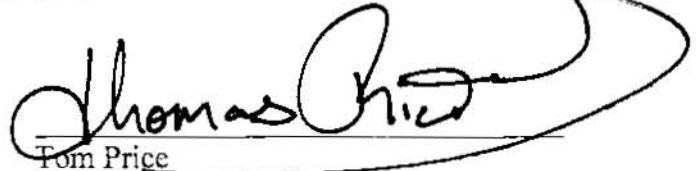
David Schweikert
Member of Congress




Robert Hurt
Member of Congress



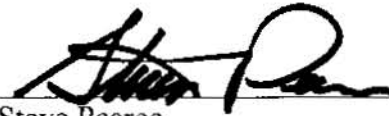
Randy Hultgren
Member of Congress



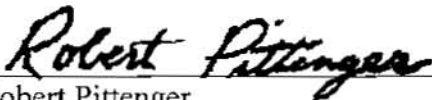
Tom Price
Member of Congress



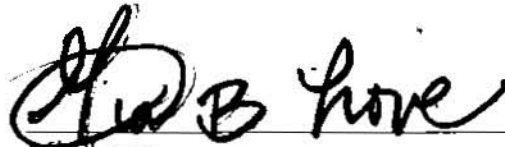
Keith Rothfus
Member of Congress



Steve Pearce
Member of Congress



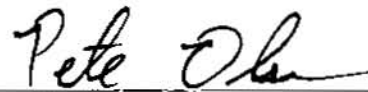
Robert Pittenger
Member of Congress



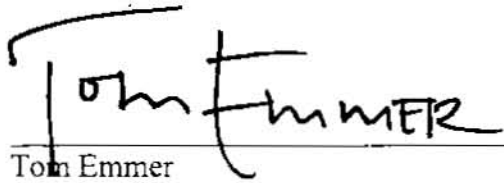
Mia Love
Member of Congress



Matt Salmon
Member of Congress




Pete Olson
Member of Congress



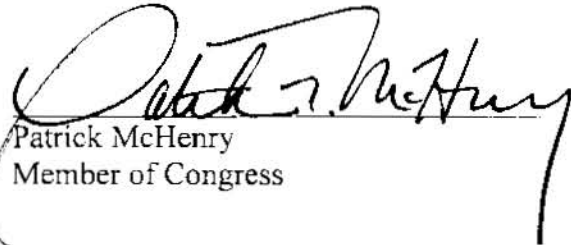
Tom Emmer
Member of Congress



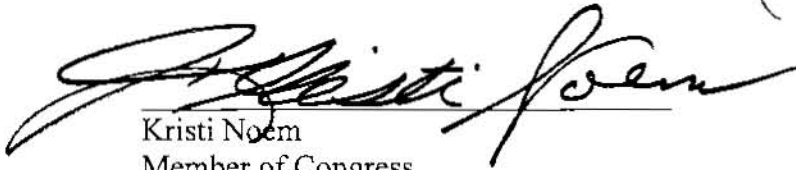
Sam Johnson
Member of Congress



Mike Bishop
Member of Congress



Patrick McHenry
Member of Congress



Kristi Noem
Member of Congress



Consumer Financial Protection Bureau
1700 G Street, N.W., Washington, DC 20552

1700 G Street, N.W., Washington, DC 20552

October 27, 2015

The Honorable Michael Rounds
U.S. Senate
502 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Scott Tipton
U.S. House of Representatives
218 Cannon House Office Building
Washington, D.C. 20515

Dear Senator Rounds and Congressman Tipton:

Thank you for your comment letter on the Consumer Financial Protection Bureau's Notice of Proposed Rulemaking regarding prepaid accounts. We appreciate your interest and thoughtful feedback regarding this important rulemaking. Like you, we remain committed to ensuring consumers have access to a variety of financial products that can help them meet their spending needs, including prepaid accounts.

The Bureau has been reviewing the thousands of comments submitted on the prepaid proposal by consumers, industry members, trade associations, consumer advocacy groups, government agencies, and other interested parties. As part of this process, we are continuing to evaluate how consumers' spending needs can be met safely and transparently. Your letter expresses concerns with respect to several aspects of the proposal: the scope of its coverage, disclosure requirements, the implementation deadline, and the provisions related to overdraft. Addressing issues of scope, we appreciate your concern regarding the implications of covering products other than products that act as transaction account substitutes. As stated in the proposal, the features of non-general purpose reloadable card prepaid products, as well as the ways consumers can and do use those products, warranted their inclusion in the proposed rule. As stated in the proposal, the Bureau was concerned that trying to carve out very specific types of products is complicated and could result in consumer confusion as to what protections might apply to otherwise indistinguishable products. The Bureau sought comment on the scope of coverage and is currently reviewing and evaluating those comments.

With respect to the proposed disclosure requirements, the Bureau agrees that, whenever possible, consumer disclosures should be concise and easy to understand. The proposed short form is intended to meet this objective by prominently displaying important fees with limited explanatory text. By contrast, under the proposal, the proposed long form meets a different but complementary goal of ensuring consumers have all the information they need to make their acquisition decisions. Moreover, the proposal would provide an exception for prepaid cards for sale in retail stores or over the phone. If certain conditions are met for these products, financial institutions would not be required to provide the long form disclosure in writing before the consumer agrees to acquire the account, so long as such institutions provide consumers with the ability to access the long form disclosure information by telephone or internet. The proposed requirement that consumers receive both of these forms was designed to strike the right balance between giving consumers key information about a prepaid account to aid understanding and comparison shopping and providing

them with the opportunity to review all of a prepaid account's fee information pre-acquisition. The Bureau sought comment on the required disclosures, and is currently reviewing and evaluating those comments.

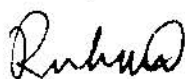
We also appreciate your concern about the length of the proposed implementation period. As with all of these issues, the Bureau is reviewing the comments received, and is committed to providing consumers with necessary protections, while also giving financial institutions adequate time to comply. As we do with all of our new rules, the Bureau plans to work closely with industry to help it implement the rule smoothly and avoid incurring unnecessary burdens.

Finally, with respect to overdraft, the Bureau evaluated a range of potential approaches to overdraft services and credit features on prepaid accounts in connection with this rulemaking. The approach we proposed in the Notice of Proposed Rulemaking was designed to provide balanced and appropriate guard rails to make sure such credit is offered with protections similar to those that apply to other card-based credit (*i.e.*, credit cards). As we work towards finalizing the prepaid rule, we will continue to evaluate the likely impact of such provisions, including their impact on other types of products that may be offered in compliance with a final rule.

Once again, I appreciate your interest in providing feedback on our proposal. The Bureau will consider possible modifications to its proposal based on comments received, in accordance with its obligations for notice-and-comment rulemaking pursuant to the Administrative Procedures Act.

Thank you for your continued interest in the Bureau's work. I look forward to working with you on this and other consumer financial protection matters of importance to you and your constituents.

Sincerely,



Richard Cordray
Director

Cc: The Honorable Mike Crapo, U.S. Senator
The Honorable Tom Cotton, U.S. Senator
The Honorable Michael B. Enzi, U.S. Senator
The Honorable Randy Neugebauer, Member of Congress
The Honorable Roger Williams, Member of Congress
The Honorable Sanford Bishop, Member of Congress
The Honorable Andy Barr, Member of Congress
The Honorable Mick Mulvaney, Member of Congress
The Honorable Lynn Westmoreland, Member of Congress
The Honorable French Hill, Member of Congress
The Honorable Frank Lucas, Member of Congress
The Honorable Kenny Marchant, Member of Congress

The Honorable Steve Stivers, Member of Congress
The Honorable Blaine Luekemeyer, Member of Congress
The Honorable Paul Gosar, Member of Congress
The Honorable Bill Huizenga, Member of Congress
The Honorable Dennis Ross, Member of Congress
The Honorable Luke Messer, Member of Congress
The Honorable Scott Garrett, Member of Congress
The Honorable Frank Guinta, Member of Congress
The Honorable Lamar Smith, Member of Congress
The Honorable Ann Wagner, Member of Congress
The Honorable Sean Duffy, Member of Congress
The Honorable Pete Sessions, Member of Congress
The Honorable Stephen Fincher, Member of Congress
The Honorable Trent Franks, Member of Congress
The Honorable David Schweikert, Member of Congress
The Honorable Robert Hurt, Member of Congress
The Honorable Randy Hultgren, Member of Congress
The Honorable Tom Price, Member of Congress
The Honorable Keith Rothfus, Member of Congress
The Honorable Steve Pearce, Member of Congress
The Honorable Robert Pittenger, Member of Congress
The Honorable Mia Love, Member of Congress
The Honorable Matt Salmon, Member of Congress
The Honorable Pete Olson, Member of Congress
The Honorable Tom Emmer, Member of Congress
The Honorable Sam Johnson, Member of Congress
The Honorable Mike Bishop, Member of Congress
The Honorable Patrick McHenry, Member of Congress
The Honorable Kristi Noem, Member of Congress

TOM EMMER
8TH DISTRICT, MINNESOTA

COMMITTEES
FINANCIAL SERVICES

REPUBLICAN WHIP TEAM

503 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-2331

DISTRICT OFFICE
9201 QUADAY AVENUE NE
SUITE 206
CHICAGO, MN 55330
(763) 241-6848

SUBCOMMITTEES
FINANCIAL INSTITUTIONS AND
CONSUMER CREDIT
MONETARY POLICY
AND TRADE

Congress of the United States

House of Representatives

Washington, DC 20515-2306

December 15, 2015

The Honorable Richard Cordray
Director
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, D.C. 20552

Re: Regulation C Annual Loan Exemption Threshold

Dear Director Cordray:

We are deeply concerned about the consumer impact of the Consumer Financial Protection Bureau's (CFPB) recently-finalized rule revising Regulation C (the "final rule") which will increase requirements under the Home Mortgage Disclosure Act (HMDA). In light of the potential of the new rule to reduce consumer access to mortgage credit, we write to request that the CFPB provide analysis on the effects of applying higher exemption thresholds based on an institution's annual mortgage origination volume. Higher thresholds would help alleviate the potential adverse impact of the final rule.

As you know, the final rule requires covered banks and credit unions to collect 48 unique data fields on each mortgage loan they make beginning January 1, 2018. This is more than double the number of data fields covered lenders are currently required to collect and goes well beyond the number of fields required by Section 1094 of the Dodd-Frank Act, which triggered the new rulemaking. This large number of data fields represents a significantly higher compliance burden and amplifies the opportunity for data entry error, especially among institutions that upload this information manually, including many community banks and credit unions.

Currently, smaller financial institutions continue to struggle with adapting to the post-Dodd-Frank regulatory environment. In recent years, a high volume of new, highly complex rules have become effective, sharply increasing the compliance challenges and costs associated with serving consumers and communities. This is especially true of mortgage lending. The ability-to-repay rule, new regulations governing appraisals, escrows, servicing, and loan officer compensation, as well the complex and voluminous new TILA-RESPA Integrated Disclosure rule, have remade every aspect of mortgage lending. Individually and cumulatively, these new rules represent a significant increase in regulatory burden and legal liability that is causing many community banks and credit unions to reconsider their commitment to mortgage lending. In this environment, any relief from the new Regulation C rule would help small lenders continue to provide necessary access to mortgage credit, preserving consumer options and a competitive market.

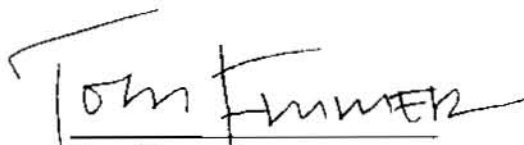
Congress of the United States
Washington, DC 20515

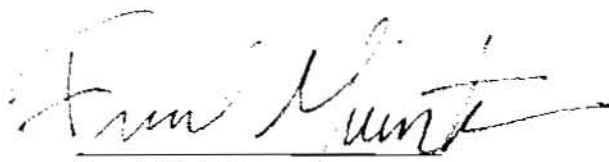
As you know, certain institutions do not report under HMDA. Institutions with assets of less than \$44 million (adjusted annually) and institutions with no offices in metropolitan statistical areas are exempt. In addition, the final rule creates a new exemption for small volume mortgage lenders. Institutions that originate less than 25 closed-end mortgages and fewer than 100 open-end lines of credit in each of the two preceding years are exempt from HMDA reporting. The small volume lender exemption will cover about 1,400 institutions, according to CFPB estimates, and a maximum of approximately 34,000 loans, though the actual number of HMDA-exempt loans is certainly far smaller. This represents an infinitesimal fraction of the nearly 10 million annual mortgage applications reported through HMDA last year. We believe there is an opportunity to provide relief for many more small lenders without materially impacting the mortgage data available to the CFPB or impairing the important purpose of the HMDA statute.

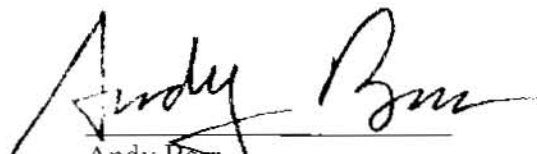
With this in mind, we request that you provide any analysis the CFPB may have done in the course of preparing its proposed or final rule with regard to the impact of higher annual loan exemption levels. Was the analysis that produced an estimate of 1,400 newly exempt lenders applied to higher exemption levels? Specifically, we request that you provide analysis that estimates the number of exempt financial institutions and the data impact of using closed-end mortgage thresholds of 100, 150, 250, or 500 loans. We believe higher thresholds would still provide the required data and be consistent with the purposes of HMDA.

Thank you in advance for your timely response to this request.

Sincerely,

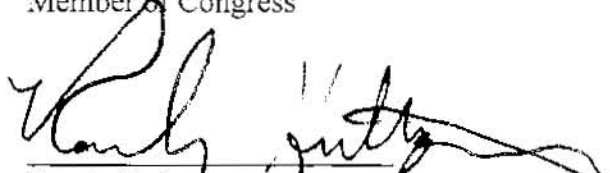

Tom Emmer
Member of Congress


Frank Guinta
Member of Congress

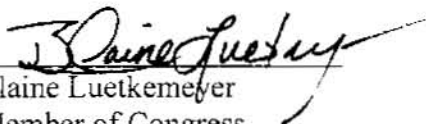

Andy Barr
Member of Congress

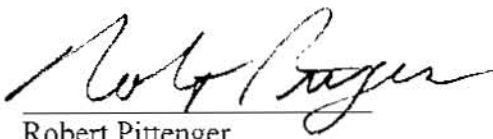

French Hill
Member of Congress

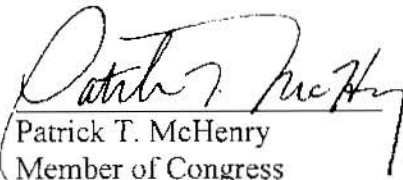

Michael G. Fitzpatrick
Member of Congress

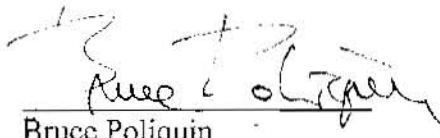

Randy Hultgren
Member of Congress

Congress of the United States
Washington, DC 20515


Blaine Luetkemeyer
Member of Congress

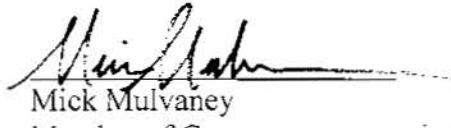

Robert Pittenger
Member of Congress

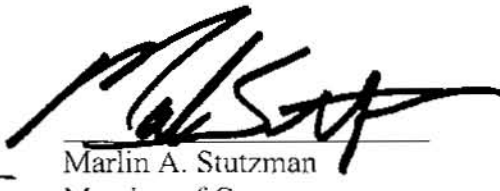

Patrick T. McHenry
Member of Congress



Bruce Poliquin
Member of Congress


Luke Messer
Member of Congress

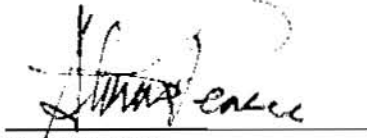

David Schweikert
Member of Congress



Mick Mulvaney
Member of Congress



Marlin A. Stutzman
Member of Congress


Randy Neugebauer
Member of Congress


Lynn Westmoreland
Member of Congress


Steve Pearce
Member of Congress


Roger Williams
Member of Congress


Scott Tipton
Member of Congress



Congress of the United States
House of Representatives

January 29, 2016

The Honorable Richard Cordray
Director
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

Dear Director Cordray:

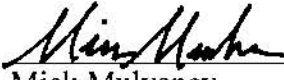
We write to express concern related to the proposed rules the Consumer Financial Protection Bureau (CFPB) released in March 2015 regarding short-term lending. South Carolina has in place strong, proven and tested regulations that protect consumers while allowing them access to short-term credit products. We are concerned that the CFPB's recent proposal will preempt existing laws in our state and will ultimately result in our constituents being forced to turn to risky, unregulated forms of credit.

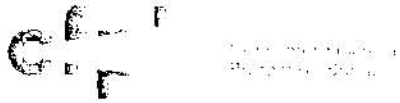
State lawmakers in South Carolina have drafted, debated and passed a comprehensive set of rules related to short term lending in recent years. These laws place limits on the maximum amount of short-term loans, rollovers and advance terms; mandate that companies offer consumers extended payment plan options and the right of rescission; implement a statewide database to track borrowing; and cap fees on small dollar loan products. The result has given South Carolina a marketplace that works for consumers and industry, and gives our constituents short-term credit options that can help make ends meet.

The CFPB's proposed rules would push aside rules and regulations that have worked for our constituents and replace them with a framework of overly restrictive regulations that the CFPB itself admits would lead to "substantial consolidation" in the market – eliminating as much as two-thirds of this industry and severely limiting consumer choice and access to credit. As you know, the need for credit will not simply disappear if small dollar lenders are forced to stop lending. For a number of our constituents, a short-term loan is their only credit option to pay an unexpected bill, fix their car to get to work, or cover unforeseen medical expenses.

We respectfully request that the CFPB not issue rules and regulations governing short-term credit that would interfere with what has worked to protect consumers in the state of South Carolina. Removing this legal, regulated borrowing option will most likely force our constituents to turn to more costly products and unprotected products, which is an outcome which runs contrary to the CFPB's intent of protecting consumers.

Respectfully,


Mick Mulvaney
Member of Congress
Mark Sanford
Member of Congress
Jeff Duncan
Member of Congress
Trey Gowdy
Member of Congress
Tom Rice
Member of Congress



1006 St. John Ave. Washington, DC 20543

February 9, 2016

The Honorable Tom Emmer
U.S. House of Representatives
503 Cannon House Office Building
Washington, DC 20515

Dear Congressman Emmer:

Thank you for your letter about the Consumer Financial Protection Bureau's recently-finalized Home Mortgage Disclosure Act, Regulation C, amendments establishing certain reporting exemptions based on an institution's mortgage origination volume. As you know, the Home Mortgage Disclosure Act was originally enacted in 1975 and requires many lenders to report information about the home loans for which they receive applications or that they originate or purchase.

HMDA is a "sunlight" statute intended to provide the public and policy makers with information about the mortgage market to ensure market transparency. Many economists agree that market transparency can lead to greater pricing fairness for consumers. HMDA provides financial regulators, the public, housing officials, and industry with information about the largest consumer financial market in the world – the nation's mortgage market. This information sheds light on the mortgage market and helps the public and regulators to monitor whether financial institutions are serving the housing needs of their communities, to assist in distributing public-sector investment so as to attract private investment to areas where it is needed, and to identify possible discriminatory lending patterns.

With more precise information and transparency in the mortgage market, market efficiency can be fostered, and regulators and policy makers can be more alert to changes and trends in the market, like those that led to the mortgage crisis and financial collapse. As a regulator, the Bureau needs the appropriate level of information to do its work and fulfill its statutory requirements to monitor markets and develop sensible rules.

In response to the mortgage market crisis, Congress enacted the Dodd-Frank Wall Street Reform and Consumer Protection Act in 2010 and directed the Bureau to expand the HMDA dataset to include additional information that would be helpful to better understand the mortgage market. Therefore, the final rule increases the number of total data points that are collected and reported. As the Bureau looked at adding the Dodd-Frank Act data points and others, Bureau staff looked closely at the information that industry currently collects through their core systems or reports to the secondary market. By requiring information that is generally collected by industry, the Bureau sought to reduce the information burden on industry. The Bureau also worked closely with the prevailing industry data standard, called MISMO, to align the final rule, to the extent it could, with industry's data definitions. To further put this effort in perspective, HMDA collects 48 data points,

far less than the hundreds of data points that financial institutions report to the secondary market in order to sell a loan.

In response to concerns about the burden imposed by HMDA reporting on depository institutions that originate a low-volume of transactions, the Bureau modified the current institutional coverage test for depository institutions to better achieve HMDA's purposes and to reduce the burden on lower-volume depository institutions. Currently, HMDA defines a covered financial institution as a depository institution (a bank, savings association, or credit union) that makes a single closed-end loan and meets the statutory asset-size, location, federally-related and loan activity tests. The final rule keeps the statutory tests and increases the loan-volume threshold. Thus, the final rule will provide some cost savings to depository institutions that will be excluded under the revised closed-end mortgage loan-volume threshold. As you note in your letter, the Bureau estimated 1,400 depository institutions will be excluded from reporting closed-end mortgage loans and applications under the closed-end reporting threshold in the final rule. This estimate represents a 22 percent reduction in the number of depository institutions that are currently reporting from the obligation to report HMDA data on closed-end mortgage loans.

In addition, the threshold is based on two years of an institution's lending. An institution must exceed the loan volume threshold for two consecutive years in order to be subject to HMDA reporting obligations. It is our hope that the two-year look-back period will provide consistency in reporting obligations. The Bureau added the two-year look-back period to the loan volume threshold in response to feedback that we received from industry and in particular from smaller institutions.

Moreover, while most of the final rule is effective on January 1, 2018, in order to allow some lower-volume depository institutions to gain the benefit of the change in coverage one year early, the final rule includes a temporary loan-volume test that goes into effect on January 1, 2017. Under this test, a currently reporting depository institution will not be required to continue to report unless it originates at least 25 home purchase loans (or refinancings of home purchase loans) in both 2015 and 2016.

The Bureau received many comments on the proposed changes to the loan-volume threshold. Industry commenters generally supported adopting a loan-volume threshold, but favored an even higher loan-volume threshold. On the other hand, many commenters highlighted the importance of the data reported by the depository institutions that would be excluded at the community level with the new thresholds, especially in rural and underserved areas or to low-and moderate-income individuals or minorities. The Bureau sought to balance the burden on financial institutions with the value of the data reported at the community level to meet HMDA's three purposes.

The Bureau considered several different loan-volume threshold alternatives and described the costs and benefits of these alternatives, to the extent permitted by available data, in greater detail in the final rule. As one example, Table 5 in part VII.F.3 of the final rule summarizes the number of institutions and applications that would be excluded under closed-end reporting thresholds of 25,

50, 100, 250, and 500 loans.¹ The Bureau believes that a threshold of 25 closed-end mortgage loans provides a meaningful reduction in burden by reducing the number of small depository institution reporters while preserving important data about communities and consumers.

Higher thresholds would further reduce burden but would produce data losses that would undermine the benefits provided by HMDA data. Bureau estimates of the loss of data in communities at those different closed-end mortgage loan volume thresholds are also provided in the final rule.² For example, Table 6 in part VII.F.3 of the final rule shows that at a closed-end reporting threshold of 100, the number of census tracts that would lose over 20 percent of reported data would increase from about 45 tracts to about 385 tracts, almost eight times more than the number with a threshold set at 25 closed-end mortgage loans. The number of affected low- to-moderate-income tracts would increase from about 20 tracts to about 145 tracts, an increase of over six times the number at the 25-loan level. The Bureau determined that the loss of data in communities at closed-end mortgage loan-volume thresholds higher than 25 would substantially impede the public's and public officials' ability to understand access to credit in their communities. Information on data sources the Bureau used to identify depository institutions for these estimates is also available in the final rule.

Thank you for your continued interest in the Bureau's work. Please do not hesitate to contact me should you have any additional questions, or have your staff contact Catherine Galicia or Tim Sheehan in the Bureau's Office of Legislative Affairs. Mrs. Galicia can be reached at 202-435-9711 and Mr. Sheehan can be reached at 202-435-7004. I look forward to working with you on this and other consumer financial protection matters of importance to you and your constituents.

Sincerely,



Richard Cordray
Director

cc: The Honorable Frank Guinta, Member of Congress
The Honorable Andy Barr, Member of Congress
The Honorable French Hill, Member of Congress
The Honorable Michael G. Fitzpatrick, Member of Congress
The Honorable Randy Hultgren, Member of Congress
The Honorable Blaine Luetkemeyer, Member of Congress

¹ See 80 FR 66127, 66279 (Oct. 28, 2015).

² *Id.*

The Honorable Robert Pittenger, Member of Congress
The Honorable Patrick T. McHenry, Member of Congress
The Honorable Bruce Poliquin, Member of Congress
The Honorable Luke Messer, Member of Congress
The Honorable David Schweikert, Member of Congress
The Honorable Mick Mulvany, Member of Congress
The Honorable Marlin A. Stutzman, Member of Congress
The Honorable Randy Neugebauer, Member of Congress
The Honorable Lynn Westmorland, Member of Congress
The Honorable Steve Pearce, Member of Congress
The Honorable Roger Williams, Member of Congress
The Honorable Scott Tipton, Member of Congress



February 11, 2016

The Honorable Mick Mulvaney
U.S. House of Representatives
2419 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Mulvaney:

Thank you for your letter about the Consumer Financial Protection Bureau's efforts to study and address small dollar lending practices. The Bureau is in the process of developing a Notice of Proposed Rulemaking to address concerns in markets for payday, vehicle title, and similar lending products. The NPRM will build on feedback we received from small businesses and other stakeholders after releasing an outline of proposals under consideration last spring.

The Bureau recognizes that the states have adopted a variety of different approaches to regulating small-dollar lending and continues to carefully consider existing state laws and regulations, as we have throughout our research and development of options to address potential consumer harm. In April 2013, the Bureau released a report entitled, *Payday Loans and Deposit Advance Products: A White Paper of Initial Data Findings*,¹ which references how variations in state laws may impact how products are structured. In March 2014, the Bureau released, *Data Point: Payday Lending*,² which presents findings on the impact of state laws and regulations on loan rollover rates. In addition, in March 2015, the Bureau published the *Outline of Proposals Under Consideration and Alternatives Considered*,³ as part of the Small Business Review Panel process, which also includes analysis relative to state laws and regulations. Moreover, the Bureau has met with representatives of state and local governments from around the country to hear directly about their experiences related to payday lending regulations.

The Bureau has a number of concerns about consumer injury in the markets for payday, vehicle title, and similar loans. While these markets are, in many jurisdictions, subject to state regulation, we remain concerned that consumers across the country face risks from practices in these markets. Among the Bureau's goals is to ensure that consumers are offered certain minimum protections no matter where they are located or whether they receive their loans from storefront or online lenders. State laws that afford consumers greater protection would not be preempted by a Bureau regulation on small dollar lending.

¹ Available at <http://www.consumerfinance.gov/about-us/research/publications/payday-loans-and-deposit-advance-products-a-white-paper-of-initial-data-findings/>

² Available at <http://www.consumerfinance.gov/about-us/research/publications/data-point-payday-lending/>

³ Available at <http://www.consumerfinance.gov/about-us/research/publications/outline-of-proposals-under-consideration-and-alternatives-considered/>

As the Bureau considers federal regulation of small dollar lending, we continue to solicit feedback from a variety of stakeholders, including industry participants, consumer advocates, and state and federal regulators. We have talked directly to regulators and policy makers at field hearings and in other settings across the country, and we appreciate the insights provided by other regulators who have implemented state regulatory frameworks.

As you know, the outline of proposals under consideration the Bureau released in March and the Small Business Review Panel that followed generated important early input as the Bureau moved into a full rulemaking process. Moreover, once the Bureau issues its proposed rule, the public, including industry participants, consumer advocates, and state and federal regulators, will be invited to submit written comments, which will be carefully considered before any final regulations are issued. Whenever the Bureau promulgates regulations, the agency is required, pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act, to consider the potential benefits and costs to consumers and to industry, including considering any impacts on access to consumer financial products and services resulting from the rule. Any final rule will have a designated implementation period for industry to come into compliance.

Thank you for your continued interest in the Bureau's payday lending work. I look forward to working with you on this and other consumer financial protection matters of importance to you and your constituents.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Cordray", written in a cursive style.

Richard Cordray
Director

Congress of the United States
Washington, DC 20515

March 14, 2016

The Honorable Richard Cordray
Director
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

Dear Director Cordray:

We write to express our concern that the approach taken by the Consumer Financial Protection Bureau (CFPB) – which does not routinely distinguish credit unions and community banks from some of the very large financial institutions and nonbank lenders – may unintentionally burden community based financial institutions and limit the choice and availability of consumer credit.

Credit unions and community banks provide safe and sound lending opportunities for their members and customers. Their focus on local lending and community development and the close-knit relationship they develop with those they serve is essential to preserve. As you consider consumer protection regulations, we urge you to account for the burden associated with compliance, particularly for smaller entities such as credit unions and community banks.

We want consumers to have all the information they need to make the right financial decisions for themselves and their families, and to ensure that bad actors are prevented from taking advantage of consumers. The furtherance of this mission requires CFPB not only to put in place strong consumer protections, but also to evaluate their effect on a complex financial marketplace made up of both very large financial institutions and much smaller entities.

The Government Accountability Office recently released a report on the impact of new regulatory requirements stemming from the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). The study found that there are a number of cases where financial services have been limited or discontinued by community based financial institutions due to new requirements. For example, new regulations on remittance transfers, which were imposed on all institutions that make more than one hundred transfers a year, have led to a number of smaller providers limiting or ending this service altogether due to the financial burdens associated with meeting the CFPB's new requirements.

When Congress passed the Dodd-Frank Act, it specifically recognized the need to tailor regulations to fit the diversity of the financial marketplace. Section 1022(b)(3)(a) gives the CFPB the authority to adapt regulations by allowing it to exempt “any class” of entity from its rulemakings. As you undertake rulemakings, we urge you to consider the benefits credit unions and community banks provide and ensure that regulations do not have the unintended consequences of limiting services or increasing costs for credit union members or community bank customers.

Thank you for your consideration. We look forward to working with you on this important matter.

Sincerely,


ADAM B. SCHIFF


STEVE STIVERS


RALPH ABRAHAM, M.D.


ALMA S. ADAMS, Ph.D.


ROBERT ADERHOLT


PETE AGUILAR


RICK ALLEN


JUSTIN AMASH


MARK AMODEI



BRAD ASHFORD


BRIAN BABIN


ANDY BARR

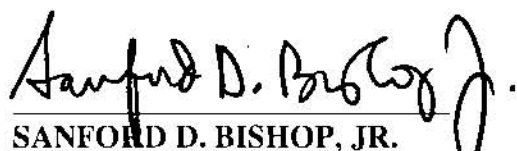

JOE BARTON


KAREN BASS


JOYCE BEATTY


AMI BERA


GUS BILIRAKIS


SANFORD D. BISHOP, JR.



MARSHA BLACKBURN

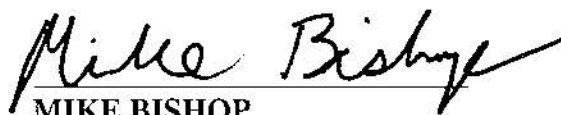

EARL BLUMENAUER

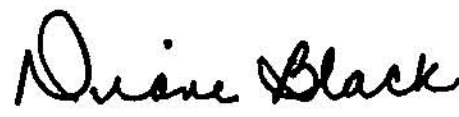

MIKE BOST



BRENDAN F. BOYLE


DAN BENISHEK, M.D.


DONALD S. BEYER, JR.

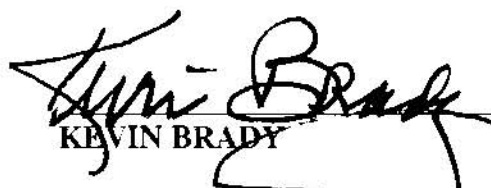

MIKE BISHOP


DIANE BLACK


ROD BLUM


SUZANNE BONAMICI


CHARLES W. BOUSTANY, JR., MD


KEVIN BRADY

Mo Brooks
MO BROOKS

Susan Brooks
SUSAN BROOKS

Corrine Brown
CORRINE BROWN

Julia Brownley
JULIA BROWNLEY

Larry Bucshon
LARRY BUCSHON, M.D.

Cheri Bustos
CHERI BUSTOS

G.K. Butterfield
G.K. BUTTERFIELD

Bradley Byrne
BRADLEY BYRNE

Ken Calvert
KEN CALVERT

Lois Capps
LOIS CAPPS

Tony Cardenas
TONY CÁRDENAS

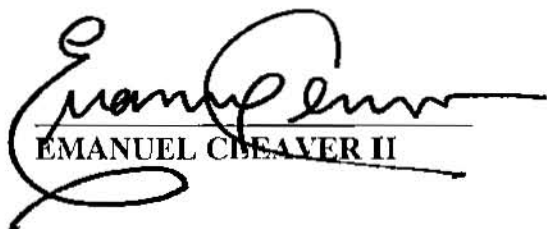
Andre Carson
ANDRE CARSON

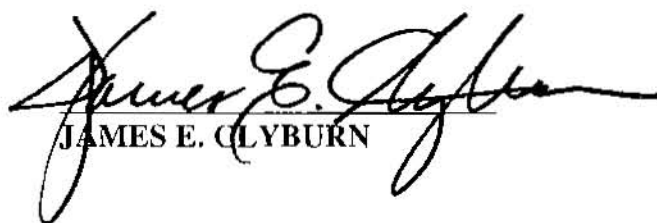
Earl L. 'Buddy' Carter
EARL L. 'BUDDY' CARTER

Kathy Castor
KATHY CASTOR

Steve Chabot
STEVE CHABOT

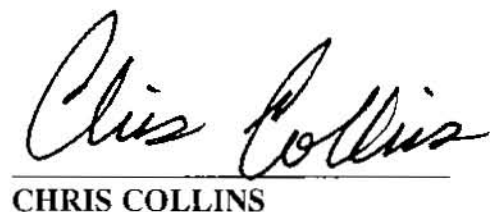
Yvette D. Clarke
YVETTE D. CLARKE


EMANUEL CHEEVER II


JAMES E. CLYBURN


MIKE COFFMAN


TOM COLE


CHRIS COLLINS

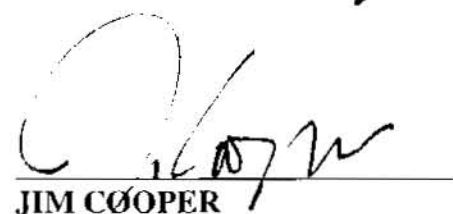

DOUG COLLINS


BARBARA COMSTOCK


K. MICHAEL CONAWAY


GERALD E. CONNOLLY


PAUL COOK


JIM COOPER



JIM COSTA


RYAN COSTELLO



JOE COURTNEY



KEVIN CRAMER


RICK CRAWFORD


ANDER CRENSHAW


HENRY CUELLAR


CARLOS CURBELO


RODNEY DAVIS


PETER DEFAZIO


SUZAN DELBENE


JEFF DENHAM


CHARLES W. DENT



RON DeSANTIS


MARK DeSAULNIER


SCOTT DesJARLAIS


MARIO DIAZ BALART


ROBERT J. DOLD

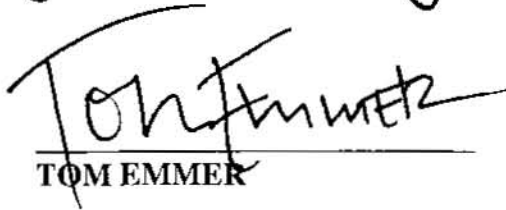

DANIEL M. DONOVAN, JR.

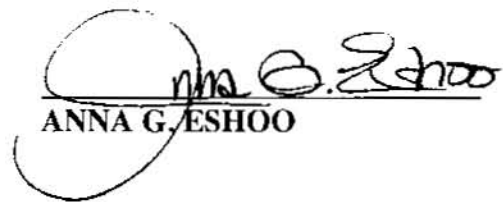

SEAN P. DUFFY


JEFF DUNCAN


JOHN S. DUNCAN, JR.


RENEE ELMERS


TOM EMMER


ANNA G. ESHOO


ELIZABETH ESTY


BLAKE FARENTHOLD


SAM FARR


STEPHEN FINCHER


MICHAEL FITZPATRICK


CHUCK FLEISCHMANN


BILL FLORES


RANDY FORBES

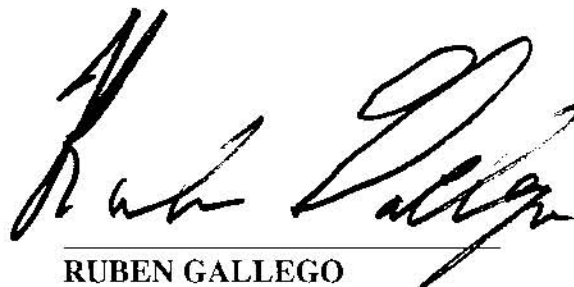

JEFF FORTENBERRY


BILL FOSTER


LOIS FRANKEL


TRENT FRANKS


MARCIA L. FUDGE


RUBEN GALLEGO


JOHN GARAMENDI



SCOTT GARRETT


BOB GIBBS


CHRIS GIBSON


BOB GOODLATTE


PAUL GOSAR, D.D.S.


TREY GOWDY


KAY GRANGER


GARRET GRAVES


SAM GRAVES


TOM GRAVES


ALAN GRAYSON


GENE GREEN


H. MORGAN GRIFFITH

Michelle Lujan Grisham
MICHELLE LUJAN GRISHAM

Glenn Grothman
GLENN GROTHMAN

Frank C. Guinta
FRANK GUINTA

Brett Guthrie
BRETT GUTHRIE

Janice Hahn
JANICE HAHN

Richard Hanna
RICHARD HANNA

Cresent Hardy
CRESENT HARDY

Gregg Harper
GREGG HARPER

Vicky Hartzler
VICKY HARTZLER

Alcee Hastings
ALCEE HASTINGS

Joe Heck
JOE HECK

Jaime Herrera Beutler
JAIME HERRERA BEUTLER

Jody Hice
JODY HICE

Brian Higgins
BRIAN HIGGINS


French Hill
FRENCH HILL

James Himes
JAMES HIMES

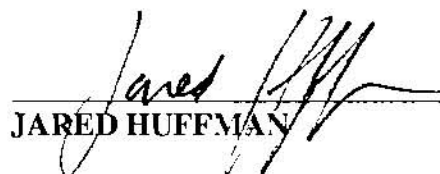

RUBÈN HINOJOSA


GEORGE HOLDING



MIKE HONDA


RICHARD HUDSON


TIM HUELSKAMP


JARED HUFFMAN


BILL HUIZENGA


RANDY HULTGREN


DUNCAN HUNTER


WILL HURD


ROBERT HURT


STEVE ISRAEL


EVAN JENKINS


LYNN JENKINS


BILL JOHNSON


HANK JOHNSON

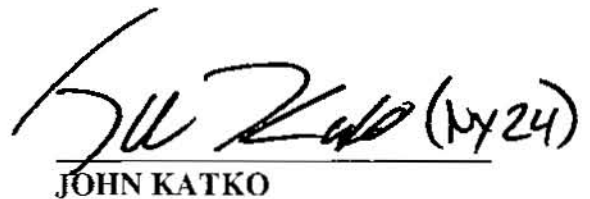

DAVID JOLLY

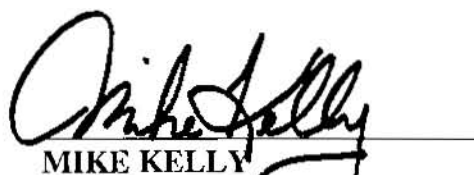

WALTER B. JONES


JIM JORDAN

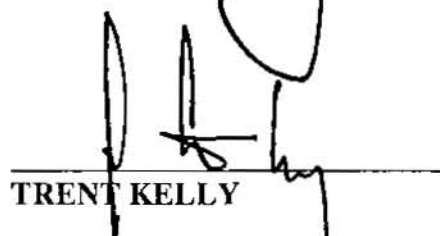

DAVID JOYCE


MARCY KAPTUR

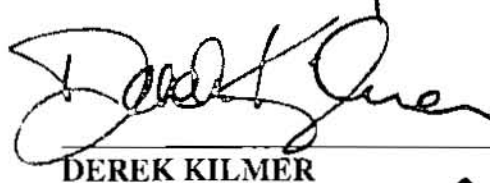

JOHN KATKO


MIKE KELLY

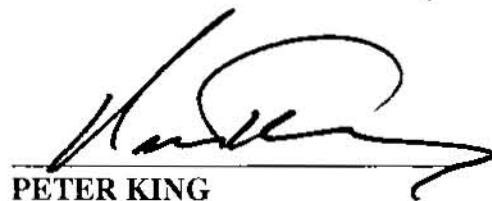

ROBIN L. KELLY


TRENT KELLY


DAN KILDEE


DEREK KILMER


RON KIND



PETER KING


STEVE KING


ADAM KINZINGER


ANN KIRKPATRICK


JOHN KLINE


STEVE KNIGHT


ANN McLANE KUSTER


RAÚL R. LABRADOR


DARIN LaHOOD


DOUG LaMALFA


DOUG LAMBORN



LEONARD LANCE

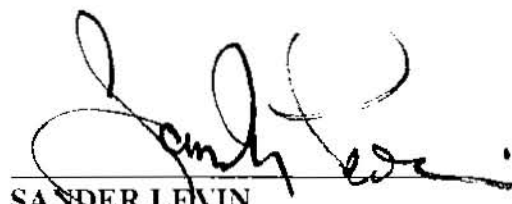

JAMES R. LANGEVIN

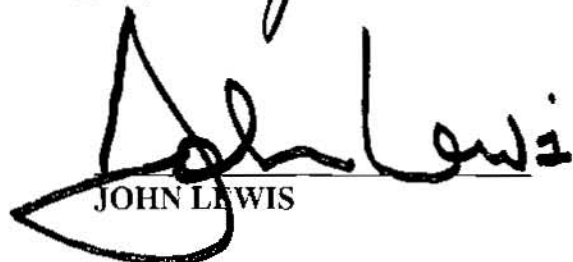

RICK LARSEN

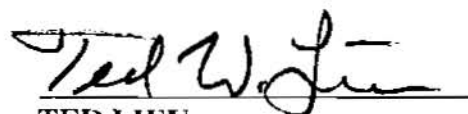

ROBERT E. LATTA


BRENDA LAWRENCE


SHEILA JACKSON LEE


SANDER LEVIN


JOHN LEWIS


TED LIEU

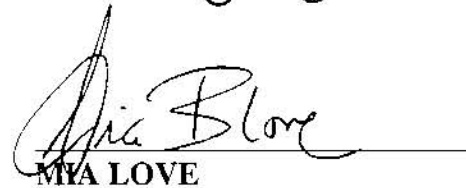

DANIEL LIPINSKI


FRANK A. LoBIONDO



DAVE LOEBSACK


BILLY LONG


BOBBY LOUDERMILK


MIA LOVE


ALAN LOWENTHAL


NITA M. LOWEY

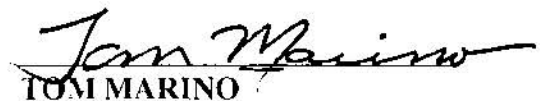

FRANK LUCAS


BLAINE LUETKEMEYER


BEN R. LUJAN


CYNTHIA LUMMIS


KENNY MARCHANT


TOM MARINO


THOMAS MASSIE


MICHAEL T. McCAUL


TOM McCLINTOCK


BETTY MCCOLLUM


JAMES P. McGOVERN


PATRICK McHENRY


DAVID B. McKINLEY, P.E.


CATHY McMORRIS RODGERS


JERRY McNERNEY


MARTHA McSALLY


MARK MEADOWS


PATRICK MEEHAN

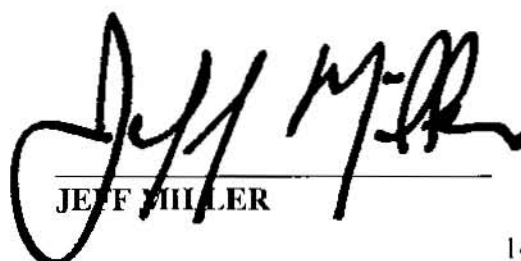

GREGORY MEEKS


GRACE MENG


LUKE MESSER



JOHN L. MICA


CANDICE S. MILLER


JEFF MILLER


JOHN MOOLENAAR


ALEX X. MOONEY


SETH MOULTON


MARKWAYNE MULLIN



MICK MULVANEY


PATRICK E. MURPHY



TIM MURPHY


GRACE F. NAPOLITANO


RANDY NEUGEBAUER


DAN NEWHOUSE


KRISTI NOEM


RICHARD M. NOLAN


DONALD NORCROSS


ELEANOR HOLMES NORTON


RICH NUGENT


DEVIN NUNES



STEVEN PALAZZO



GARY PALMER



BILL PASCRELL, JR



ERIK PAULSEN



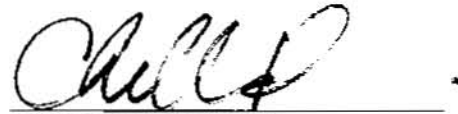
STEVE PEARCE



SCOTT H. PETERS



COLLIN PETERSON



CHELLIE PINGREE



ROBERT PITTENGER



STACEY PLASKETT



MARK POCAN



BRUCE POLIQUIN



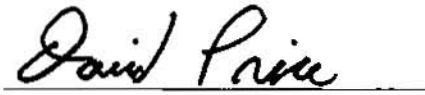
JARED POLIS




MIKE POMPEO




BILL POSEY



DAVID PRICE


TOM PRICE, M.D.


MIKE QUIGLEY

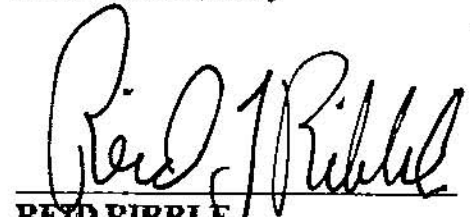

AUMUA AMATA RADEWAGEN


JOHN RATCLIFFE


TOM REED


DAVE REICHERT


JIM RENACCI


REID RIBBLE


KATHLEEN M. RICE

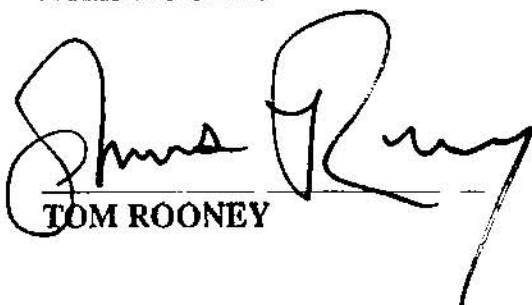

TOM RICE


CEDRIC RICHMOND


DAVID 'PHIL' ROE, M.D.


MIKE ROGERS


TODD ROKITA


TOM ROONEY


PETER ROSKAM


ILEANA ROS-LEHTINEN

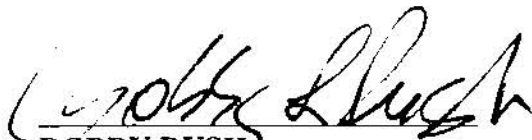

DENNIS A. ROSS


KEITH ROTHFUS


DAVID ROUZER


ED ROYCE
7


RAUL RUIZ



BOBBY RUSH


STEVE RUSSELL


TIM RYAN


MATT SALMON


LINDA T. SÁNCHEZ


MARK SANFORD


STEVE SCALISE

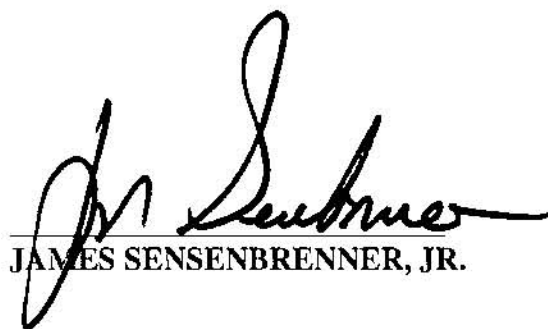

KURT SCHRADER


DAVID SCHWEIKERT


AUSTIN SCOTT



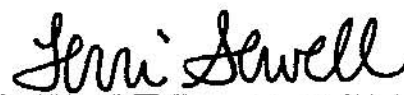
DAVID SCOTT



JAMES SENSENBRENNER, JR.



PETE SESSIONS



TERRI SEWELL



BRAD SHERMAN



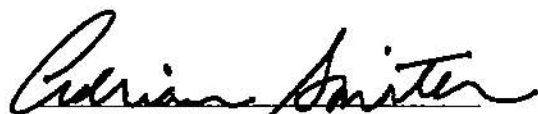
JOHN SHIMKUS



BILL SHUSTER



MIKE SIMPSON



ADRIAN SMITH



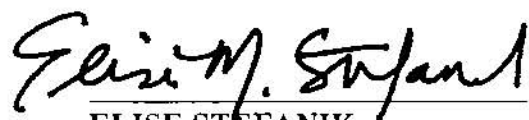
JASON SMITH



LAMAR SMITH



JACKIE SPEIER



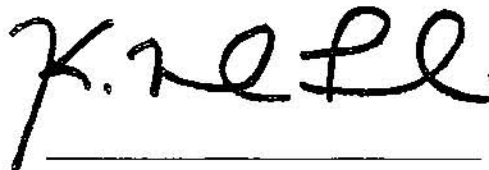
ELISE STEFANIK



MARLIN STUTZMAN



ERIC SWALWELL




MARK TAKAI

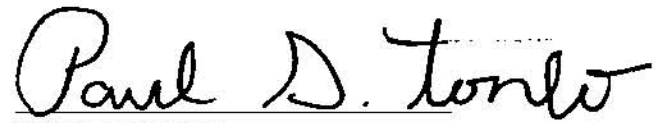

GLENN 'GT' THOMPSON


MIKE THOMPSON


PATRICK J. TIBERI


SCOTT TIPTON


DINA TITUS


PAUL TONKO


NORMA TORRES


DAVE TROTT


NIKI TSONGAS


MICHAEL R. TURNER


FRED UPTON

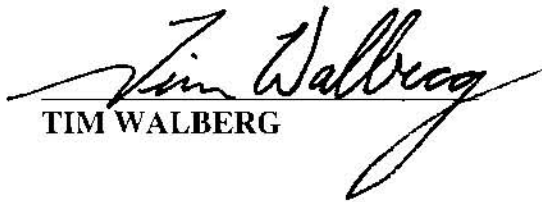

DAVID G. VALADAO


JUAN VARGAS


MARC VEASEY


FILEMON VELA


ANN WAGNER


TIM WALBERG


MARK WALKER


MIMI WALTERS


RANDY WEBER


PETER WELCH

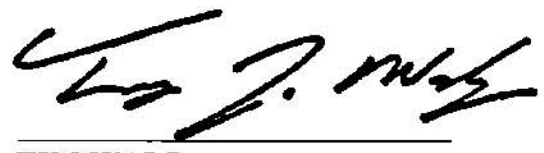

BRUCE WESTERMAN


ED WHITFIELD


FREDERICA WILSON


GREG WALDEN

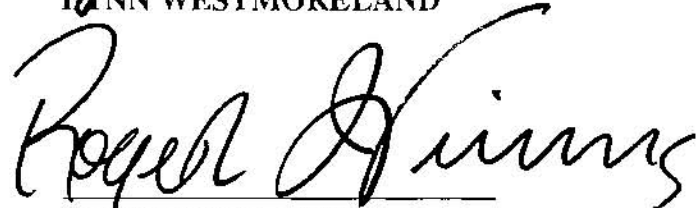

JACKIE WALORSKI


TIM WALZ


DANIEL WEBSTER


BRAD WENSTRUP


LYNN WESTMORELAND


ROGER WILLIAMS

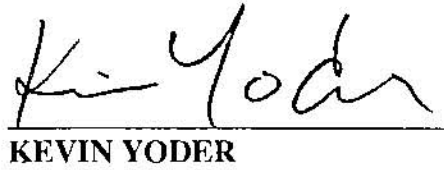

JOE WILSON

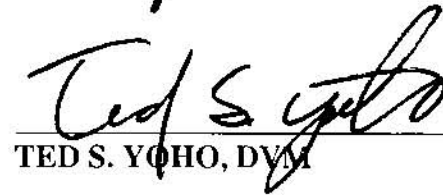

ROBERT J. WITTMAN

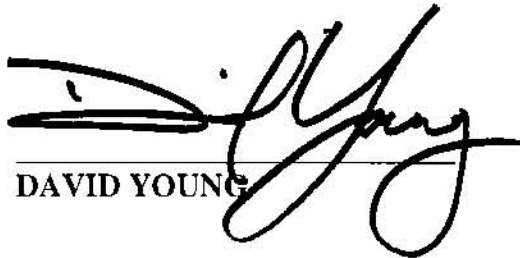

STEVE WOMACK


ROB WOODALL

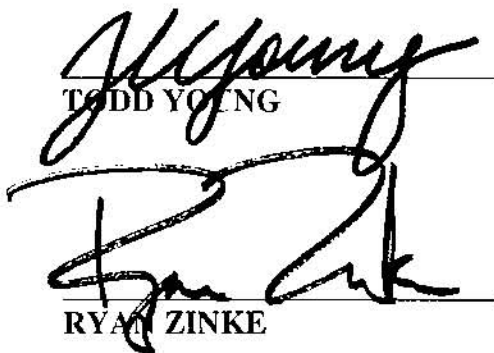

JOHN YARMUTH



KEVIN YODER

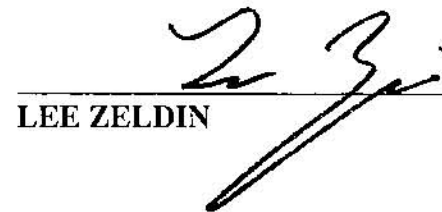

TED S. YOHIO, DVM


DAVID YOUNG


DON YOUNG


TODD YOUNG


RYAN ZINKE


LEE ZELDIN

Congress of the United States
Washington, DC 20515

March 28, 2016

The Honorable Janet Yellen
Chair of the Fed
Board of Governors of the Federal Reserve System
Twentieth Street and Constitution Avenue, NW
Washington, D.C. 20551

The Honorable Thomas J. Curry
Comptroller of the Currency
U.S. Department of the Treasury
400 7th Street, SW
Washington, D.C. 20219

The Honorable Martin J. Gruenberg
Chairman
Federal Deposit Insurance Corporation
550 Seventeenth Street, NW
Washington, D.C. 20429

The Honorable Deborah Matz
Chairman
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314-3428

The Honorable Richard Cordray
Director
Bureau of Consumer Financial Protection
1700 G Street, NW
Washington, DC 20552

Ladies and Gentlemen:

The undersigned Members of Congress, representing a cross-section of rural, suburban and urban districts across this country, write to express our deep concern over the crushing impact that ever-expanding regulatory burdens are having on the ability of our nation's financial institutions, particularly community banks, to serve the economic needs of our growing economy. The aggregate weight of these new regulations is stifling the efforts of community lending institutions to serve the economic needs of the individuals, businesses and local communities that are the life blood of our nation.

While opinions differ on the necessity of various regulations, one concept of how regulations should be structured has been uniformly embraced – the need to “tailor” regulations so that they are the right “fit” for the institution involved. Rules must differentiate by business model, risk profile and also take into account whether the institution has the resources available to comply. Unfortunately, it is apparent from the current regulatory requirements that this is not the case. We should not be operating in a regulatory environment where a “best practice” for some is applied to all institutions regardless of size because the practical impact for banks of various sizes – community, mid-size, regional and the like – is consolidation or failure and as a result the communities they serve suffer. When, for example, community banks are subject to international capital rules designed for global banks, something is wrong with the way regulations are being applied. When regulators fail to fully grasp the compliance burdens of the many new mortgage rules to the point that financial institutions *exit the mortgage business*, it is abundantly clear that tailoring efforts have fallen short.

The failure to effectively calibrate the regulatory response to match the level of risk posed by the institutions has had a real impact on the ability of institutions to serve their communities.

So that we may better understand how the regulators are addressing our concerns and what obstacles exist that keep them from doing so, we respectfully ask that you provide us with the following information:

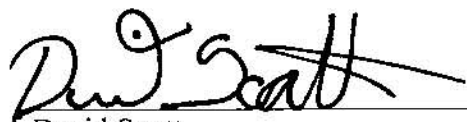
- Please identify specific major areas where regulators have taken action within your jurisdiction to tailor rules to the business model and risk of institutions or classes of institutions, outlining how you have done so.
- Please identify specific major areas where regulators lack the authority to tailor regulations to specific institutions or classes of institutions based on business model or risk, and where you believe additional authority would be helpful.
- Please identify specific major areas where regulators contemplate taking additional action to tailor regulations based on business model and risk, along with some thoughts with how you may do so.

The undersigned recognize that regulators have been tasked with substantial responsibilities to craft balanced regulations that address broad policy concerns while not creating unintended consequences. Given the urgency of this issue, we need to do more, and we look for your guidance in doing so.

Respectfully,



Scott Tipton
Member of Congress




David Scott
Member of Congress



Bruce Westerman
Member of Congress



Steve Stivers
Member of Congress



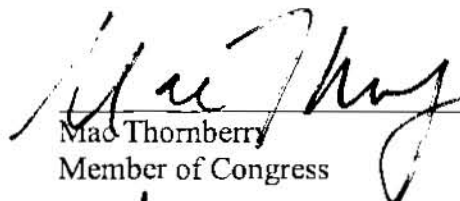
Blaine Loutkemeyer
Member of Congress



Ed Royce
Member of Congress



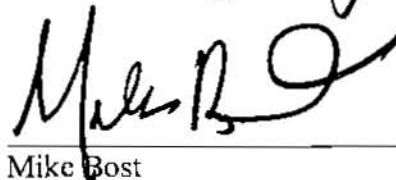
Filemon Vela
Member of Congress



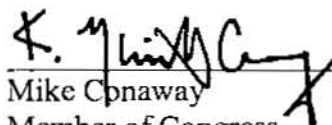
Mao Thornberry
Member of Congress



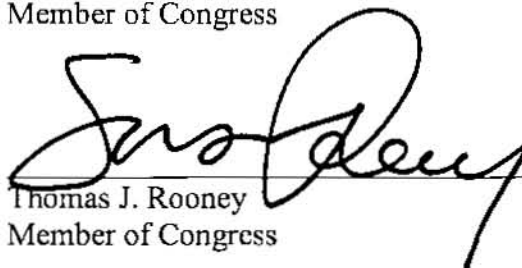
Rick Crawford
Member of Congress



Mike Bost
Member of Congress



Mike Conaway
Member of Congress



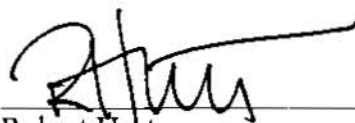
Thomas J. Rooney
Member of Congress



Mike Bishop
Member of Congress



Steve King
Member of Congress



Robert Hurt
Member of Congress



Brad Wenstrup
Member of Congress



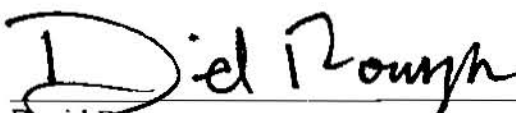
Brenda Lawrence
Member of Congress



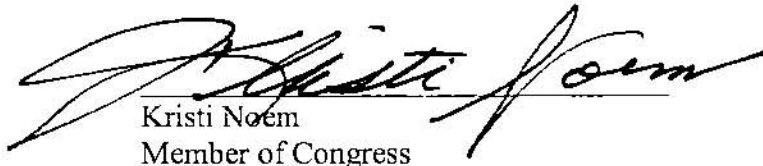
Glenn Grothman
Member of Congress



Lynn Jenkins
Member of Congress



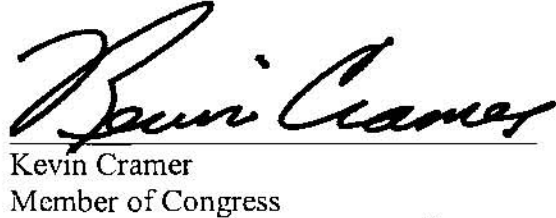
David Rouzer
Member of Congress



Kristi Noem
Member of Congress



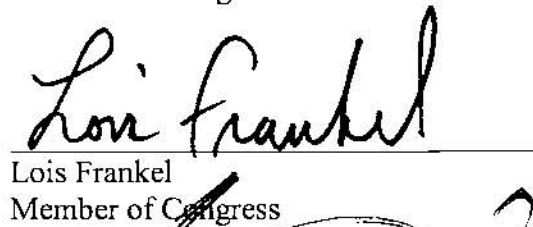
Daniel Webster
Member of Congress



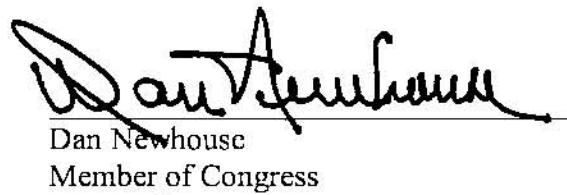
Kevin Cramer
Member of Congress



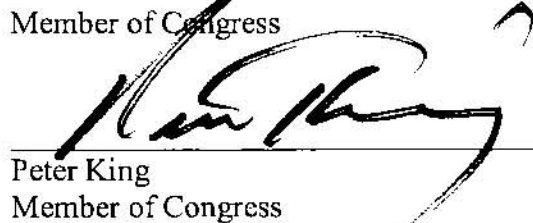
Ron Desantis
Member of Congress



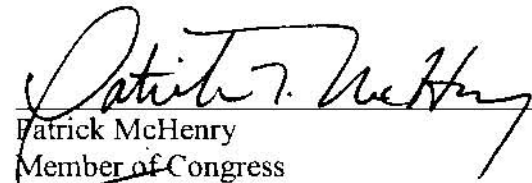
Lois Frankel
Member of Congress



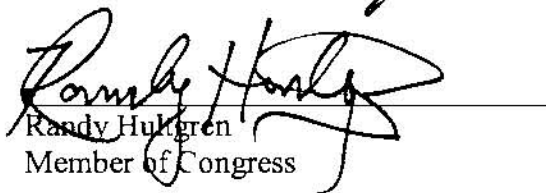
Dan Newhouse
Member of Congress



Peter King
Member of Congress



Patrick McHenry
Member of Congress



Randy Hultgren
Member of Congress



Tom Emmer
Member of Congress



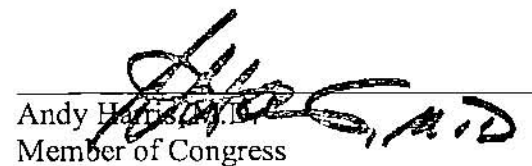
Tom Rice
Member of Congress



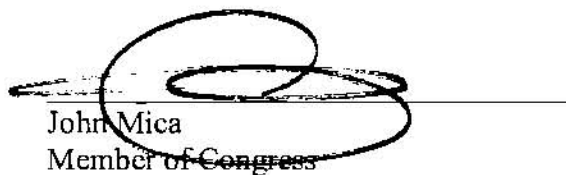
Evan Jenkins
Member of Congress



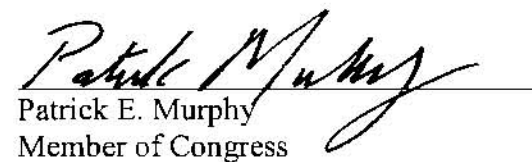
Jim Renacci
Member of Congress



Andy Harris
Member of Congress



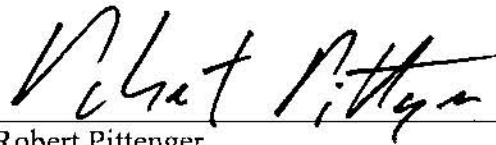
John Mica
Member of Congress



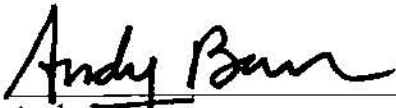
Patrick E. Murphy
Member of Congress



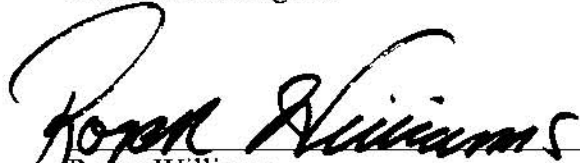
French Hill
Member of Congress



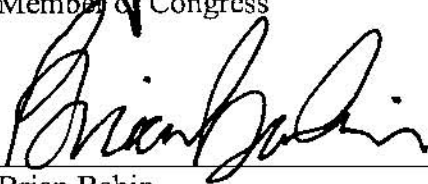
Robert Pittenger
Member of Congress



Andy Barr
Member of Congress



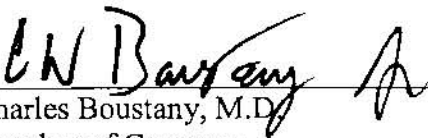
Roger Williams
Member of Congress



Brian Babin
Member of Congress



Erik Paulsen
Member of Congress



Charles Boustany, M.D.
Member of Congress




Thomas Massie
Member of Congress



Stephen Fincher
Member of Congress



Mark Sanford
Member of Congress



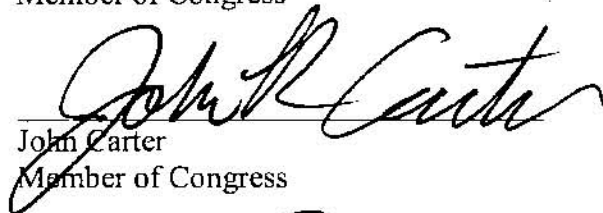
Alex Mooney
Member of Congress



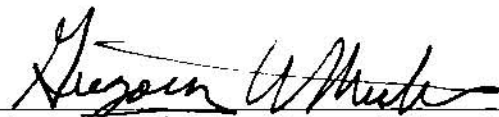
Steve Pearce
Member of Congress



Randy Neugebauer
Member of Congress



John Carter
Member of Congress



Gregory Meeks
Member of Congress



Brad Ashford
Member of Congress



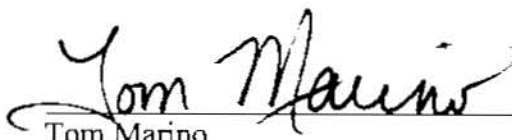
Robert Latta
Member of Congress



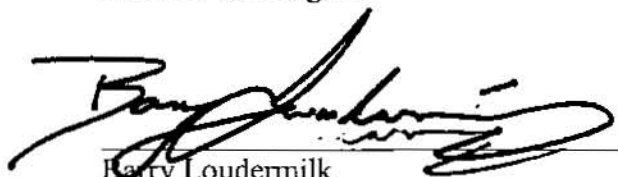
Dave Loebsack
Member of Congress



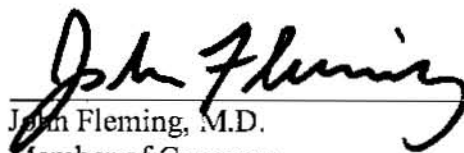
David W. Jolly
Member of Congress



Tom Marino
Member of Congress



Barry Loudermilk
Member of Congress



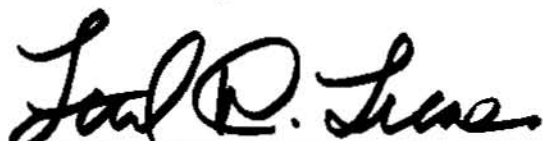
John Fleming, M.D.
Member of Congress



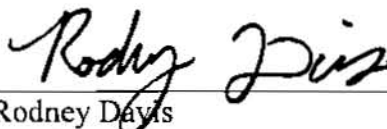
Dave Trott
Member of Congress



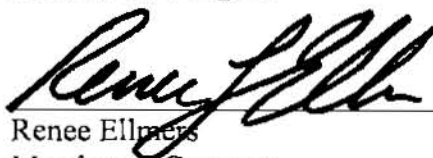
Blake Farenthold
Member of Congress



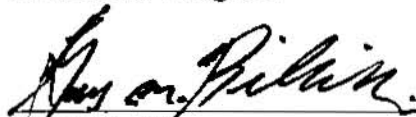
Frank Lucas
Member of Congress




Rodney Davis
Member of Congress



Renee Ellmers
Member of Congress



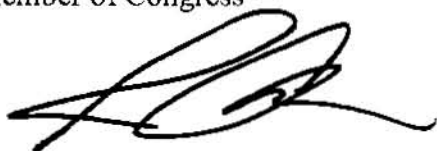
Gus Bilirakis
Member of Congress



Mia Love
Member of Congress



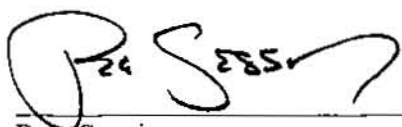
Rod Blum
Member of Congress



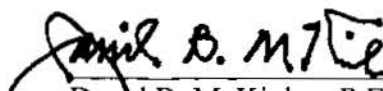
Ralph Abraham
Member of Congress



Chris Stewart
Member of Congress



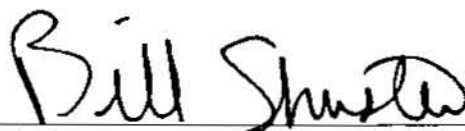
Pete Sessions
Member of Congress



David B. McKinley, P.E.
Member of Congress



Chuck Fleischmann
Member of Congress



Bill Shuster
Member of Congress



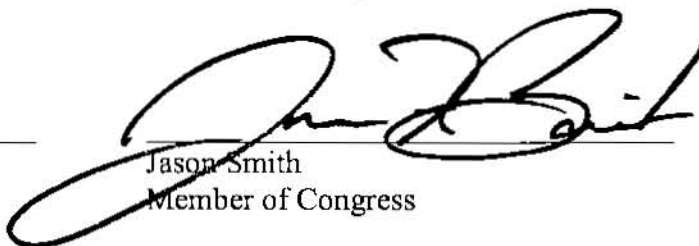
Collin Peterson
Member of Congress



Steve Russell
Member of Congress



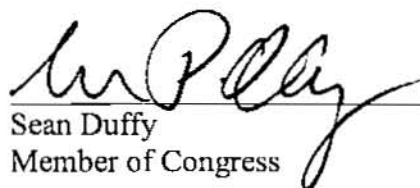
Ryan Zinke
Member of Congress



Jason Smith
Member of Congress



Dennis Ross
Member of Congress



Sean Duffy
Member of Congress



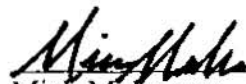
Mark Takai
Member of Congress



Vern Buchanan
Member of Congress



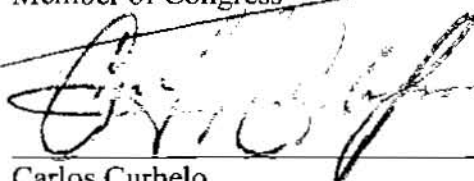
Denny Heck
Member of Congress



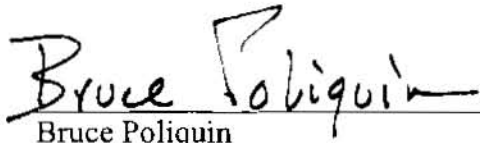
Mick Mulvaney
Member of Congress



Scott DesJarlais
Member of Congress



Carlos Curbelo
Member of Congress



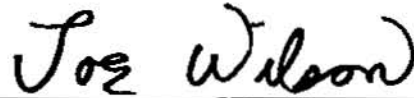
Bruce Poliquin
Member of Congress



Ileana Ros-Lehtinen
Member of Congress



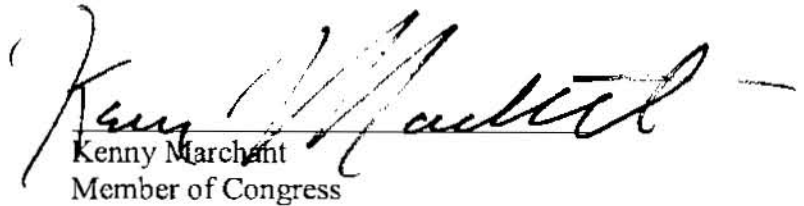
Mimi Walters
Member of Congress



Joe Wilson
Member of Congress



Mario Diaz-Balart
Member of Congress



Kenny Marchant
Member of Congress



Tim Huelskamp
Member of Congress



Brett Guthrie
Member of Congress



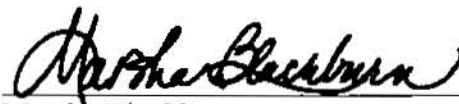
Lou Barletta
Member of Congress



Ann McLane Kuster
Member of Congress



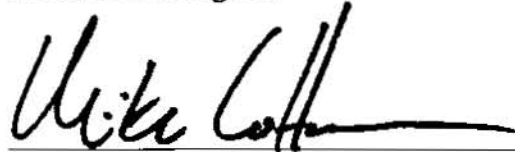
Kurt Schrader
Member of Congress




Marsha Blackburn
Member of Congress



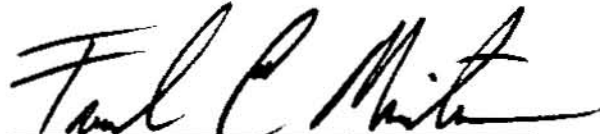
Mo Brooks
Member of Congress



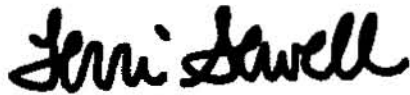
Mike Coffman
Member of Congress



Pat Tiberi
Member of Congress



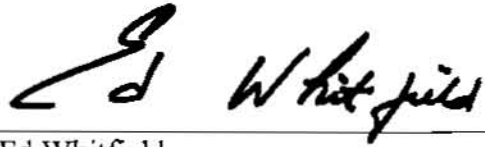
Frank Guinta
Member of Congress



Terri Sewell
Member of Congress



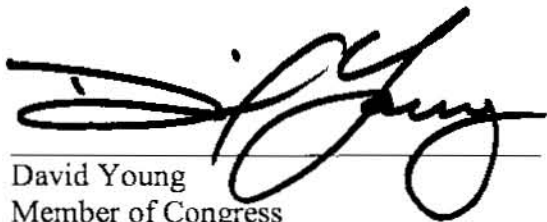
Alcee Hastings
Member of Congress



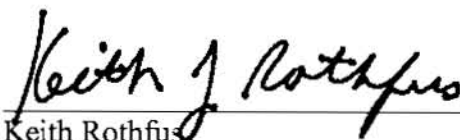
Ed Whitfield
Member of Congress



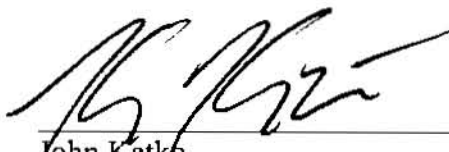
Mike Pompeo
Member of Congress



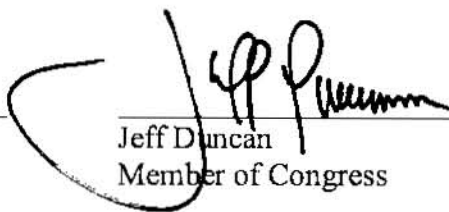
David Young
Member of Congress



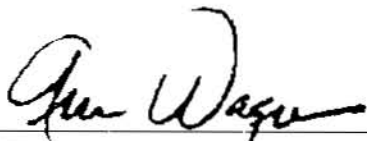
Keith Rothfus
Member of Congress



John Katko
Member of Congress



Jeff Duncan
Member of Congress



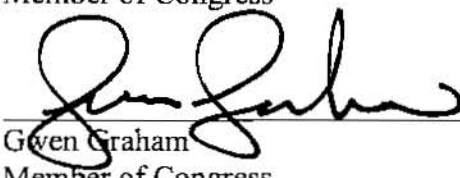
Ann Wagner
Member of Congress



Rob Bishop
Member of Congress



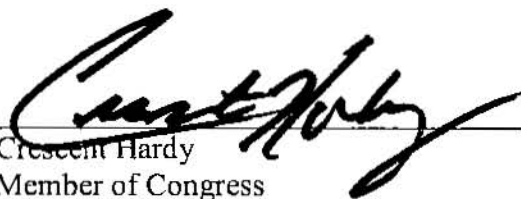
Rich Nugent
Member of Congress



Gwen Graham
Member of Congress



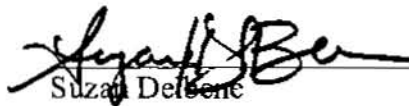
George Holding
Member of Congress



Crescent Hardy
Member of Congress



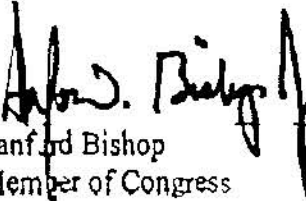
Derek Kilmer
Member of Congress




Suzan DelBene
Member of Congress



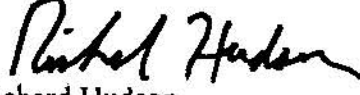
Gary Palmer
Member of Congress



Sanford Bishop
Member of Congress



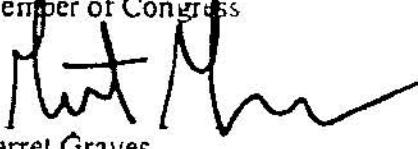
Cynthia Lummis
Member of Congress




Richard Hudson
Member of Congress



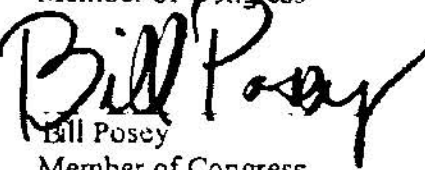
Mike Rogers
Member of Congress



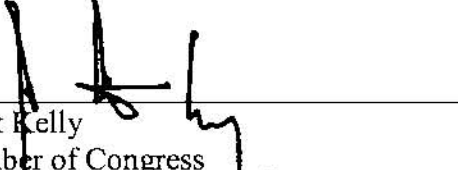
Garret Graves
Member of Congress



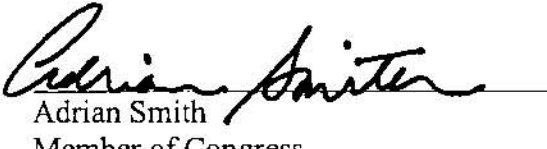
Dave Brat
Member of Congress



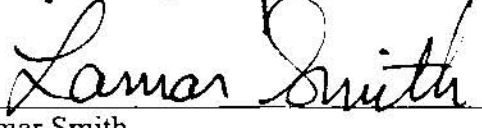
Bill Posey
Member of Congress



Trent Kelly
Member of Congress




Adrian Smith
Member of Congress



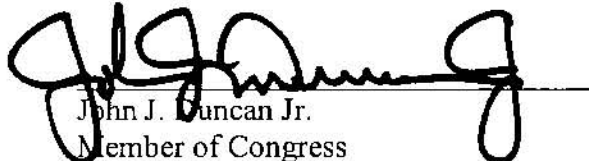
Lamar Smith
Member of Congress




Greg Walden
Member of Congress



Barbara Comstock
Member of Congress



John J. Duncan Jr.
Member of Congress



Martha Roby
Member of Congress



Markwayne Mullin
Member of Congress

Tulsi Gabbard

Tulsi Gabbard
Member of Congress

Questions for the Record submitted by Rep. Mick Mulvaney (R-SC)

Committee on Financial Services

Hearing on "The Semi-Annual Report of the Bureau of Consumer Financial Protection"

Witness: The Honorable Richard Cordray, Director, Consumer Financial Protection Bureau

Hearing Date: March 16, 2016

Question #1: Director Cordray, in remarks you made during a February 3, 2016 field hearing on checking account access, you acknowledged as a "positive development" the decision some banks and credit unions have made to provide consumers with real-time information about their available account funds using modern communication tools, such as online banking and text and e-mail alerts. You stated that this real-time communication can reduce the risks that consumers inadvertently overspend their accounts.

Wouldn't the use of modern communication methods with consumers who owe a debt offer a similar benefit of early and effective access to important financial information, giving consumers an opportunity to resolve their accounts in a timely way? This seems particularly helpful in instances when they may have inadvertently missed a payment, reducing the risk of future financial harm. Wouldn't this also be a positive development?

Congress of the United States
Washington, DC 20515

April 8, 2016

The Honorable Richard Cordray
Director
Bureau of Consumer Financial Protection
1700 G Street, NW
Washington, D.C. 20552

Dear Director Cordray:

We write to you today regarding the Bureau of Consumer Financial Protection's ("Bureau") efforts to regulate short-term, small dollar credit products. Specifically, we are concerned with the Bureau's disregard for state and tribal sovereignty and the existing state-based regulatory framework.

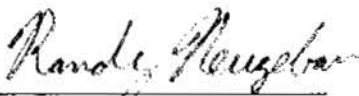
As you know, of the 50 states, the legislatures of 35 have affirmatively enacted small dollar, short-term lending laws of varying permutations of protections, including and up to outright bans. The remaining 15 states also address the issue, either by affirmatively declining to enact an authorizing law to govern the industry, or choosing to regulate via more widely applicable caps on lending interest rates. In fact, no state lacks the authority to enact, repeal, or amend its own short-term, small dollar lending laws in order to provide greater protections to its consumers.

Unfortunately, on numerous occasions the Bureau has publicly highlighted its disregard for the current state-based regulatory framework. For example, in an April 23, 2015 hearing in the Financial Institutions and Consumer Credit Subcommittee, Acting Deputy Director Dave Silberman said, "We have not thought about a state that doesn't have the authority." In a March 15, 2016 letter to House Financial Services Committee Chairman Jeb Hensarling you stated, "That is not how we approach these issues." Your regulatory posture ignores the popular voice of states and sovereign Indian tribes that have carefully crafted laws to balance consumer protection and access to credit.

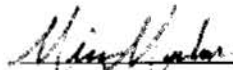
Over the last several years, numerous elected state officials from both parties have written to you expressing concern with the Bureau's efforts. Specifically, they have highlighted concerns with the Bureau's efforts to preempt state laws by setting a federal legal floor. Curiously, the CFPB has, on numerous occasions, refused to concede that it will be preempting any state laws. In testimony on March 16, 2016 before the Financial Services Committee you stated "I don't think we intend to preempt state law." Further, you disagreed with Indiana Attorney General Zoeller's characterization of your efforts as preemption. Yet your own definition of preemption, expressed in testimony at the same hearing, would fit the situation before us today. You said, "Preemption is when the federal government overrides state law and invalidates state law." By setting a federal legal floor, you will override and invalidate state laws that are less restrictive than your federal legal floor. You should recognize this principle from your days as a state attorney general as "conflict preemption". Unfortunately, you have failed to adequately engage state and tribal officials to hear their concerns and ensure your rulemaking respects past efforts in all 50 states and lands held in trust for the benefit of federally-recognized Indian tribes.

To ensure that the perspective of elected state and tribal officials are adequately considered, we respectfully request that the Bureau convene a forum or roundtable comprised of these elected state and tribal officials before any proposed regulation is introduced. A forum of this type will ensure that the Bureau carefully considers the perspectives of these officials as it relates to market trends, access to credit issues, and state regulatory models and experiences. To move forward with a proposed regulation before such forum is held would be irresponsible and disrespectful to the principles of the 10th Amendment of the United States Constitution. Please inform us of your plans to convene such a forum by Friday, April 20, 2016.

Sincerely,



Randy Neugebauer
Member of Congress



Mick Mulvany
Member of Congress



April 13, 2016

The Honorable Adam B. Schiff
U.S. House of Representatives
2411 Rayburn House Office Building
Washington, DC 20515

The Honorable Steve Stivers
U.S. House of Representatives
1022 Longworth House Office Building
Washington, DC 20515

Dear Congressman Schiff and Congressman Stivers:

Thank you for your letter concerning the importance of well-tailored and effective regulations. The Consumer Financial Protection Bureau is committed to this objective in accordance with the provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act. As the Bureau continues its work, consumer financial markets are showing increasing signs of health. Equally significant is the strength being exhibited by community banks and credit unions.

Under Section 1021 of the Dodd-Frank Act, the purpose of the Bureau is to implement and, where applicable, enforce Federal consumer financial laws consistently to ensure that all consumers have access to markets for consumer financial products and services, and that such markets are fair, transparent, and competitive. Section 1021 further provides that one of the Bureau's objectives, in exercise of its authorities, is to enforce Federal consumer financial law "consistently, without regard to the status of a person as a depository institution, in order to promote fair competition."¹

Section 1022 of the Dodd-Frank Act authorizes the Bureau to engage in rulemaking and issue orders and guidance to administer and carry out the purposes and objectives of the Federal consumer financial laws, and to prevent evasions thereof. In doing so, Section 1022 requires that the Bureau consider the potential benefits and costs to consumers and covered persons, including the potential reduction of access to consumer financial products and services to consumers. Section 1022 also requires the Bureau to consider the impact of a proposed rule on insured depository institutions and credit unions with total assets of \$10 billion or less as well as the impact on consumers in rural areas. Moreover, Section 1022 gives the Bureau the authority to create exemptions from the Consumer Financial Protection Act of 2010 or rules issued under that Act for any class of covered persons, service providers, or consumer financial products or services if the Bureau determines an exemption is necessary or appropriate to carry out the purposes and objectives of the Consumer Financial Protection Act after taking into consideration a set of factors specified in the statute.

As part of the Bureau's commitment to achieving tailored and effective regulations, the Bureau has taken a number of steps to provide relief to small financial entities in its rulemakings, including:

¹ Pub. L. 111-203, Title X, § 1021(b)(4) (July 21, 2010); 12 U.S.C. § 5511(b)(4).

- **Expanded safe harbor for small creditors.** A small creditor has a broader safe harbor for its Qualified Mortgage (QM) loans than non-small creditors. The Bureau's rules provide a safe harbor for QMs with annual percentage rate (APR) spreads over Average Prime Offer Rate (APOR) up to 350 basis points, whereas non-small creditors have a safe harbor for spreads up to 150 basis points. The Bureau's rules also allow a small creditor to make QMs with debt-to-income ratios that exceed the otherwise applicable 43 percent cap. (Small creditors must hold these loans in portfolio for three years.)
- **Exempted small creditors in rural and underserved areas.** Currently, small creditors that operate predominantly in rural or underserved areas are exempt from requirements to establish escrow accounts for higher priced mortgage loans and may offer QMs and Home Ownership and Equity Protection Act (HOEPA) loans ("high cost" mortgages as defined in the HOEPA) that have balloon payment features. QMs and HOEPA loans generally cannot have balloon payments.
- **Implemented a two-year pause for small creditors.** The Bureau established a two-year transition period (until January 10, 2016) allowing small creditors to make balloon-payment QMs and balloon-payment HOEPA loans regardless of whether they operate predominantly in rural or underserved areas, while the Bureau revisited and reconsidered the definition of "rural" for this purpose.
- **Expanded exemptions for rural and underserved areas.** In connection with other changes to amend the definitions of "small creditor" and "rural area," the Bureau published a final rule in October 2015 that extended this two-year transition period from January 2016 until April 2016. The Bureau's final rule also provided a significant expansion of "rural," as well as an expansion of which entities can qualify as "small creditors." The Bureau's final rule took effect on January 1, 2016, before the two-year transition period expired. In March 2016, the Bureau issued an interim final rule that implements the Helping Expand Lending Practices in Rural Communities Act, and makes these provisions available to small creditors that extend at least one covered transaction secured by property located in a rural or underserved area in the previous calendar year. About 6,000 additional small creditors will be eligible as a result of this change.
- **Relaxed requirements for appraisals.** Small creditors have relaxed rules regarding conflict of interest in ordering appraisals and other valuations.
- **Exempted small servicers from providing periodic statements.** Small servicers are exempt from the Truth in Lending Act requirement to provide periodic statements.
- **Exempted small servicers from loss mitigation requirements.** Small servicers are exempt from all of the Real Estate Settlement Procedures Act provisions on policies and procedures; early intervention; continuity of contact; and loss mitigation, except that a small servicer may not file for foreclosure unless the borrower is more than 120 days delinquent on the mortgage. Small servicers may also not file for foreclosure (or move for

a foreclosure judgment or order of sale, or conduct a foreclosure sale) if a borrower is performing under the terms of a loss mitigation agreement.

- **Exempted lower-volume depository institutions from Home Mortgage Disclosure Act reporting.** In October of 2015, the Bureau adopted a final rule revising Regulation C, which implements HMDA. HMDA and Regulation C, among other things, require covered mortgage lenders to report data concerning their mortgage lending activity. Changes to coverage in the final rule will reduce the number of banks, savings associations, and credit unions that are required to report HMDA data. The revisions will relieve about 22 percent of currently reporting depository institutions from the burden of reporting HMDA data.
- **Provided regulatory certainty for small entities under Regulation E.** In the Bureau's rules implementing the Dodd-Frank Act's amendments to the Electronic Fund Transfer Act, the Bureau determined that the remittance requirements do not apply to transfers sent by entities that provide 100 or fewer remittances each year.

Also, your letter references the Government Accountability Office's recent report on implementation of the Dodd-Frank Act, which is GAO's fifth such statutorily required report. In its report, GAO provides numerous examples, including the Bureau's mortgage and remittance rules, of where the Bureau has provided exemptions for its various rulemakings, specifically to reduce the rules' impact on smaller entities, including community banks and credit unions. GAO's report also recognizes that statutory obligations unique to the Bureau require both prospective assessments in its rulemakings of potential benefits and costs to consumers and covered persons as well as retrospective assessments of significant rules or orders adopted by the Bureau.²

As I have consistently said in the past, the Bureau recognizes that community banks and credit unions did not cause the financial crisis. For that reason, the Bureau is committed to ensuring that the regulations that we promulgate are well-tailored and effective. Should you have any additional questions about the Bureau's rulemaking, please do not hesitate to contact me, or have your staff contact Catherine Galicia in the Bureau's Office of Legislative Affairs. Mrs. Galicia can be reached at 202-435-9711.

Sincerely,



Richard Cordray
Director

cc: The Honorable Ralph Abraham, M.D., Member of Congress
The Honorable Alma S. Adams, Ph.D., Member of Congress
The Honorable Robert Aderholt, Member of Congress

² Government Accountability Office, *Dodd-Frank Regulations: Impacts on Community Banks, Credit Unions and Systemically Important Institutions* (GAO-16-169) (December 30, 2015).

The Honorable Pete Aguilar, Member of Congress
The Honorable Rick Allen, Member of Congress
The Honorable Justin Amash, Member of Congress
The Honorable Mark Amodei, Member of Congress
The Honorable Brad Ashford, Member of Congress
The Honorable Brian Babin, Member of Congress
The Honorable Andy Barr, Member of Congress
The Honorable Joe Barton, Member of Congress
The Honorable Karen Bass, Member of Congress
The Honorable Joyce Beatty, Member of Congress
The Honorable Dan Benishck, M.D., Member of Congress
The Honorable Ami Bera, Member of Congress
The Honorable Donald S. Beyer, Jr., Member of Congress
The Honorable Gus Bilirakis, Member of Congress
The Honorable Mike Bishop, Member of Congress
The Honorable Sanford D. Bishop, Jr., Member of Congress
The Honorable Diane Black, Member of Congress
The Honorable Marsha Blackburn, Member of Congress
The Honorable Rob Blum, Member of Congress
The Honorable Earl Blumenauer, Member of Congress
The Honorable Suzanne Bonamici, Member of Congress
The Honorable Mike Bost, Member of Congress
The Honorable Charles W. Boustany, Jr., M.D., Member of Congress
The Honorable Brendan F. Boyle, Member of Congress
The Honorable Kevin Brady, Member of Congress
The Honorable Mo Brooks, Member of Congress
The Honorable Susan Brooks, Member of Congress
The Honorable Corrine Brown, Member of Congress
The Honorable Julia Brownley, Member of Congress
The Honorable Larry Bucshon, M.D., Member of Congress
The Honorable Cheri Bustos, Member of Congress
The Honorable G.K. Butterfield, Member of Congress
The Honorable Bradley Byrne, Member of Congress
The Honorable Ken Calvert, Member of Congress
The Honorable Lois Capps, Member of Congress
The Honorable Tony Cárdenas, Member of Congress
The Honorable André Carson, Member of Congress
The Honorable Earl L. 'Buddy' Carter, Member of Congress
The Honorable Kathy Castor, Member of Congress
The Honorable Steve Chabot, Member of Congress
The Honorable Yvette D. Clarke, Member of Congress
The Honorable Emanuel Cleaver II, Member of Congress
The Honorable James E. Clyburn, Member of Congress
The Honorable Mike Coffman, Member of Congress
The Honorable Tom Cole, Member of Congress
The Honorable Chris Collins, Member of Congress

The Honorable Doug Collins, Member of Congress
The Honorable Barbara Comstock, Member of Congress
The Honorable K. Michael Conaway, Member of Congress
The Honorable Gerald E. Connolly, Member of Congress
The Honorable Paul Cook, Member of Congress
The Honorable Jim Cooper, Member of Congress
The Honorable Jim Costa, Member of Congress
The Honorable Ryan Costello, Member of Congress
The Honorable Joe Courtney, Member of Congress
The Honorable Kevin Cramer, Member of Congress
The Honorable Rick Crawford, Member of Congress
The Honorable Ander Crenshaw, Member of Congress
The Honorable Henry Cuellar, Member of Congress
The Honorable Carlos Curbelo, Member of Congress
The Honorable Rodney Davis, Member of Congress
The Honorable Peter DeFazio, Member of Congress
The Honorable Suzan DelBene, Member of Congress
The Honorable Jeff Denham, Member of Congress
The Honorable Charles W. Dent, Member of Congress
The Honorable Ron DeSantis, Member of Congress
The Honorable Mark DeSaulnier, Member of Congress
The Honorable Scott DesJarlais, Member of Congress
The Honorable Mario Diaz Balart, Member of Congress
The Honorable Robert J. Dold, Member of Congress
The Honorable Daniel M. Donovan, Jr., Member of Congress
The Honorable Sean P. Duffy, Member of Congress
The Honorable Jeff Duncan, Member of Congress
The Honorable John J. Duncan, Jr., Member of Congress
The Honorable Rence Ellmers, Member of Congress
The Honorable Tom Emmer, Member of Congress
The Honorable Anna G. Eshoo, Member of Congress
The Honorable Elizabeth Esty, Member of Congress
The Honorable Blake Farenthold, Member of Congress
The Honorable Sam Farr, Member of Congress
The Honorable Stephen Fincher, Member of Congress
The Honorable Michael Fitzpatrick, Member of Congress
The Honorable Chuck Fleischmann, Member of Congress
The Honorable Bill Flores, Member of Congress
The Honorable J. Randy Forbes, Member of Congress
The Honorable Jeff Fortenberry, Member of Congress
The Honorable Bill Foster, Member of Congress
The Honorable Lois Frankel, Member of Congress
The Honorable Trent Franks, Member of Congress
The Honorable Marcia L. Fudge, Member of Congress
The Honorable Ruben Gallego, Member of Congress
The Honorable John Garamendi, Member of Congress

The Honorable Scott Garrett, Member of Congress
The Honorable Bob Gibbs, Member of Congress
The Honorable Chris Gibson, Member of Congress
The Honorable Bob Goodlatte, Member of Congress
The Honorable Paul Gosar, D.D.S., Member of Congress
The Honorable Trey Gowdy, Member of Congress
The Honorable Kay Granger, Member of Congress
The Honorable Garret Graves, Member of Congress
The Honorable Sam Graves, Member of Congress
The Honorable Tom Graves, Member of Congress
The Honorable Alan Grayson, Member of Congress
The Honorable Gene Green, Member of Congress
The Honorable H. Morgan Griffith, Member of Congress
The Honorable Michelle Lujan Grisham, Member of Congress
The Honorable Glenn Grothman, Member of Congress
The Honorable Frank Guinta, Member of Congress
The Honorable Brett Guthrie, Member of Congress
The Honorable Janice Hahn, Member of Congress
The Honorable Richard Hanna, Member of Congress
The Honorable Cresent Hardy, Member of Congress
The Honorable Gregg Harper, Member of Congress
The Honorable Vicky Hartzler, Member of Congress
The Honorable Alcee Hastings, Member of Congress
The Honorable Joe Heck, Member of Congress
The Honorable Jaime Herrera Beutler, Member of Congress
The Honorable Jody Hice, Member of Congress
The Honorable Brian Higgins, Member of Congress
The Honorable French Hill, Member of Congress
The Honorable James Himes, Member of Congress
The Honorable Rubén Hinojosa, Member of Congress
The Honorable George Holding, Member of Congress
The Honorable Mike Honda, Member of Congress
The Honorable Richard Hudson, Member of Congress
The Honorable Tim Huelskamp, Member of Congress
The Honorable Jared Huffman, Member of Congress
The Honorable Bill Huizenga, Member of Congress
The Honorable Randy Hultgren, Member of Congress
The Honorable Duncan Hunter, Member of Congress
The Honorable Will Hurd, Member of Congress
The Honorable Robert Hurt, Member of Congress
The Honorable Steve Israel, Member of Congress
The Honorable Evan Jenkins, Member of Congress
The Honorable Lynn Jenkins, Member of Congress
The Honorable Bill Johnson, Member of Congress
The Honorable Hank Johnson, Member of Congress
The Honorable David Jolly, Member of Congress

The Honorable Walter B. Jones, Member of Congress
The Honorable Jim Jordan, Member of Congress
The Honorable David Joyce, Member of Congress
The Honorable Marcy Kaptur, Member of Congress
The Honorable John Katko, Member of Congress
The Honorable Mike Kelly, Member of Congress
The Honorable Robin L. Kelly, Member of Congress
The Honorable Trent Kelly, Member of Congress
The Honorable Dan Kildee, Member of Congress
The Honorable Derek Kilmer, Member of Congress
The Honorable Ron Kind, Member of Congress
The Honorable Peter King, Member of Congress
The Honorable Steve King, Member of Congress
The Honorable Adam Kinzinger, Member of Congress
The Honorable Ann Kirkpatrick, Member of Congress
The Honorable John Kline, Member of Congress
The Honorable Steve Knight, Member of Congress
The Honorable Ann McLane Kuster, Member of Congress
The Honorable Raúl R. Labrador, Member of Congress
The Honorable Darin LaHood, Member of Congress
The Honorable Doug LaMalfa, Member of Congress
The Honorable Doug Lamborn, Member of Congress
The Honorable Leonard Lance, Member of Congress
The Honorable James R. Langevin, Member of Congress
The Honorable Rick Larsen, Member of Congress
The Honorable Robert E. Latta, Member of Congress
The Honorable Brenda Lawrence, Member of Congress
The Honorable Sheila Jackson Lee, Member of Congress
The Honorable Sander Levin, Member of Congress
The Honorable John Lewis, Member of Congress
The Honorable Ted Lieu, Member of Congress
The Honorable Daniel Lipinski, Member of Congress
The Honorable Frank A. LoBiondo, Member of Congress
The Honorable Dave Loebsack, Member of Congress
The Honorable Billy Long, Member of Congress
The Honorable Barry Loudermilk, Member of Congress
The Honorable Mia Love, Member of Congress
The Honorable Alan Lowenthal, Member of Congress
The Honorable Nita M. Lowey, Member of Congress
The Honorable Frank Lucas, Member of Congress
The Honorable Blaine Luetkemeyer, Member of Congress
The Honorable Ben R. Luján, Member of Congress
The Honorable Cynthia Lummis, Member of Congress
The Honorable Kenny Marchant, Member of Congress
The Honorable Tom Marino, Member of Congress
The Honorable Thomas Massie, Member of Congress

The Honorable Michael T. McCaul, Member of Congress
The Honorable Tom McClintock, Member of Congress
The Honorable Betty McCollum, Member of Congress
The Honorable James P. McGovern, Member of Congress
The Honorable Patrick McHenry, Member of Congress
The Honorable David B. McKinley, P.E., Member of Congress
The Honorable Cathy McMorris Rodgers, Member of Congress
The Honorable Jerry McNerney, Member of Congress
The Honorable Martha McSally, Member of Congress
The Honorable Mark Meadows, Member of Congress
The Honorable Patrick Meehan, Member of Congress
The Honorable Gregory Meeks, Member of Congress
The Honorable Grace Meng, Member of Congress
The Honorable Luke Messer, Member of Congress
The Honorable John L. Mica, Member of Congress
The Honorable Candice S. Miller, Member of Congress
The Honorable Jeff Miller, Member of Congress
The Honorable John Moolenaar, Member of Congress
The Honorable Alex X. Mooney, Member of Congress
The Honorable Seth Moulton, Member of Congress
The Honorable Markwayne Mullin, Member of Congress
The Honorable Mick Mulvaney, Member of Congress
The Honorable Patrick E. Murphy, Member of Congress
The Honorable Tim Murphy, Member of Congress
The Honorable Grace F. Napolitano, Member of Congress
The Honorable Randy Neugebauer, Member of Congress
The Honorable Dan Newhouse, Member of Congress
The Honorable Kristi Noem, Member of Congress
The Honorable Richard M. Nolan, Member of Congress
The Honorable Donald Norcross, Member of Congress
The Honorable Eleanor Holmes Norton, Member of Congress
The Honorable Rich Nugent, Member of Congress
The Honorable Devin Nunes, Member of Congress
The Honorable Steven Palazzo, Member of Congress
The Honorable Gary Palmer, Member of Congress
The Honorable Bill Pascrell, Jr., Member of Congress
The Honorable Erik Paulson, Member of Congress
The Honorable Steve Pearce, Member of Congress
The Honorable Scott H. Peters, Member of Congress
The Honorable Collin Peterson, Member of Congress
The Honorable Chellie Pingree, Member of Congress
The Honorable Robert Pittenger, Member of Congress
The Honorable Stacey Plaskett, Member of Congress
The Honorable Mark Pocan, Member of Congress
The Honorable Bruce Poliquin, Member of Congress
The Honorable Jared Polis, Member of Congress

The Honorable Mike Pompeo, Member of Congress
The Honorable Bill Posey, Member of Congress
The Honorable David Price, Member of Congress
The Honorable Tom Price, M.D., Member of Congress
The Honorable Mike Quigley, Member of Congress
The Honorable Aumua Amata Radewagen, Member of Congress
The Honorable John Ratcliffe, Member of Congress
The Honorable Tom Reed, Member of Congress
The Honorable Dave Reichert, Member of Congress
The Honorable Jim Renacci, Member of Congress
The Honorable Reid Ribble, Member of Congress
The Honorable Kathleen M. Rice, Member of Congress
The Honorable Tom Rice, Member of Congress
The Honorable Cedric Richmond, Member of Congress
The Honorable David P. Roe, M.D., Member of Congress
The Honorable Mike Rogers, Member of Congress
The Honorable Todd Rokita, Member of Congress
The Honorable Tom Rooney, Member of Congress
The Honorable Peter Roskam, Member of Congress
The Honorable Ileana Ros-Lehtinen, Member of Congress
The Honorable Dennis A. Ross, Member of Congress
The Honorable Keith Rothfus, Member of Congress
The Honorable David Rouzer, Member of Congress
The Honorable Ed Royce, Member of Congress
The Honorable Raul Ruiz, Member of Congress
The Honorable Bobby Rush, Member of Congress
The Honorable Steve Russell, Member of Congress
The Honorable Tim Ryan, Member of Congress
The Honorable Matt Salmon, Member of Congress
The Honorable Linda T. Sánchez, Member of Congress
The Honorable Mark Sanford, Member of Congress
The Honorable Steve Scalise, Member of Congress
The Honorable Kurt Schrader, Member of Congress
The Honorable David Schweikert, Member of Congress
The Honorable Austin Scott, Member of Congress
The Honorable David Scott, Member of Congress
The Honorable James Sensenbrenner, Jr., Member of Congress
The Honorable Pete Sessions, Member of Congress
The Honorable Terri Sewell, Member of Congress
The Honorable Brad Sherman, Member of Congress
The Honorable John Shimkus, Member of Congress
The Honorable Bill Shuster, Member of Congress
The Honorable Mike Simpson, Member of Congress
The Honorable Adrian Smith, Member of Congress
The Honorable Jason Smith, Member of Congress
The Honorable Lamar Smith, Member of Congress

The Honorable Jackie Speier, Member of Congress
The Honorable Elise Stefanik, Member of Congress
The Honorable Marlin Stutzman, Member of Congress
The Honorable Eric Swalwell, Member of Congress
The Honorable Mark Takai, Member of Congress
The Honorable Glenn "GT" Thompson, Member of Congress
The Honorable Mike Thompson, Member of Congress
The Honorable Patrick J. Tiberi, Member of Congress
The Honorable Scott Tipton, Member of Congress
The Honorable Dina Titus, Member of Congress
The Honorable Paul Tonko, Member of Congress
The Honorable Norma Torres, Member of Congress
The Honorable Dave Trott, Member of Congress
The Honorable Niki Tsongas, Member of Congress
The Honorable Michael R. Turner, Member of Congress
The Honorable Fred Upton, Member of Congress
The Honorable David G. Valadao, Member of Congress
The Honorable Juan Vargas, Member of Congress
The Honorable Marc Veasey, Member of Congress
The Honorable Filemon Vela, Member of Congress
The Honorable Ann Wagner, Member of Congress
The Honorable Tim Walberg, Member of Congress
The Honorable Greg Walden, Member of Congress
The Honorable Mark Walker, Member of Congress
The Honorable Jackie Walorski, Member of Congress
The Honorable Mimi Walters, Member of Congress
The Honorable Tim Walz, Member of Congress
The Honorable Randy Weber, Member of Congress
The Honorable Daniel Webster, Member of Congress
The Honorable Peter Welch, Member of Congress
The Honorable Brad Wenstrup, Member of Congress
The Honorable Bruce Westerman, Member of Congress
The Honorable Lynn Westmoreland, Member of Congress
The Honorable Ed Whitfield, Member of Congress
The Honorable Roger Williams, Member of Congress
The Honorable Frederica Wilson, Member of Congress
The Honorable Joe Wilson, Member of Congress
The Honorable Robert Wittman, Member of Congress
The Honorable Steve Womack, Member of Congress
The Honorable Rob Woodall, Member of Congress
The Honorable John Yarmuth, Member of Congress
The Honorable Kevin Yoder, Member of Congress
The Honorable Ted S. Yoho, DVM., Member of Congress
The Honorable David Young, Member of Congress
The Honorable Don Young, Member of Congress
The Honorable Todd Young, Member of Congress

The Honorable Lee Zeldin, Member of Congress
The Honorable Ryan Zinke, Member of Congress



Consumer Financial
Protection Bureau

1700 G Street, N.W., Washington, D.C. 20552

May 5, 2016

The Honorable Scott Tipton
U.S. House of Representatives
218 Cannon House Office Building
Washington, DC 20515

The Honorable David Scott
U.S. House of Representatives
225 Cannon House Office Building
Washington, DC 20515

Dear Congressman Tipton and Congressman Scott:

Thank you for your letter concerning the importance of well-tailored and effective regulations. The Consumer Financial Protection Bureau is committed to this objective in accordance with the provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act. As the Bureau continues its work, consumer financial markets are showing increasing signs of health. Equally significant is the strength being exhibited by community banks and credit unions.

Under Section 1021 of the Dodd-Frank Act, the purpose of the Bureau is to implement and, where applicable, enforce Federal consumer financial laws consistently to ensure that all consumers have access to markets for consumer financial products and services, and that such markets are fair, transparent, and competitive. Section 1021 further provides that one of the Bureau's objectives, in exercise of its authorities, is to enforce Federal consumer financial law "consistently, without regard to the status of a person as a depository institution, in order to promote fair competition."¹

Section 1022 of the Dodd-Frank Act authorizes the Bureau to engage in rulemaking and issue orders and guidance to administer and carry out the purposes and objectives of the Federal consumer financial laws, and to prevent evasions thereof. In doing so, Section 1022 requires that the Bureau consider the potential benefits and costs to consumers and covered persons, including the potential reduction of access to consumer financial products and services to consumers. Section 1022 also requires the Bureau to consider the impact of a proposed rule on insured depository institutions and credit unions with total assets of \$10 billion or less as well as the impact on consumers in rural areas. Moreover, Section 1022 gives the Bureau the authority to create exemptions from the Consumer Financial Protection Act of 2010 or rules issued under that Act for any class of covered persons, service providers, or consumer financial products or services if the Bureau determines an exemption is necessary or appropriate to carry out the purposes and objectives of the Consumer Financial Protection Act after taking into consideration a set of factors specified in the statute.

As part of the Bureau's commitment to achieving tailored and effective regulations, the Bureau has taken the following actions for different models and classes of institutions:

¹ Pub. L. 111-203, Title X, § 1021(b)(4) (July 21, 2010); 12 U.S.C. § 5511(b)(4).

- **Expanded safe harbor for small creditors.** A small creditor has a broader safe harbor for its Qualified Mortgage (QM) loans than non-small creditors. The Bureau's rules provide a safe harbor for QMs with annual percentage rate (APR) spreads over Average Prime Offer Rate (APOR) up to 350 basis points, whereas non-small creditors have a safe harbor for spreads up to 150 basis points. The Bureau's rules also allow a small creditor to make QMs with debt-to-income ratios that exceed the otherwise applicable 43 percent cap. (Small creditors must hold these loans in portfolio for three years.)
- **Exempted small creditors in rural and underserved areas.** Currently, small creditors that operate predominantly in rural or underserved areas are exempt from requirements to establish escrow accounts for higher priced mortgage loans and may offer QMs and Home Ownership and Equity Protection Act (HOEPA) loans ("high cost" mortgages as defined in the HOEPA) that have balloon payment features. QMs and HOEPA loans generally cannot have balloon payments.
- **Implemented a two-year pause for small creditors.** The Bureau established a two-year transition period (until January 10, 2016) allowing small creditors to make balloon-payment QMs and balloon-payment HOEPA loans regardless of whether they operate predominantly in rural or underserved areas, while the Bureau revisited and reconsidered the definition of "rural" for this purpose.
- **Expanded exemptions for rural and underserved areas.** In connection with other changes to amend the definitions of "small creditor" and "rural area," the Bureau published a final rule in October 2015 that extended this two-year transition period from January 2016 until April 2016. The Bureau's final rule also provided a significant expansion of "rural," as well as an expansion of which entities can qualify as "small creditors." The Bureau's final rule took effect on January 1, 2016, before the two-year transition period expired. In March 2016, the Bureau issued an interim final rule that implements the Helping Expand Lending Practices in Rural Communities Act, and makes these provisions available to small creditors that extend at least one covered transaction secured by property located in a rural or underserved area in the previous calendar year. About 6,000 additional small creditors will be eligible as a result of this change.
- **Relaxed requirements for appraisals.** Small creditors have relaxed rules regarding conflict of interest in ordering appraisals and other valuations.
- **Exempted small servicers from providing periodic statements.** Small servicers are exempt from the Truth in Lending Act requirement to provide periodic statements.
- **Exempted small servicers from loss mitigation requirements.** Small servicers are exempt from all of the Real Estate Settlement Procedures Act provisions on policies and procedures; early intervention; continuity of contact; and loss mitigation, except that a small servicer may not file for foreclosure unless the borrower is more than 120 days delinquent on the mortgage. Small servicers may also not file for foreclosure (or move for

a foreclosure judgment or order of sale, or conduct a foreclosure sale) if a borrower is performing under the terms of a loss mitigation agreement.

- **Exempted lower-volume depository institutions from Home Mortgage Disclosure Act reporting.** In October of 2015, the Bureau adopted a final rule revising Regulation C, which implements HMDA. HMDA and Regulation C, among other things, require covered mortgage lenders to report data concerning their mortgage lending activity. Changes to coverage in the final rule will reduce the number of banks, savings associations, and credit unions that are required to report HMDA data. The revisions will relieve about 22 percent of currently reporting depository institutions from the burden of reporting HMDA data.
- **Provided regulatory certainty for small entities under the Electronic Fund Transfer Act.** In the Bureau's rules implementing the Dodd-Frank Act's amendments to the Electronic Fund Transfer Act, the Bureau determined that the remittance requirements do not apply to transfers sent by entities that provide 100 or fewer remittances each year.

With regard to future actions the Bureau might take to tailor rulemakings, the Bureau is one of only three federal agencies that are subject to the Small Business Regulatory Enforcement Fairness Act. SBREFA requires the Bureau to convene Small Business Review Panels in rulemakings unless the rule will not have a significant economic impact on a substantial number of small entities. The Bureau has consistently sought the input of small businesses as part of the SBREFA panel process through participation by small business entity representatives. The Bureau gives serious consideration to the feedback it receives from small businesses as it prepares a proposed rule. Small businesses are a critical growth engine for our larger economy and an essential source of financial services for many consumers. The Bureau believes strongly in the value of getting input from and about small providers to ensure regulations do not impose more burdens on them than necessary to meet statutory objectives. In order to create better public policy, the Bureau strives to integrate the direct input and advice from small businesses into the Bureau's work.

Small business panels are just one part of the Bureau's broader initiatives to address the unique issues facing small financial institutions. The CFPB has created an Office of Financial Institutions and Business Liaison, within its Division of External Affairs, to ensure that the Bureau considers the perspectives of financial institutions, including small businesses, banks and credit unions, during the policy-making process, to communicate relevant policy initiatives, and to identify potential areas for regulatory simplification.

The Bureau also has a number of resources on our website, consumerfinance.gov, to help financial institutions understand our rules, including our mortgage rules,² the Know Before You Owe TILA-RESPA Integrated Disclosure rule,³ the remittance transfer rule,⁴ and most recently our rule on the Home Mortgage Disclosure Act,⁵ and their implications, as well as links to various other helpful

² See <http://www.consumerfinance.gov/regulatory-implementation/tila-via>.

³ See <http://www.consumerfinance.gov/regulatory-implementation/tila-respa/>.

⁴ See <http://www.consumerfinance.gov/remittances-transfer-rule-amendment-to-regulation-e/>.

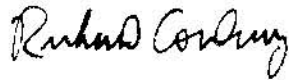
⁵ See <http://www.consumerfinance.gov/regulatory-implementation/hmda/>.

resources because timely and efficient regulatory implementation of new rules is an important factor in delivering consumer protections to the market.⁶

Whether writing regulations, redesigning forms to be easier to understand, or following new trends in consumer finance, the Bureau looks to stakeholders for advice and insight. In addition to our day-to-day work of gathering input, the Bureau also convenes independent groups for formal input on everything from consumer engagement and policy development, to research.⁷ The Community Bank Advisory Council advises us on regulating consumer financial products or services and specifically to share the unique perspectives of community banks. They share information, analysis, and recommendations to better inform our policy development, rulemaking, and engagement work. The Credit Union Advisory Council also advises us on regulating consumer financial products or services, specifically to share the unique perspectives of credit unions.

As I have expressed in the past, the Bureau recognizes that community banks and credit unions did not cause the financial crisis. For that reason, the Bureau is committed to ensuring that the regulations that we promulgate are well-tailored and effective. Should you have any additional questions about the Bureau's rulemaking, please do not hesitate to contact me, or have your staff contact Catherine Galicia in the Bureau's Office of Legislative Affairs. Mrs. Galicia can be reached at 202-435-9711.

Sincerely,



Richard Cordray
Director

cc: The Honorable Bruce Westerman, Member of Congress
The Honorable Steve Stivers, Member of Congress
The Honorable Blaine Luetkemeyer, Member of Congress
The Honorable Ed Royce, Member of Congress
The Honorable Filemon Vela, Member of Congress
The Honorable Mac Thornberry, Member of Congress
The Honorable Rick Crawford, Member of Congress
The Honorable Mike Bost, Member of Congress
The Honorable Mike Conaway, Member of Congress
The Honorable Thomas J. Rooney, Member of Congress
The Honorable Mike Bishop, Member of Congress
The Honorable Steve King, Member of Congress
The Honorable Robert Hurt, Member of Congress
The Honorable Brad Wenstrup, Member of Congress
The Honorable Brenda Lawrence, Member of Congress

⁶ See <http://www.consumerfinance.gov/regulatory-implementation>.

⁷ See <http://www.consumerfinance.gov/advisory-groups>.

The Honorable Glenn Grothman, Member of Congress
The Honorable Lynn Jenkins, Member of Congress
The Honorable David Rouzer, Member of Congress
The Honorable Kristi Noem, Member of Congress
The Honorable Daniel Webster, Member of Congress
The Honorable Kevin Cramer, Member of Congress
The Honorable Ron DeSantis, Member of Congress
The Honorable Lois Frankel, Member of Congress
The Honorable Dan Newhouse, Member of Congress
The Honorable Peter King, Member of Congress
The Honorable Patrick McHenry, Member of Congress
The Honorable Randy Hultgren, Member of Congress
The Honorable Tom Emmer, Member of Congress
The Honorable Tom Rice, Member of Congress
The Honorable Evan Jenkins, Member of Congress
The Honorable Jim Renacci, Member of Congress
The Honorable Andy Harris, M.D., Member of Congress
The Honorable John Mica, Member of Congress
The Honorable Patrick E. Murphy, Member of Congress
The Honorable French Hill, Member of Congress
The Honorable Robert Pittenger, Member of Congress
The Honorable Andy Barr, Member of Congress
The Honorable Roger Williams, Member of Congress
The Honorable Brian Babin, Member of Congress
The Honorable Erik Paulsen, Member of Congress
The Honorable Charles Boustany, M.D., Member of Congress
The Honorable Thomas Massie, Member of Congress
The Honorable Stephen Fincher, Member of Congress
The Honorable Mark Sanford, Member of Congress
The Honorable Alex Mooney, Member of Congress
The Honorable Steve Pearce, Member of Congress
The Honorable Randy Neugebauer, Member of Congress
The Honorable John Carter, Member of Congress
The Honorable Gregory Meeks, Member of Congress
The Honorable Brad Ashford, Member of Congress
The Honorable Robert Latta, Member of Congress
The Honorable Dave Loebsack, Member of Congress
The Honorable David W. Jolly, Member of Congress
The Honorable Tom Marino, Member of Congress
The Honorable Barry Loudermilk, Member of Congress
The Honorable John Fleming, M.D., Member of Congress
The Honorable Dave Trott, Member of Congress
The Honorable Blake Farenthold, Member of Congress
The Honorable Frank Lucas, Member of Congress
The Honorable Rodney Davis, Member of Congress
The Honorable Rence Ellmers, Member of Congress

The Honorable Gus Bilirakis, Member of Congress
The Honorable Mia Love, Member of Congress
The Honorable Rod Blum, Member of Congress
The Honorable Ralph Abraham, Member of Congress
The Honorable Chris Stewart, Member of Congress
The Honorable Pete Sessions, Member of Congress
The Honorable David B. McKinley, P.E., Member of Congress
The Honorable Chuck Fleishman, Member of Congress
The Honorable Bill Shuster, Member of Congress
The Honorable Collin Peterson, Member of Congress
The Honorable Steve Russell, Member of Congress
The Honorable Ryan Zinke, Member of Congress
The Honorable Jason Smith, Member of Congress
The Honorable Dennis Ross, Member of Congress
The Honorable Sean Duffy, Member of Congress
The Honorable Mark Takai, Member of Congress
The Honorable Vern Buchanan, Member of Congress
The Honorable Denny Heck, Member of Congress
The Honorable Mick Mulvaney, Member of Congress
The Honorable Scott DesJarlais, Member of Congress
The Honorable Carlos Curbelo, Member of Congress
The Honorable Bruce Poliquin, Member of Congress
The Honorable Ilcana Ros-Lehtinen, Member of Congress
The Honorable Mimi Walters, Member of Congress
The Honorable Joe Wilson, Member of Congress
The Honorable Mario Diaz-Balart, Member of Congress
The Honorable Kenny Marchant, Member of Congress
The Honorable Tim Huelskamp, Member of Congress
The Honorable Brett Guthrie, Member of Congress
The Honorable Lou Barletta, Member of Congress
The Honorable Anne McLane Kuster, Member of Congress
The Honorable Kurt Schrader, Member of Congress
The Honorable Marsha Blackburn, Member of Congress
The Honorable Mo Brooks, Member of Congress
The Honorable Mike Coffman, Member of Congress
The Honorable Pat Tiberi, Member of Congress
The Honorable Frank Guinta, Member of Congress
The Honorable Terri Sewell, Member of Congress
The Honorable Alcee Hastings, Member of Congress
The Honorable Ed Whitfield, Member of Congress
The Honorable Mike Pompeo, Member of Congress
The Honorable David Young, Member of Congress
The Honorable Keith Rothfus, Member of Congress
The Honorable John Katko, Member of Congress
The Honorable Jeff Duncan, Member of Congress
The Honorable Ann Wagner, Member of Congress

The Honorable Rob Bishop, Member of Congress
The Honorable Rich Nugent, Member of Congress
The Honorable Gwen Graham, Member of Congress
The Honorable George Holding, Member of Congress
The Honorable Crescent Hardy, Member of Congress
The Honorable Derek Kilmer, Member of Congress
The Honorable Suzan DclBene, Member of Congress
The Honorable Gary Palmer, Member of Congress
The Honorable Sanford Bishop, Member of Congress
The Honorable Cynthia Luminis, Member of Congress
The Honorable Richard Hudson, Member of Congress
The Honorable Mike Rogers, Member of Congress
The Honorable Garret Graves, Member of Congress
The Honorable Dave Brat, Member of Congress
The Honorable Bill Posey, Member of Congress
The Honorable Trent Kelly, Member of Congress
The Honorable Adrian Smith, Member of Congress
The Honorable Lamar Smith, Member of Congress
The Honorable Greg Walden, Member of Congress
The Honorable Barbara Comstock, Member of Congress
The Honorable John J. Duncan, Jr., Member of Congress
The Honorable Martha Roby, Member of Congress
The Honorable Markwayne Mullin, Member of Congress
The Honorable Tulsi Gabbard, Member of Congress
The Honorable Sam Graves, Member of Congress



Consumer Financial Protection Bureau

100 G Street, N.W. Washington, D.C. 20547

May 11, 2016

The Honorable Mick Mulvaney
U.S. House of Representatives
2419 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Mulvaney:

Thank you for your letter regarding the Consumer Financial Protection Bureau's ongoing work related to payday, vehicle title, and similar loans. As a former attorney general and state and local elected official in my home state of Ohio, I am deeply committed to striking the right balance between the Bureau's responsibilities and those of state, tribal, and local governments. The Bureau recognizes that state, tribal, and local governments have adopted a variety of approaches to regulating small dollar lending and continues to carefully consider those existing laws and regulations, as we have throughout our research and development of options to address potential consumer harms in small dollar lending markets. The Bureau's goal is to ensure that all consumers are offered certain minimum protections no matter where they are located.

The Bureau released its outline of proposals under consideration for payday, vehicle title, and similar loans at a field hearing held in Richmond, Virginia in March 2015.¹ Similar to the two prior field hearings on this subject – in Birmingham, Alabama in January 2012 and in Nashville, Tennessee in March 2014 – the Richmond event provided the Bureau with a rich and diverse set of perspectives from consumers, state policymakers, lenders, consumer advocates, and faith leaders.

In the over thirteen months since the Bureau formally released the outline of proposals under consideration, the Bureau has engaged in further outreach and engagement with a wide variety of stakeholders. That process began by convening a Small Business Review Panel and meeting with 27 Small Entity Representatives that included storefront payday and vehicle title lenders, banks, credit unions, and online lenders, including tribal lenders. In addition to the Small Business Review Panel, Bureau staff has continued to seek input through formal and informal meetings and discussions with various stakeholders. From October 14, 2014 to September 15, 2015, the Bureau met to discuss consumer lending with state, tribal, and municipal officials a total of 17 times, and with representatives from industry and trade associations over 30 times.

I agree with you that it is essential for the Bureau to consider and seek feedback from the state and tribal officials who regulate small dollar lending products. States have extensive experience regulating small dollar lending, and for that reason we have reviewed existing state models. In addition to those reviews, we have talked directly with regulators and policymakers across the

¹ http://files.consumerfinance.gov/f/201503_cfpb_outline-of-the-proposals-from-small-business-review-panel.pdf.

country about the proposals under consideration. Bureau staff has held briefings and feedback sessions with the Conference of State Bank Supervisors, with the National Association of Attorneys General, as well as numerous individual meetings with state regulators and attorneys general. Bureau staff also made a panel presentation about the proposals under consideration at the National Conference of State Legislatures' 2015 Legislative Summit, in Seattle, Washington.

Additionally, the Bureau has taken special care to acknowledge and respect the unique legal relationship between the federal government and tribal nations. This relationship is a critical one, and its importance is reflected in the Bureau's Tribal Consultation Policy,² as well as the Bureau's extensive outreach and engagement with the tribes.

Specifically, the Bureau invited all 566 federally recognized tribes³ to two Consultations related to the Bureau's small dollar lending rulemaking proposals under consideration. These Consultations were frank discussions that allowed tribal leaders to share their views about the proposals under consideration with the Bureau. The first of these Consultations took place in November 2014, before the Bureau had formulated the outline of proposals under consideration. The second took place in June 2015 to discuss the Bureau's outline. The Bureau also has held a number of other meetings with tribes at the Bureau's headquarters and across the country.⁴ The tribes' feedback is being considered as the Bureau moves forward on a Notice of Proposed Rulemaking.

Our ongoing and extensive discussions with state and tribal officials have significantly informed our small dollar lending work. For example, state policymakers have urged the Bureau to both protect consumers across all small dollar lending markets and to seek feedback from the states on their regulation of small dollar lending products, while tribal policymakers have urged the Bureau to consider the impact of any regulation on the revenue the tribes receive from these products. The Bureau continues to receive and welcome feedback from state, tribal, and municipal officials, as well as others on its proposals under consideration.

² Available at http://files.consumerfinance.gov/f/201304_cfpb_consultations.pdf.

³ The Bureau is aware that the U.S. Department of the Interior recognized a 567th tribe on July 2, 2015 and intends to include this additional tribe in all future tribal engagements. See Interior Department Issues Final Determination for Two Federal Acknowledgement Petitioners, Dept. of Interior, July 2, 2015, available at www.indianaffairs.gov/cs/groups/public/documents/text/idc1-030832.pdf.

⁴ Associate Director Zixta Martinez addressed a plenary session of the 2014 National Congress of American Indians (NCAI) Annual Meeting, and Bureau leadership met with the NCAI Executive Committee during that event. In addition, the Bureau has partnered with tribes on key consumer education and engagement programs related to K-12 financial education and the Bureau's *Your Money Your Goals* initiative.

The Bureau's next step in the rulemaking process will be to formally issue a proposed rule. With publication of the notice of proposed rulemaking, the public, including state, tribal, and municipal officials will be encouraged to submit written comments. Any final regulations issued will reflect the Bureau's careful consideration of those comments. The Bureau will move as quickly as is reasonable, recognizing the importance and the complexity of the subject, and will be thoughtful and thorough as we continue this work.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard Cordray". The signature is fluid and cursive, with the first name "Richard" being more prominent than the last name "Cordray".

Richard Cordray
Director

Congress of the United States
Washington, DC 20515

May 31, 2016

The Honorable Richard Cordray
Director
Consumer Financial Protection Bureau
1700 G Street, Northwest
Washington, D.C. 20552

Dear Director Cordray:

The undersigned Members of Congress applaud the Consumer Financial Protection Bureau (CFPB) for your recent April 28, 2016 announcement to issue an official Notice of Proposed Rulemaking (NPRM) on the Know Before You Owe mortgage disclosure rule. We continue to hear from our constituents in the real estate industry about the need for additional guidance and clarification as they work to implement this important rule and provide a compliant closing experience for consumers.

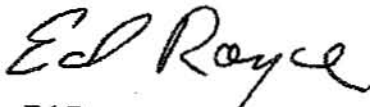
One area the CFPB should address in this NPRM is to fix the rule's requirement that is causing consumers to receive incorrect title insurance premium disclosures. In the majority of States across the country, consumers are not receiving an accurate disclosure on their title insurance premiums. In these States, CFPB is not allowing for the calculation of a discounted rate known as "simultaneous issue", which is a rate title insurance companies provide to consumers when they purchase a lenders and owners title insurance policy simultaneously. This rate provides consumers with an effective discount on their owners title insurance policy in order to protect their property rights for as long as they own their home. This NPRM is a great opportunity to fix this issue and ensure that your new forms serve as a credible source of accurate information about the true costs of buying a home for consumers.

We appreciate your willingness to clarify and correct the Know Before You Owe rule. We will eagerly be watching in July for how you address this issue and look forward to working with the CFPB on the continued implementation of these important mortgage disclosures.

Sincerely,



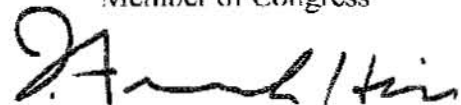
Dennis A. Ross
Member of Congress



Ed Royce
Member of Congress



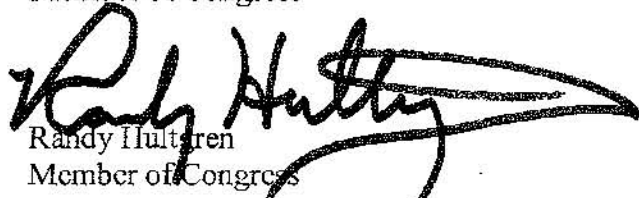
Ed Perlmutter
Member of Congress



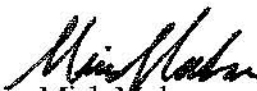
French Hill
Member of Congress



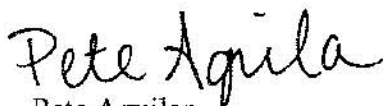
Steve Stivers
Member of Congress



Randy Hultgren
Member of Congress



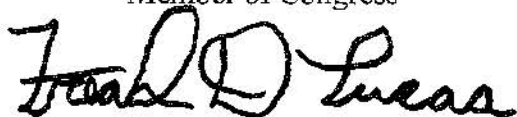
Mick Mulvaney
Member of Congress



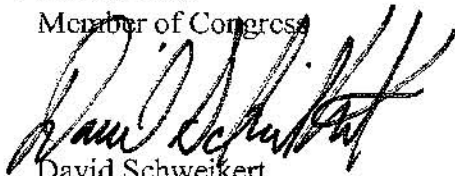
Pete Aguilar
Member of Congress



Kenny Marchant
Member of Congress



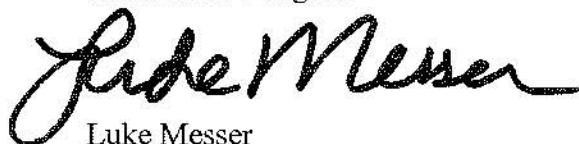
Frank Lucas
Member of Congress



David Schweikert
Member of Congress



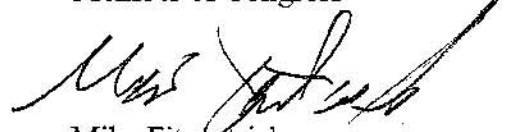
Scott Rigell
Member of Congress



Luke Messer
Member of Congress



Lynn Jenkins
Member of Congress



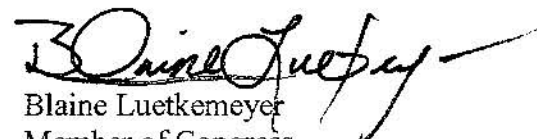
Mike Fitzpatrick
Member of Congress



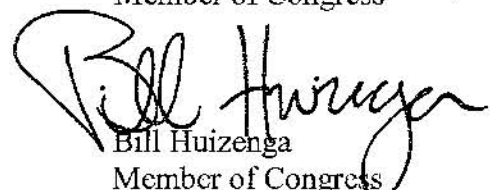
Patrick J. Tiberi
Member of Congress



David W. Jolly
Member of Congress



Blaine Luetkemeyer
Member of Congress



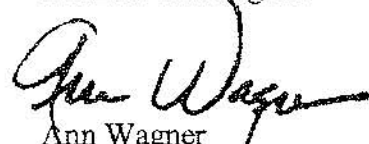
Bill Huizenga
Member of Congress



Mia Love
Member of Congress



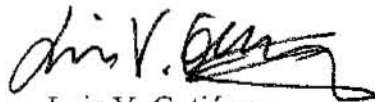
Mark Walker
Member of Congress



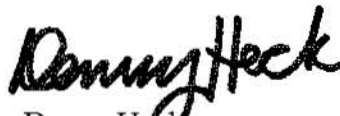
Ann Wagner
Member of Congress



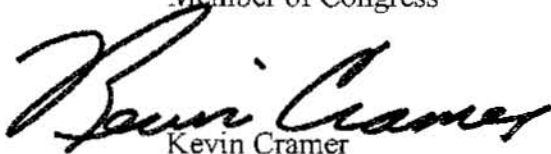
Brad Sherman
Member of Congress



Luis V. Gutiérrez
Member of Congress



Denny Heck
Member of Congress



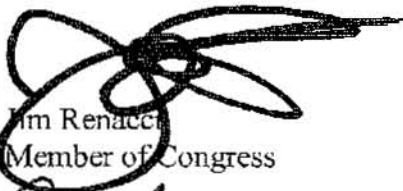
Kevin Cramer
Member of Congress



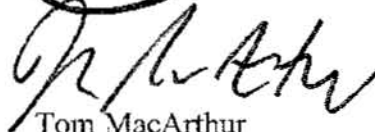
Erik Paulsen
Member of Congress



Steve Pearce
Member of Congress



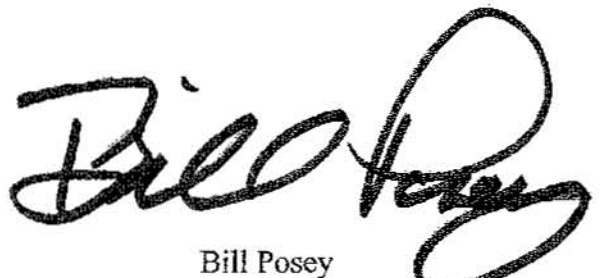
Jim Renacci
Member of Congress



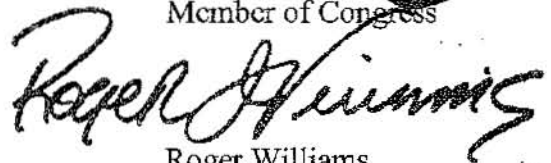
Tom MacArthur
Member of Congress



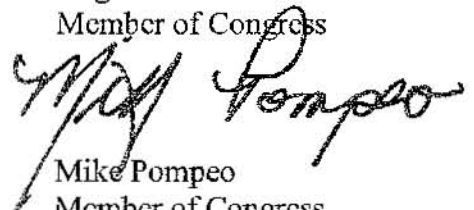
Scott Garrett
Member of Congress



Bill Posey
Member of Congress



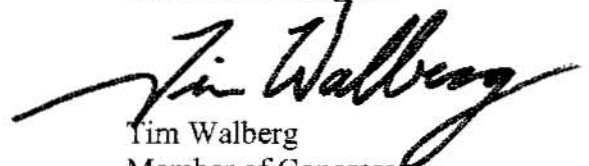
Roger Williams
Member of Congress



Mike Pompeo
Member of Congress



Ryan A. Costello
Member of Congress



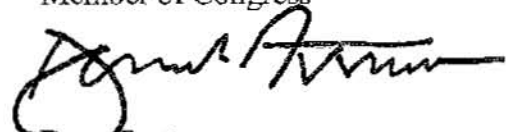
Tim Walberg
Member of Congress



Robert Pittenger
Member of Congress



Stephen Fincher
Member of Congress



Dave Trott
Member of Congress

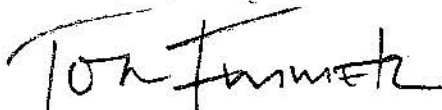


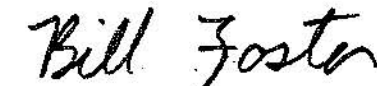
Joyce Beatty
Member of Congress

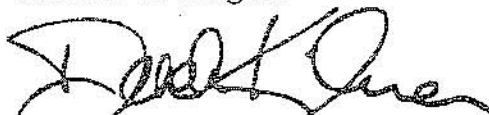

Bradley Byrne
Member of Congress


Andy Barr
Member of Congress



Marlin Stutzman
Member of Congress

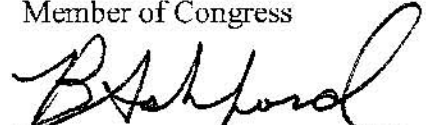

Tom Emmer
Member of Congress



Bill Foster
Member of Congress



Derek Kilmer
Member of Congress



Alcee L. Hastings
Member of Congress



Terri Sewell
Member of Congress


Brad Ashford
Member of Congress


John Delaney
Member of Congress


David Scott
Member of Congress

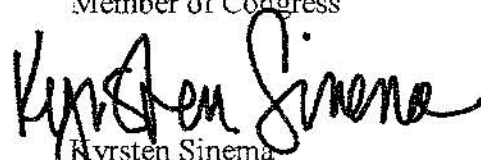

Jared Polis
Member of Congress


Bruce Poliquin
Member of Congress


Joe Courtney
Member of Congress


Scott Tipton
Member of Congress


Collin Peterson
Member of Congress


Kyrsten Sinema
Member of Congress

Keith J Rothfus

Keith Rothfus
Member of Congress

Brendan Boyle

Brendan Boyle
Member of Congress

Randy Forbes

Randy Forbes
Member of Congress

Patrick F. Murphy

Patrick F. Murphy
Member of Congress

Mike Coffman

Mike Coffman
Member of Congress

David Joyce

David Joyce
Member of Congress

Garret Graves

Garret Graves
Member of Congress

Cheri Bustos

Cheri Bustos
Member of Congress

Peter King

Peter King
Member of Congress

Zoe Lofgren

Zoe Lofgren
Member of Congress

Mike Rogers

Mike Rogers
Member of Congress

Markwayne M. Mullin

Markwayne Mullin
Member of Congress

Lee Zeldin

Lee Zeldin
Member of Congress

Gwen Moore

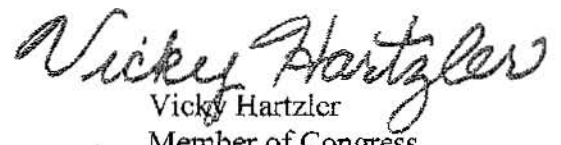
Gwen Moore
Member of Congress

Emanuel Cleaver

Emanuel Cleaver
Member of Congress



Renee Elmers
Member of Congress



Vicky Hartzler
Member of Congress



Consumer Financial
Protection Bureau

1700 G Street, N.W., Washington, DC 20552

July 14, 2016

The Honorable Dennis A. Ross
U.S. House of Representatives
229 Cannon House Office Building
Washington, D.C. 20515

The Honorable Ed Perlmutter
U.S. House of Representatives
1410 Longworth House Office Building
Washington, D.C. 20515

Dear Congressman Ross and Congressman Perlmutter:

Thank you for your letter about the Consumer Financial Protection Bureau's announcement of plans to issue a Notice of Proposed Rulemaking to add clarity to the Know Before You Owe mortgage disclosure rule. The Know Before You Owe mortgage disclosure rule, which implemented certain requirements in the Dodd-Frank Wall Street Reform and Consumer Protection Act, was finalized in November 2013 and took effect in October 2015. The rule represents an important advance in eliminating consumer confusion as homeowners and prospective homeowners make significant financial decisions for their families. Like you, the Bureau recognizes that successful implementation requires continuous monitoring and engagement. The forthcoming proposal is part of that process.

In this notice of proposed rulemaking, the Bureau is focused on addressing areas where it appears that clarifying amendments would be helpful, based on feedback we have received in our outreach, webinars, and the Bureau's other regulatory implementation efforts. The Bureau continues to listen closely to all stakeholders as we develop that proposal. Given the cost to industry of reprogramming systems so soon after the effective date, we do not believe it would be prudent to require major changes in implementation. Therefore, in order to provide additional clarity to industry on an expedited schedule, we may only be able to address certain proposals.

Your letter inquired about the disclosure of the cost of title insurance on the new Know Before You Owe mortgage disclosure forms. The Bureau's Know Before You Owe mortgage disclosure rule sought to develop a uniform approach to disclosing this cost. Different states provide for different methods of calculating and disclosing title insurance premiums in light of potential discounts when the borrower purchases both a required lender's title policy and an optional owner's title policy simultaneously (sometimes referred to as "simultaneous issuance"). Some states, including Maryland and Ohio, require the disclosure of the incremental cost of the owner's title policy.¹ This calculation method has the advantage of showing the actual cost of the required lender's policy, independent of any simultaneous issuance discount occasioned by the purchase of the optional owner's title policy. Another advantage of disclosing the incremental cost of the owner's title policy, by representing any simultaneous issuance discount in the cost of the owner's policy, is that it may encourage the purchase of the owner's policy. Purchasing an owner's policy can protect homeowners' property rights for as long as they own their homes. Under this method of calculation, consumers can clearly see the incremental cost of purchasing an owner's title policy in

¹ Md. Ann. Code Ins. Article § 22-102; Ohio Admin. Code § 3901-7-3.

connection with the purchase of the required lender's title policy.² Other states apply any discount for simultaneous issuance to the lender's title policy, which makes the required lender's title policy appear less expensive, while the optional owner's title policy appears more expensive, which may make the consumer less likely to purchase an owner's policy. As reflected in the Know Before You Owe mortgage disclosure rule, the Bureau believes that the application of any simultaneous issuance discount to the owner's title policy, as mandated by some states, is the most transparent method of disclosing the costs of the required lender's title policy and the optional owner's title policy. Furthermore, regardless of whether any simultaneous issuance discount is applied to the purchase of the required lender's title policy or to the purchase of the optional owner's title policy, the total cost of title insurance disclosed to the consumer for purchasing both the lender's title policy and the owner's title policy is the same.³

The Bureau's staff has engaged with title industry trade groups, as well as representatives from state insurance commissions, regarding the disclosure of the amount paid by the consumer for title insurance. Based on our outreach, the Bureau provided additional guidance concerning the disclosure of title insurance premiums when the seller has agreed to pay for the owner's title policy as part of the purchase and sale contract with the consumer. The Bureau also has provided information to consumers about the nature of title insurance and the possible different methods of disclosing title insurance costs in the *Your Home Loan Toolkit*, the booklet that every consumer receives when financing a home purchase. In addition, the Bureau's online tool, *Ask CFPB*, provides answers to consumer questions about financial products and services and also includes information about title insurance premium disclosures.⁴

Thank you for your interest in the Bureau's work. Should you have any additional questions, please feel free to contact me or have your staff contact Meredith Manna in the Bureau's Office of Legislative Affairs. Ms. Manna can be reached at (202) 435-9785.

Sincerely,



Richard Cordray
Director

² 78 Fed. Reg. 79730, 79964 (Dec. 31, 2013).

³ For example, Florida and Texas have standard disclosure forms that acknowledge that the total disclosed amount is the same, whether the simultaneous issuance discount is applied to the required lender's policy, as provided for by State law in both Florida and Texas, or the discount is applied to the optional owner's policy, as provided for by other States and under the Know Before You Owe mortgage disclosure rule. See

<http://www.cfpb.gov/Florida/Consumer-Division/Agents-Licensing/Forms/documents/DPS-111-21-06.pdf> (Florida);

<http://www.cfpb.gov/Texas/rules/Title-Insurance-Exclusion-Form.pdf> (Texas).

⁴ <http://www.consumerfinance.gov/askcfpb/1993-why-is-my-title-insurance-premium-on-the-high-estimate-and-closing-costs-reduced-if-the-seller-pays-it/>, listed in the paperwork received from the title insurance company.

cc: The Honorable Ed Royce, Member of Congress
The Honorable French Hill, Member of Congress
The Honorable Steve Stivers, Member of Congress
The Honorable Lynn Jenkins, Member of Congress
The Honorable Randy Hultgren, Member of Congress
The Honorable Mike Fitzpatrick, Member of Congress
The Honorable Mick Mulvaney, Member of Congress
The Honorable Patrick J. Tiberi, Member of Congress
The Honorable Pete Aguilar, Member of Congress
The Honorable David W. Jolly, Member of Congress
The Honorable Kenny Marchant, Member of Congress
The Honorable Blaine Luetkemeyer, Member of Congress
The Honorable Frank Lucas, Member of Congress
The Honorable Bill Huizenga, Member of Congress
The Honorable David Schweikert, Member of Congress
The Honorable Mia Love, Member of Congress
The Honorable Scott Rigell, Member of Congress
The Honorable Mark Walker, Member of Congress
The Honorable Luke Messer, Member of Congress
The Honorable Ann Wagner, Member of Congress
The Honorable Brad Sherman, Member of Congress
The Honorable Bill Posey, Member of Congress
The Honorable Luiz V. Gutiérrez, Member of Congress
The Honorable Roger Williams, Member of Congress
The Honorable Denny Heck, Member of Congress
The Honorable Mike Pompeo, Member of Congress
The Honorable Kevin Cramer, Member of Congress
The Honorable Ryan A. Costello, Member of Congress
The Honorable Erik Paulsen, Member of Congress
The Honorable Tim Walberg, Member of Congress
The Honorable Steve Pearce, Member of Congress
The Honorable Robert Pittenger, Member of Congress
The Honorable Jim Renacci, Member of Congress
The Honorable Stephen Fincher, Member of Congress
The Honorable Tom MacArthur, Member of Congress
The Honorable Dave Trott, Member of Congress
The Honorable Scott Garrett, Member of Congress
The Honorable Joyce Beatty, Member of Congress
The Honorable Bradley Byrne, Member of Congress
The Honorable Andy Barr, Member of Congress
The Honorable Marlin Stutzman, Member of Congress
The Honorable Tom Emmer, Member of Congress
The Honorable Bill Foster, Member of Congress
The Honorable Derek Kilmer, Member of Congress
The Honorable Alcee L. Hastings, Member of Congress

The Honorable Terri Sewell, Member of Congress
The Honorable Brad Ashford, Member of Congress
The Honorable John Delaney, Member of Congress
The Honorable David Scott, Member of Congress
The Honorable Jared Polis, Member of Congress
The Honorable Bruce Poliquin, Member of Congress
The Honorable Joe Courtney, Member of Congress
The Honorable Scott Tipton, Member of Congress
The Honorable Collin Peterson, Member of Congress
The Honorable Kyrsten Sinema, member of Congress
The Honorable Keith Rothfus, Member of Congress
The Honorable Peter King, Member of Congress
The Honorable Brendan Boyle, Member of Congress
The Honorable Zoe Lofgren, Member of Congress
The Honorable Randy Forbes, Member of Congress
The Honorable Mike Rogers, Member of Congress
The Honorable Patrick E. Murphy, Member of Congress
The Honorable Markwayne Mullin, Member of Congress
The Honorable Mike Coffman, Member of Congress
The Honorable Lee Zeldin, Member of Congress
The Honorable David Joyce, Member of Congress
The Honorable Gwen Moore, Member of Congress
The Honorable Garret Graves, Member of Congress
The Honorable Emanuel Cleaver, Member of Congress
The Honorable Cheri Bustos, Member of Congress

Congress of the United States
Washington, DC 20515

July 20, 2016

The Honorable Richard Cordray
Director
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, D.C. 20552

Re: Fostering Online Lending and Responsible Access to Credit

Dear Director Cordray:

We urge the Bureau to encourage the evolution of online lending without slowing or hampering innovation. As part of a careful analysis, we believe it is important to distinguish the companies with best practices, extensive compliance efforts, and models which benefit customers.

Online lending has grown significantly in recent years. It is estimated that over \$50 billion was loaned cumulatively through online lending platforms by the end of 2015.¹ While this remains a tiny fraction of overall credit in the United States, it has been invaluable to the millions of Americans who have used such loans. This is especially true as incumbent market participants grapple with how to invest and update their legacy technology in a vastly different regulatory structure. In 2015 alone, online lending platforms were responsible for approximately 24% of personal loans in the United States.² A recent Treasury Department study of the industry noted that much of the personal lending goes toward “refinancing existing debts, not receiving new credit,” which suggests it does not significantly contribute towards accumulation of debt.³ Policymakers should be careful not to take actions that would inhibit or diminish responsible access to credit.

The Consumer Financial Protection Bureau (“CFPB” or “Bureau”) has demonstrated an increasing interest in online lending. On March 7, 2016, the Bureau began accepting complaints on “Consumer Loans from Online Marketplace Lenders.”⁴ In its Spring 2016 rulemaking

¹ <http://www.lendacademy.com/marketplacelending-securitization-competitive-advantage/>

² <http://www.orchardplatform.com/blog/enduring-truths-marketplace-lending/>

³ https://www.treasury.gov/connect/blog/Documents/Opportunities_and_Challenges_in_Online_Marketplace_Lending_white_paper.pdf

⁴ <http://www.consumerfinance.gov/about-us/newsroom/cfpb-now-accepting-complaints-on-consumer-loans-from-online-marketplace-lender/>

agenda, the Bureau indicated that its next larger participant rulemaking will focus on, among other things, consumer installment loans by non-depository lenders.⁵ The Bureau also indicated consideration of rules to require registration to facilitate supervision. We share the Bureau's interest in ensuring that consumers are protected and treated fairly and that the participants in the relatively new industry of online lending are properly following the already extensive set of Federal laws.

Online lending platforms have provided numerous benefits to consumers. Those who already have access to credit have found new levels of speed, convenience and ease online – this is a natural evolution in the marketplace given demand for an improved consumer experience and new technology's enabling of it. The ability to access credit online is particularly important as brick and mortar institutions have closed branches, especially in traditionally underserved communities, to help manage their costs. According to SNL Financial, there were 92,997 branches at the end of 2015, this is 1,614 less than a year earlier, and a continuation of a downward trend that began in 2009.⁶

For some who are unbanked, underbanked, or are simply finding it harder to get credit, the platforms have been a financial lifeline. A study by the Federal Reserve found that 47% of American households would be unable to come up with \$400 in an emergency.⁷ And with an average US FICO score of 695, many working Americans are unable to access unsecured credit. However, many online lenders make use of sophisticated data and innovative algorithms to make credit available for those who might otherwise be denied. In many cases, credit scores were improved and debt eliminated by the customers of online lending platforms. These individuals should have options available that allow them to responsibly manage their financial needs.

Given the value and opportunity online lending platforms offer for many millions of hard-working Americans, and given the industry is still in the early stages of development, we believe policymakers should proceed thoughtfully in approaching any new governmental restrictions. In fact, policymakers should look at simplifying and streamlining what is an already cluttered and overlapping federal and state total regulatory environment, while maintaining responsible oversight. Innovation and growth are being dampened by an uncertain regulatory environment, including the growing interest of multiple Federal agencies.

We respectfully ask you assist in answering the following questions:

1. What formal studies and analysis have been undertaken by the Bureau to understand how working class Americans are utilizing personal loans and the role they play in families overall financial health?
2. What metrics, standards, or frameworks will the Bureau use to distinguish between online lenders it views as responsible and good for consumers and those it does not?

⁵ <http://www.consumerfinance.gov/about-us/blog/spring-2016-rulemaking-agenda/>

⁶ <http://www.thehindubusinessline.com/money-and-banking/banks-still-bet-on-brick-and-mortar-branches-to-boost-business/article8576681.ece>

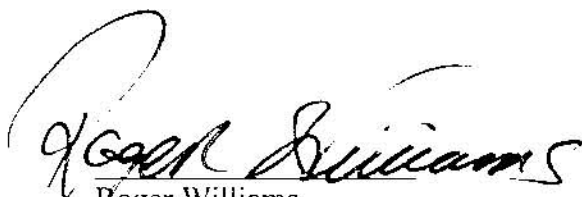
⁷ <http://www.washingtonsblog.com/2016/04/47-percent-americans-cannot-even-come-400-cover-emergency-room-visit.html>


3. Does the Bureau plan to supervise large participants in consumer installment loans by non-depository lenders as suggested in its Spring 2016 rulemaking agenda?
4. Sec. 1024(a)(1)(C) of the Dodd-Frank Act provides authority for Supervision of Nondepository Covered Persons only if "the Bureau has reasonable cause to determine, by order, after notice to the covered person and a reasonable opportunity for such covered person to respond, based on complaints collected through the system under section 1013(b)(3) or information from other sources, that such covered person is engaging, or has engaged, in conduct that poses risks to consumers with regard to the offering or provision of consumer financial products or services." Does the Bureau have reason to believe online lenders pose risks to consumers and, if so, what risks have been identified?
5. What process will the Bureau follow for rulemaking? Will the Bureau provide separate opportunities to comment on rulemaking for unsecured consumer installment loans and vehicle title loans? Does the Bureau plan to issue a Request for Information or an Advanced Notice of Proposed Rulemaking? When can the public expect an opportunity to provide its first comments?
6. What criteria will be used to determine what non-depository lenders may be supervised by the Bureau?
7. What is the Bureau's position on lending platforms that retain loans on their balance sheet versus those that sell off all the loans originated on their platform?
8. Has the Bureau done any tracking or analysis of the borrowers of unsecured online loans to see what effect, positive or negative, it has on their credit standing?
9. If the Bureau decides to supervise larger market participants, what are the merits in working with prudential regulators, such as the OCC, to extend a national license?
10. What does the Bureau believe policymakers and regulators can do to responsibly foster innovation and partnerships among depository institutions and online lenders?

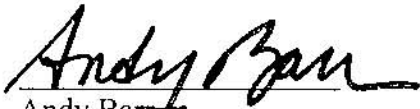
Respectfully,

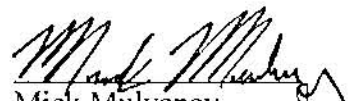

Randy Hultgren
Member of Congress



Randy Neugebauer
Member of Congress

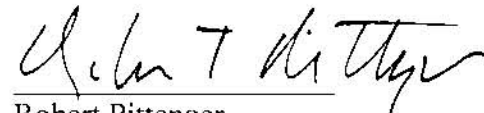

Roger Williams
Member of Congress



Steve Pearce
Member of Congress

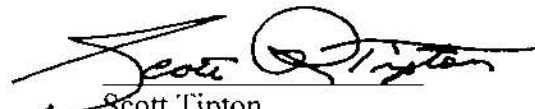

Andy Barr
Member of Congress


Mick Mulvaney
Member of Congress


Sean Duffy
Member of Congress


Robert Pittenger
Member of Congress


Tom Emmer
Member of Congress


Scott Tipton
Member of Congress

Congress of the United States
Washington, DC 20515

August 22, 2016

The Honorable Richard Cordray
Director
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

Director Cordray:

We write to express our concerns about the Bureau's recently proposed rule on arbitration agreements in consumer financial agreements. Given the serious risk of harm to consumers from the proposed rule, we believe that the Bureau should reconsider its approach and take steps to examine and develop alternative proposals that foster consumer choice and preserve access to efficient mechanisms for resolving consumer disputes.

We make this request because, whatever the Bureau's intention, rather than giving consumers greater access to justice, the proposal will make it more difficult and more expensive for consumers to resolve disputes with service providers. In addition, to date, the Bureau's process for developing its proposal for regulating arbitration agreements demands that Congress exercise more oversight over the Bureau and to hold it more accountable for its actions.

First, we are profoundly doubtful that the Bureau's proposal can meet the statutory prerequisites for regulating arbitration agreements, specifically that doing so would be "in the public interest and for the protection of consumers." Under the Dodd-Frank Act, the Bureau was required to base its decision to proceed with a rule on the findings of its study on arbitration agreements, entitled 2015 Arbitration Study and Report to Congress (Arbitration Study). That study fails to show that regulation is required "in the public interest and for the protection of consumers." Moreover, we are deeply skeptical whether the proposed rule, if adopted, would satisfy the basic requirement of the Administrative Procedure Act that there must be a rational basis for the rule. Indeed, leading scholars have criticized the CFPB's approach as biased and inadequate, while noting that government intervention along the lines that the CFPB proposes could leave consumers worse off. Unfortunately, despite these problems with the study and the adverse consequences of its approach, the Bureau has opted to ignore the statutory prerequisites and proceed with a proposed rule that represents severely flawed policy and threatens to fail Dodd-Frank's requirements.

Second, the Bureau's unwillingness to provide substantive responses to Congressional

requests for a transparent, inclusive process for your work on arbitration agreements casts doubt on your public commitments to work together with Congress on consumer protection. For instance, in June 2015, 86 members of the House and Senate requested that the Bureau re-open the Arbitration Study "to consider additional factors relevant to its inquiry and to provide an opportunity for all interested parties to submit informed comments on the Bureau's conclusions." A Bureau official responded simply that the Bureau's process had been "fair, transparent, and comprehensive" without addressing the merits of their concerns. Had the Bureau paused to gather more data on consumer outcomes, consistent with the recommendations in that letter, we believe the Bureau would have been unable to propose a regulation that would elevate class actions and effectively ban arbitration.


Third, the Bureau's proposal on arbitration agreements is at odds with its stated mission to "make consumer financial markets work for consumers." The proposal seeks to substantially reduce the use of a highly-effective, low-cost and fair process for resolving disputes, forcing consumers to address their grievances through our very expensive, overburdened legal system, or to become a prop in a wide-reaching class action that generates multi-million dollar legal fees for trial lawyers and virtually nothing for individual consumers. We fail to see how a proposal that limits consumer choice and increases legal fees is consistent with the mission of the Bureau.

In light of these troubling failures by the Bureau and the risk of harm its arbitration proposal presents to consumers, we strongly urge you to reconsider your approach to arbitration agreements, including taking more time to examine and develop alternative solutions that help consumers make their own informed choices. The regulatory process permits you to modify your current approach (including through, but not limited to, the use of a re-proposal or issuance of advanced noticed of proposed rulemaking). Accordingly, we urge you to use these options to adopt a less divisive, more reasonable approach that preserves arbitration as a viable, available, affordable means of dispute resolution and respects the decisions of consumers. In the meantime, please provide us with a written description of the alternatives the Bureau considered and discarded in developing its proposed regulation, and the reasons for their exclusion.

Please reply to this letter by no later than **September 23, 2016**.

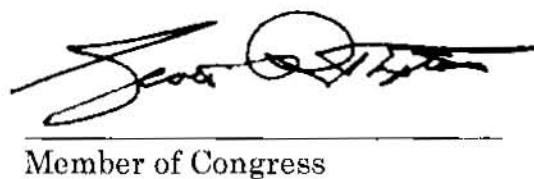
Sincerely,

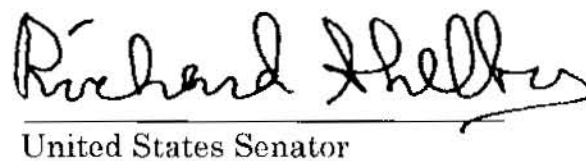

PATRICK MCHENRY
Member of Congress


BEN SASSE
United States Senator


Member of Congress

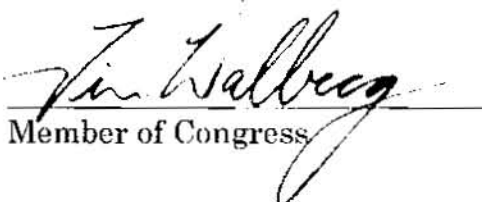

United States Senator


Member of Congress


United States Senator


Member of Congress


United States Senator


Member of Congress


United States Senator


Member of Congress


Member of Congress


United States Senator

Hon. Richard Cordray

August 22, 2016

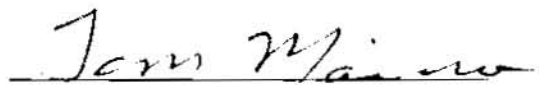
Page 4



Member of Congress



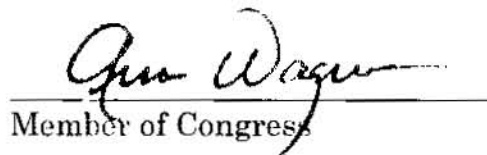
United States Senator



Member of Congress



United States Senator



Member of Congress



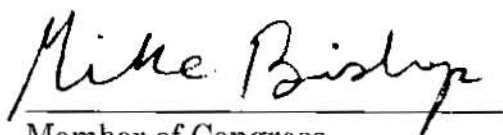
United States Senator



Member of Congress



United States Senator



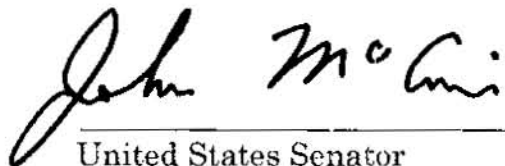
Member of Congress




United States Senator



Member of Congress



United States Senator



Member of Congress

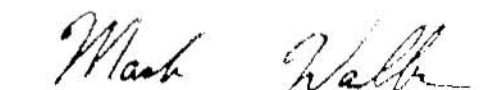

United States Senator


Member of Congress

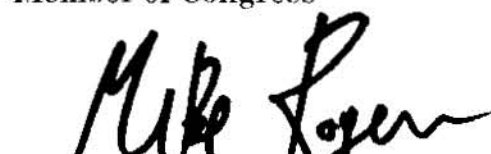

United States Senator


Member of Congress


United States Senator


Member of Congress

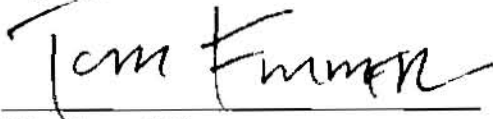

United States Senator


Member of Congress

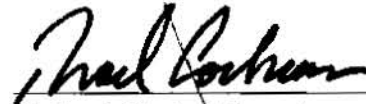

United States Senator


Member of Congress

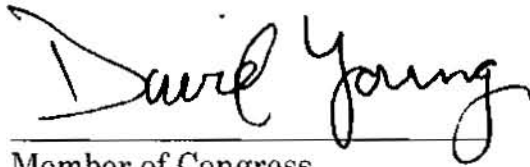

United States Senator



Member of Congress



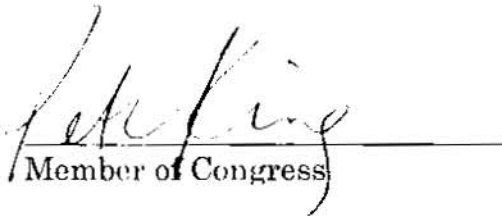
United States Senator



Member of Congress



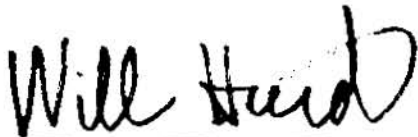
United States Senator



Member of Congress



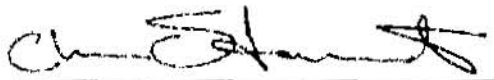
United States Senator



Member of Congress



United States Senator



Member of Congress



United States Senator




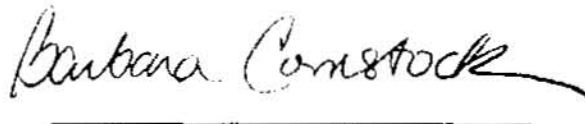
Member of Congress



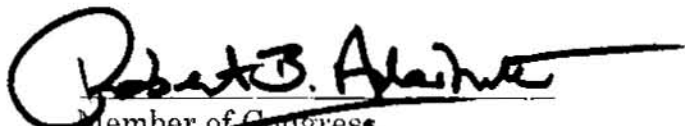
United States Senator

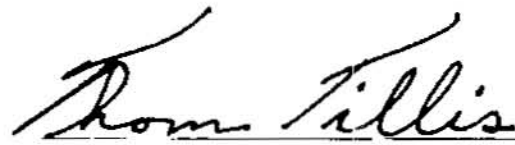

Member of Congress


United States Senator


Member of Congress


United States Senator

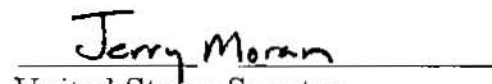

Member of Congress

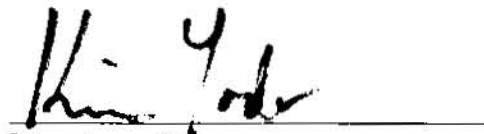

United States Senator

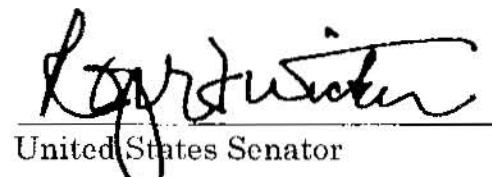

Member of Congress

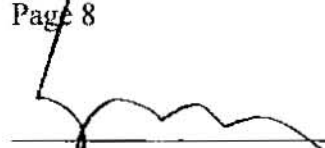

United States Senator


Member of Congress


United States Senator


Member of Congress

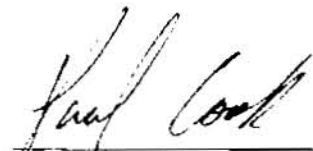

United States Senator



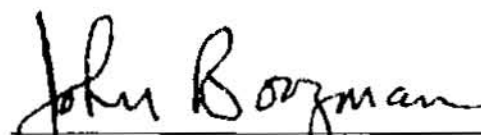
Member of Congress



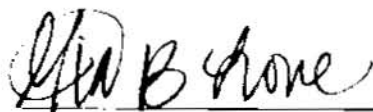
United States Senator



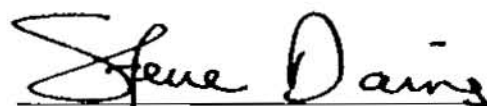
Member of Congress



United States Senator



Member of Congress



United States Senator

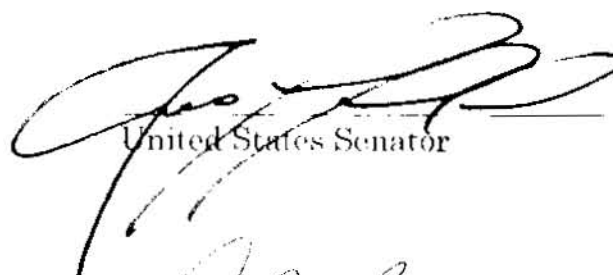


Member of Congress



United States Senator

Member of Congress



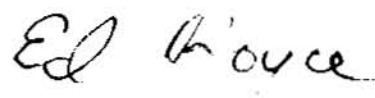
United States Senator



Member of Congress


Member of Congress


Member of Congress


Member of Congress


Member of Congress


Member of Congress


Member of Congress

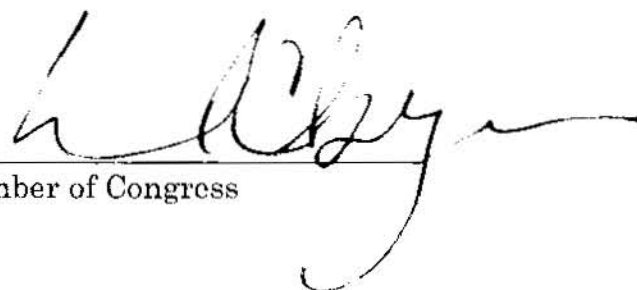

Member of Congress


Member of Congress


Member of Congress

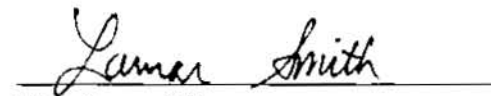

Member of Congress


Member of Congress

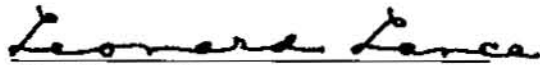

Member of Congress



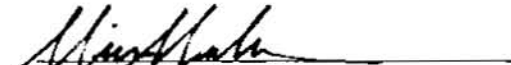
Member of Congress



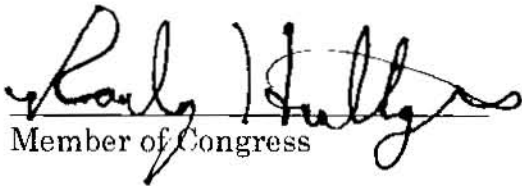
Member of Congress



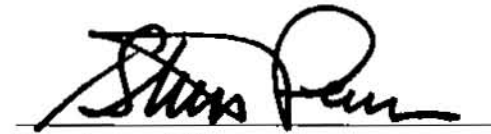
Member of Congress



Member of Congress



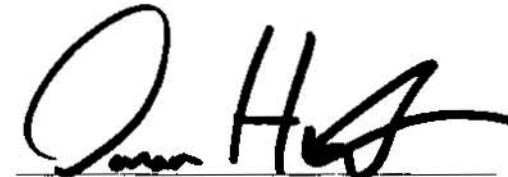
Member of Congress



Member of Congress



Member of Congress



Member of Congress



Member of Congress



Member of Congress



Member of Congress



Member of Congress

Jaime Herrera Beutler
Member of Congress

Al Green
Member of Congress

Lee Zeldin NY-01
Member of Congress

Dan Amodeo
Member of Congress

Dilly Song
Member of Congress

Dan Claitor
Member of Congress

Paul H. Cook Jr.
Member of Congress

Randy Neugebauer
Member of Congress

Andy Barr
Member of Congress

RE Sasser
Member of Congress

Ken Calvert
Member of Congress

Hon. Richard Cordray

August 22, 2016

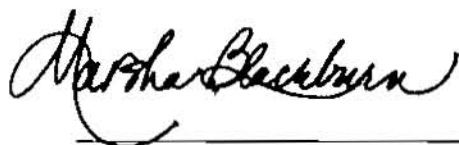
Page 12



Member of Congress



Member of Congress



Member of Congress



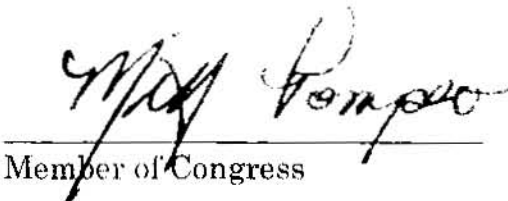
Member of Congress



Member of Congress



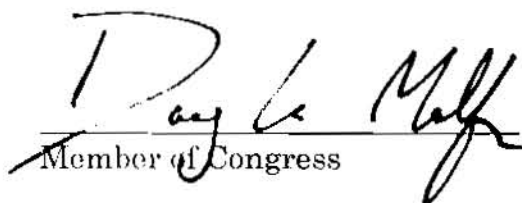
Member of Congress



Member of Congress



Member of Congress



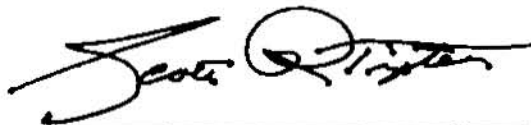
Member of Congress



Member of Congress



Member of Congress

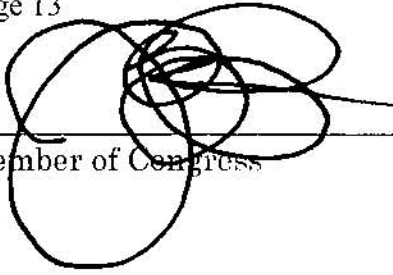
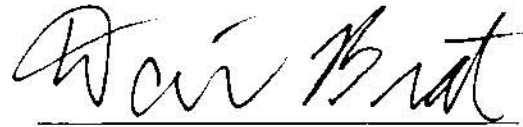
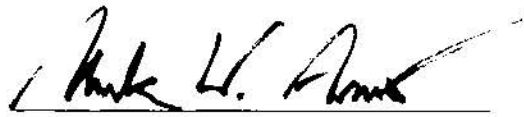

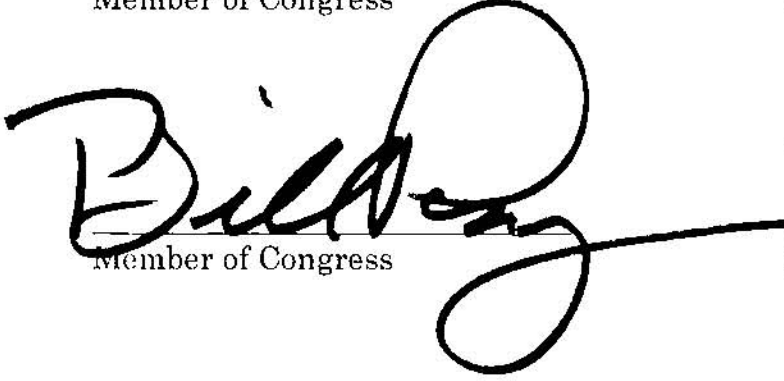


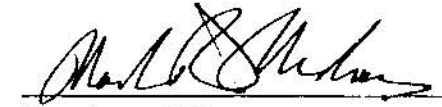



Member of Congress

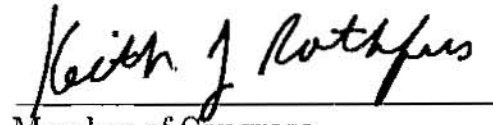
Hon. Richard Cordray

August 22, 2016

Page 13


Member of Congress
Member of Congress
Member of Congress
Member of Congress
Member of Congress
Member of Congress
Member of Congress
Member of Congress
Member of Congress

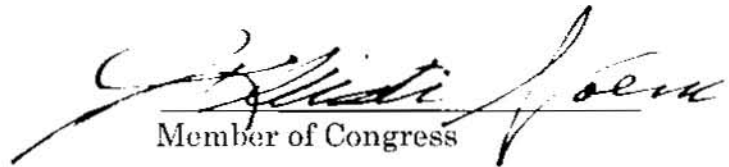

Member of Congress

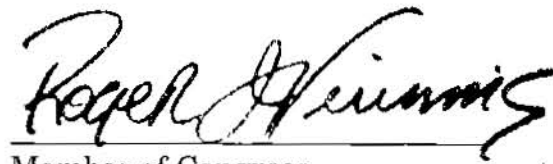

Member of Congress


Member of Congress


Member of Congress

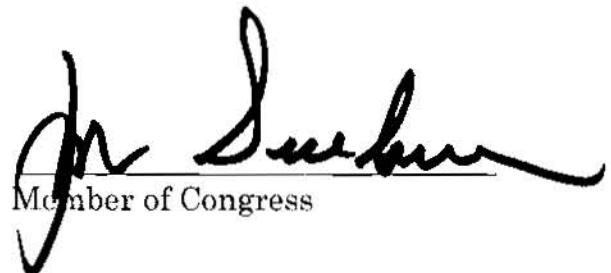

Member of Congress


Member of Congress


Member of Congress


Member of Congress


Member of Congress


Member of Congress


Member of Congress


Member of Congress

Hon. Richard Cordray

August 22, 2016

Page 15

A handwritten signature in dark ink, appearing to read "Richard Cordray", is written over a horizontal line.

United States Senator

Congress of the United States
Washington, DC 20515

September 29, 2016

The Honorable Richard Cordray
Director
United States Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

Dear Director Cordray:

We write concerning the Consumer Financial Protection Bureau's (CFPB) recently proposed rulemaking regarding payday, vehicle title, and certain high-cost installment loans (Docket No. CFPB-2016-0025). As the CFPB moves forward with the comment period, we relay our concerns that the rule, as currently constituted, has the potential to severely restrict access to credit that millions of Americans rely on.

Consumers should be protected by effective regulations that safeguard their financial well-being; however, these proposed regulations fail to adequately balance the need of hard-working Americans to have access to financial products that will allow them to borrow money to cover an unexpected emergency or pay an unforeseen bill on time.

Under the current provisions of this lengthy proposed rule, it is estimated that nearly 80 percent of the short-term, small dollar loan volume will disappear, throwing tens of thousands of employees out of work and leaving millions of consumers with no place to go to access financial markets. In fact, this rulemaking as proposed actually violates the CFPB's Congressionally-mandated charge "to implement and, where applicable, enforce Federal consumer financial law consistently *for the purpose of ensuring that all consumers have access to markets.*"

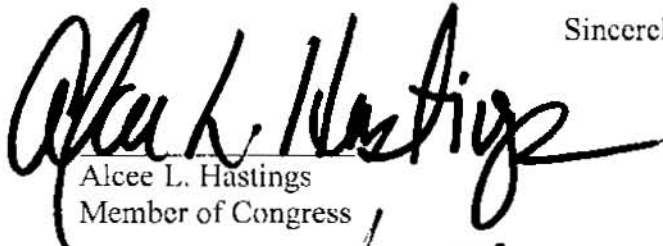
Compounding this problem, credit unions and community banks have indicated that they, likewise, will not be able to operate in the short-term, small-dollar lending space under the regulatory framework set forth by the proposed rule. Currently, credit unions and banks do not generally provide small-dollar loans in the marketplace, and the proposed rule does nothing to change that.

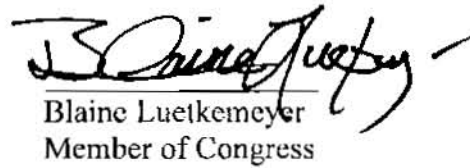
With a decimated short-term, small dollar lending industry, and other financial service providers not able to fill the void, millions of working class Americans will be left with no viable alternative to access the credit they occasionally need to make ends meet. The adverse effects of this proposal on consumers will be devastating.

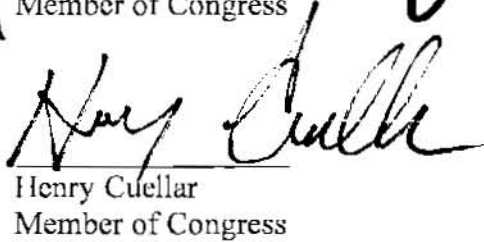
Deceptive lending practices have no place in our marketplaces. We all encourage rules that serve to weed out and punish those that take advantage of consumers. Yet, with this proposed rule, in an effort to keep unscrupulous actors out of the industry, the CFPB will simultaneously be harming the very consumers it is trying to protect by significantly reducing their ability to access to the credit they desperately need.

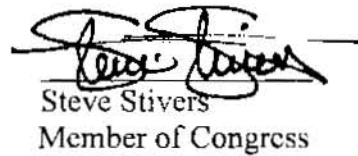
Because of these concerns, we ask that the CFPB work with stakeholders in crafting a final rule that strikes the appropriate balance: protecting both consumers and their access to credit.

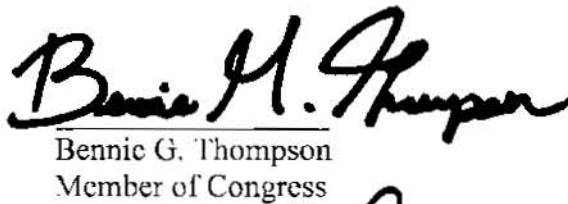
Sincerely,

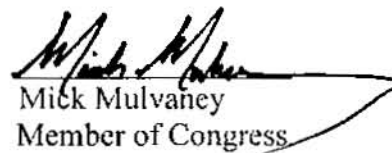

Alcee L. Hastings
Member of Congress

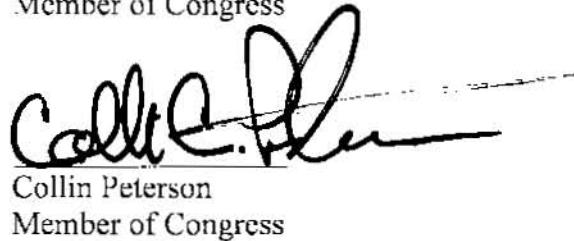

Blaine Luetkemeyer
Member of Congress

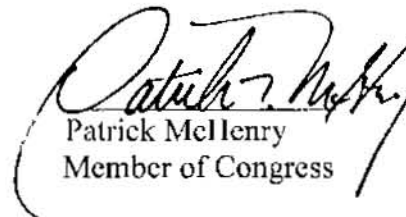

Henry Cuellar
Member of Congress


Steve Stivers
Member of Congress

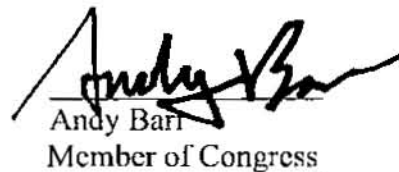

Bennie G. Thompson
Member of Congress

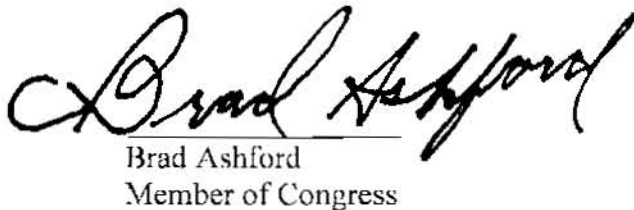

Mick Mulvaney
Member of Congress

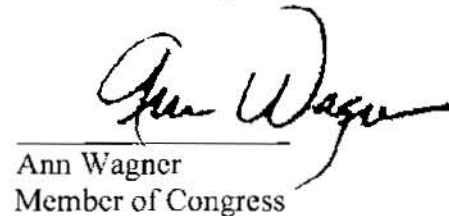

Collin Peterson
Member of Congress


Patrick McHenry
Member of Congress


Kyristen Sinema
Member of Congress


Andy Barr
Member of Congress


Brad Ashford
Member of Congress


Ann Wagner
Member of Congress



1700 G Street, N.W., Washington, DC 20542

October 12, 2016

The Honorable Randy Hultgren
U.S. House of Representatives
2455 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Hultgren:

Thank you for your letter seeking information about the Consumer Financial Protection Bureau's regulation and oversight of the online lending or "marketplace lending" market. Your interest in the potential consumer benefits that may be derived from new and evolving lending platforms, as well as your commitment to ensuring that consumers who participate in these platforms receive basic consumer protections is notable.

As you know, the Bureau is actively engaged in analyzing both the potential benefits and the risks of online lending. The Bureau's Installment Lending and Collections Markets team leads the Bureau's research on and analysis of the online lending industry, with assistance from other Bureau teams and the Bureau's Project Catalyst, an initiative designed to encourage consumer-friendly innovation and entrepreneurship in markets for consumer financial products and services.

As you note in your letter, in March the Bureau announced that we are accepting complaints about products and services from marketplace lenders. Every complaint the Bureau receives gives us insight into problems people are experiencing in the marketplace and helps us identify and stop illegal practices and inform the Bureau's research agenda and use of its other regulatory tools. Also in March, the Bureau published a consumer bulletin outlining the types of things that consumers should consider before applying for and obtaining a loan from a marketplace lender or any type of lender.¹ The bulletin advised consumers to keep in mind that marketplace lending is a young industry and does not have the same history of supervision and oversight as banks and credit unions. The bulletin also stated, however, that marketplace lenders are required to follow the same state and Federal laws as other lenders.

The Bureau is also engaged in a variety of rulemaking activities, some of which may impact the online lending industry. In your letter, you focus specifically on the Bureau's rulemaking on the supervision of larger participants in markets for consumer installment loans and vehicle title loans, as well as on a potential rulemaking requiring certain non-depository lenders to register with the Bureau. With respect to the former, the Bureau has to date defined through rulemaking several

¹ http://files.consumerfinance.gov/f/201603_cfpb_bulletins_online-marketplace-lending.pdf.

markets and larger participants in those markets. Larger participant rulemakings do not set forth substantive regulatory requirements for covered persons, but rather are used by the Bureau, pursuant to its authority under section 1024 of the Dodd-Frank Wall Street Reform and Consumer Protection Act to include certain financial markets within the scope of its supervisory authority.² As noted in the Bureau's Spring 2016 regulatory agenda, the rulemaking related to the market for consumer installment loans and vehicle title loans is currently in the pre-rule stage of the rulemaking process.³ If the Bureau determines to propose either a larger participant rule that encompasses certain online or marketplace lenders or a rule requiring registration of certain non-depository lenders, the Bureau will follow its rulemaking requirements as prescribed by statute, including seeking comment from industry and stakeholders in the potential scope of the rule and consulting with the appropriate prudential and other Federal regulators.

In addition, the Bureau has undertaken several formal research initiatives to understand consumers' use of various types of personal loans. From the beginning, the small-dollar lending markets, which include certain online loans, have been an area of deep focus for the Bureau's research. In the Bureau's intensive analysis of these markets, we have considered the history of the demand for personal loans and the conditions that create such demand, and have focused carefully on how people are affected by the kinds of credit products that have evolved to meet this demand. The Bureau has released several research reports on these issues to date. Most recently, the Bureau released a research paper specifically looking at online lenders and the way they collect payments on their loans.⁴

The Bureau shares your view that evolving technologies are driving constant change in today's consumer financial marketplace, and that consumer-friendly innovation – including, potentially, online lending – can drive down costs, improve transparency, and make consumers' lives better. However, online lending is a new, competitive, and fast-moving industry and, as a result, it is too soon to assess to what extent it will be able to deliver credit to new groups of consumers. As the industry continues to develop, the Bureau encourages the industry to put consumers' interests first in marketing, loan underwriting, origination, servicing, and collections. In the interim, the Bureau will continue to closely follow developments in the industry. As it does so, the Bureau welcomes input from diverse stakeholders about any actions the Bureau might consider taking that would help online lending realize its positive potential and mitigate the risks to consumers.

Thank you for your continued interest in the Bureau's work. Please do not hesitate to contact me should you have any additional questions, or have your staff contact Patrick O'Brien in the Bureau's Office of Legislative Affairs. Mr. O'Brien can be reached at (202) 435-7180. I look

² See § 1024(a)(1)(B) of the Dodd-Frank Act. Note that § 1024(a)(1)(C) of the Dodd-Frank Act, which you cite in your letter, authorizes the Bureau to supervise entities whom the Bureau has determined, pursuant to a prescribed process, pose risks to consumers with regard to the offering or provision of consumer financial products or services. The Bureau's larger participant rulemakings are issued pursuant to separate authority granted to it under sections 1024(a)(1)(B) and (a)(2) of the Act (as well as other statutory provisions), which do not depend on a finding of consumer risk.

³ See <http://www.cfr.gov/nara/agency/about-us/spring-2016-regulatory-agenda/>.

⁴ http://files.consumerfinance.gov/f/201609_cfpb_online-payday_loan_payments.pdf.

forward to working with you on this and other consumer financial protection matters of importance to you and your constituents.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Cordray", with a stylized, cursive script.

Richard Cordray
Director

cc: The Honorable Randy Neugebauer, Member of Congress
The Honorable Roger Williams, Member of Congress
The Honorable Steve Pearce, Member of Congress
The Honorable Andy Barr, Member of Congress
The Honorable Mick Mulvaney, Member of Congress
The Honorable Sean Duffy, Member of Congress
The Honorable Robert Pittenger, Member of Congress
The Honorable Tom Emmer, Member of Congress
The Honorable Scott Tipton, Member of Congress



Consumer Financial
Protection Bureau

1700 G Street N.W. Washington, DC 20552

October 21, 2016

The Honorable Alcee L. Hastings
U.S. House of Representatives
2353 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Blaine Luetkemeyer
U.S. House of Representatives
2440 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Hastings and Congressman Luetkemeyer:

Thank you for your letter regarding the Consumer Financial Protection Bureau's proposed rule on payday, vehicle title, and certain high-cost installment loans.¹ We appreciate you sharing your concerns and weighing in on this important issue. The Bureau is committed to ensuring that all of our regulations reflect a thorough and balanced review of stakeholder viewpoints. The Bureau will carefully consider your comments, along with written comments submitted by the public and all interested stakeholders, in developing a final rule.

Pursuant to section 1031 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, the Bureau has authority to prescribe rules to identify as unlawful and prevent unfair and abusive practices, as well as deceptive practices that, as you point out, have no place in these markets. The proposed rule would apply to certain short-term and longer-term credit products that are aimed at financially vulnerable consumers and is targeted at unfair and abusive practices that the Bureau has reason to believe are occurring in the markets for these loans. The Bureau is concerned that risky lender practices in the payday, auto title, and payday installment markets are pushing borrowers into debt traps. Chief among these concerns is that consumers are being set up to fail with loan payments that they are unable to repay. Faced with unaffordable payments, consumers must choose between defaulting, reborrowing, or skipping other financial obligations like rent or basic living expenses like food and medical care. The Bureau is concerned that these practices also lead to collateral damage in other aspects of consumers' lives such as steep penalty fees, bank account closures, and vehicle seizures.

We agree with you that there is a need for access to small dollar credit to handle occasional emergencies. However, the Bureau believes that certain practices in the market for such loans may cause consumer injury. For lenders that offer responsible options for consumers who need such credit to deal with emergency situations, the Bureau's proposal would seek to keep those options available. Lenders that underwrite could adjust their existing practices in order to make them consistent with the proposed ability-to-repay requirements. The proposal also would provide a conditional exemption that would allow lenders to make a limited number of covered short-term loans without following the full set of ability-to-repay requirements. In addition, the Bureau

¹ <https://www.consumerfinance.gov/regaffairs/letters-to-congress/wp-content/uploads/2016/10/Hastings-Letter-10-13-16.pdf>

proposed two conditional exemptions for certain covered longer-term loans that share certain features with existing loans under the National Credit Union Administration's Payday Alternative Loan program and accommodation lending programs that are underwritten to produce low levels of consumer defaults. However, lenders that rely on fees and profits from consumers in long-term debt traps would not be able to continue that business model. Consumers should be able to meet their needs without finding themselves stuck in extended debt.

Your letter also reiterates concerns raised by industry stakeholders regarding the potential impact the Bureau's proposal could have on the payday loan industry and other providers of small dollar credit. The Bureau shares this concern and agrees there is a need to balance consumer protection regulation with access to credit. The Bureau has done significant outreach to industry stakeholders and many others to solicit insight and suggestions for how to craft a proposed rule that would preserve access to small dollar lending in underserved communities. Moreover, when promulgating regulations, the Bureau is required pursuant to the Dodd-Frank Act to consider the potential benefits and costs to consumers and to industry, including smaller depository institutions and credit unions, as well as the impact on access to consumer financial products or services resulting from the rule. The Bureau is currently reviewing the comments received on the proposed rule and will consider the comments in accordance with its obligations for notice-and-comment rulemaking.

The Bureau intends for consumers to have a fair and transparent marketplace that works both for short-term and longer-term credit products. I appreciate your interest in providing feedback on our proposal, and the Bureau will give due consideration to the issues raised in your letter. Should you have any additional questions, please do not hesitate to contact me or have your staff contact Patrick O'Brien in the Bureau's Office of Legislative Affairs. Mr. O'Brien can be reached at 202-435-7180. I look forward to working with you on this and other consumer financial protection matters of importance to you and your constituents.

Sincerely,



Richard Cordray
Director

cc: The Honorable Henry Cuellar, Member of Congress
The Honorable Steve Stivers, Member of Congress
The Honorable Bennie G. Thompson, Member of Congress
The Honorable Mick Mulvany, Member of Congress
The Honorable Collin Peterson, Member of Congress
The Honorable Patrick McHenry, Member of Congress
The Honorable Kyrsten Sinema, Member of Congress
The Honorable Andy Barr, Member of Congress
The Honorable Brad Ashford, Member of Congress
The Honorable Ann Wagner, Member of Congress

6

The Honorable Patrick McHenry
U.S. House of Representatives

The Honorable Ben Sasse
United States Senate
386A Russell Senate Office Building
Washington, D.C. 20510

Dear Congressman McHenry and Senator Sasse:

Thank you for your comment letter regarding the Consumer Financial Protection Bureau's recent proposal to regulate pre-dispute arbitration agreements in contracts for consumer financial products and services.¹ The Bureau welcomes your feedback as we continue to engage with you and other stakeholders on our rulemaking.

As you know, in May 2016, the Bureau published a proposed rule that would prohibit pre-dispute arbitration clauses that deny groups of consumers the ability to get relief through the courts. The proposal would prohibit covered providers of certain consumer financial products and services from using an arbitration agreement to bar the consumer from filing or participating in a class action. Under the proposal, companies would still be able to include pre-dispute arbitration clauses in their contracts. However, for contracts subject to the proposal, the clauses would have to state explicitly that they cannot be used to stop consumers from being part of a class action in court. The proposal would also require a covered provider that has an arbitration agreement and that is involved in arbitration pursuant to a pre-dispute arbitration agreement to submit specified arbitral records to the Bureau.

This proposal is based on a number of preliminary findings outlined in the proposed rule. These findings include the Bureau's preliminary determination that companies widely use pre-dispute arbitration agreements to prevent consumers from seeking relief for potential violations of the law on a class basis and consumers rarely file individual lawsuits or arbitration cases to obtain such relief. The Bureau's proposal is designed to protect consumers' rights to pursue justice and relief and to deter companies from violating the law. The Bureau expects that the proposal, if finalized, would allow consumers who remain subject to pre-dispute arbitration agreements to file a class action or join a class action when someone else files it.

The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 directed the Bureau to conduct a study and provide a report to Congress on pre-dispute arbitration clauses. As you know, in March 2015, the Bureau released our Arbitration Study,² in which we examined pre-dispute

¹ Arbitration Agreements Notice of Proposed Rulemaking, 81 FR 32829 (May 24, 2016), available at <http://www.federalregister.gov/publications/2016-05-24/2016-10329>.

² See Arbitration Study (March 2015) available at <http://www.fairplayforfairtrade.org/sites/default/files/2015-03/Arbitration%20Study%20-%20March%202015.pdf>.

arbitration clauses in a number of different product markets, such as: credit cards, checking accounts, payday and other small dollar loans, general purpose reloadable prepaid cards, private student loans, auto purchase loans, and mobile wireless agreements. The Bureau's Arbitration Study found that tens of millions of consumers are subject to arbitration clauses. The Bureau also found that consumers rarely consider bringing claims against companies on their own, particularly small claims. Moreover, no evidence was found that these clauses lead to lower prices for consumers. The Dodd-Frank Act granted the Bureau the authority to prohibit, limit, or impose conditions on the use of arbitration clauses in consumer finance agreements by regulation if the Bureau finds that doing so is in the public interest and for the protection of consumers, and if the findings in such a rule are consistent with the Study. After considering the analysis in the Bureau's Arbitration Study, the Bureau decided to commence a rulemaking process regarding pre-dispute arbitration agreements used in connection with consumer financial products or services.

As part of developing the proposed rule, the Bureau considered several potential alternatives, which it described in the proposed rule. These alternatives include an exemption for small entities, improved consumer disclosures, consumer education, opt-in or opt-out requirements, a total ban on pre-dispute arbitration agreements, and other specific exemptions.³ As noted in the proposal, consumers often lack awareness that they have a legal claim and, moreover, even when they are aware of such claims, the cost of pursuing some claims may not justify the potential benefits on an individual basis. As a result, absent the ability for consumers to pursue legal claims as a group, the Bureau preliminarily found that there is an inadequate means to both deter and remedy consumer harm. The proposal stated that the Bureau believes that none of the alternatives described in the proposed rule accomplish the goals of the proposed rulemaking with substantially less regulatory burden. However, the Bureau requested comment on these alternative policy options, including any evidence that would indicate that the option could achieve such goals. The Bureau is currently reviewing the comments received on the proposed rule and will consider the comments in accordance with its obligations for notice-and-comment rulemaking.

I appreciate your interest in providing feedback on our proposal, and the Bureau will give due consideration to the issues raised in your letter. Should you have any additional questions, please do not hesitate to contact me or have your staff contact Catherine Galicia in the Bureau's Office of Legislative Affairs. Mrs. Galicia can be reached at (202) 435-9711. I look forward to working with you on this and other consumer financial protection matters of importance to you and your constituents.

Sincerely,



Richard Cordray
Director

³ See Arbitration Agreements Notice of Proposed Rulemaking, 81 FR 32920-32922.

cc: The Honorable John Barrasso, United States Senator
The Honorable Roy Blunt, United States Senator
The Honorable John Boozman, United States Senator
The Honorable Dan Coats, United States Senator
The Honorable Thad Cochran, United States Senator
The Honorable John Cornyn, United States Senator
The Honorable Tom Cotton, United States Senator
The Honorable Mike Crapo, United States Senator
The Honorable Ted Cruz, United States Senator
The Honorable Steve Daines, United States Senator
The Honorable Mike Enzi, United States Senator
The Honorable Joni Ernst, United States Senator
The Honorable Orrin Hatch, United States Senator
The Honorable Johnny Isakson, United States Senator
The Honorable Mark Kirk, United States Senator
The Honorable James Lankford, United States Senator
The Honorable Mike Lee, United States Senator
The Honorable John McCain, United States Senator
The Honorable Jerry Moran, United States Senator
The Honorable Rand Paul, United States Senator
The Honorable David Perdue, United States Senator
The Honorable James Risch, United States Senator
The Honorable Mike Rounds, United States Senator
The Honorable Tim Scott, United States Senator
The Honorable Jeff Sessions, United States Senator
The Honorable Dan Sullivan, United States Senator
The Honorable John Thune, United States Senator
The Honorable Thom Tillis, United States Senator
The Honorable David Vitter, United States Senator
The Honorable Marco Rubio, United States Senator
The Honorable Dean Heller, United States Senator
The Honorable Jeff Flake, United States Senator
The Honorable Richard Shelby, United States Senator
The Honorable Roger Wicker, United States Senator
The Honorable Pat Roberts, United States Senator
The Honorable Lamar Smith, Member of Congress
The Honorable Michael McCaul, Member of Congress
The Honorable Trent Franks, Member of Congress
The Honorable Kevin Yoder, Member of Congress
The Honorable Bill Huizenga, Member of Congress
The Honorable Mike Pompeo, Member of Congress
The Honorable Andy Barr, Member of Congress
The Honorable John Ratcliffe, Member of Congress
The Honorable Randy Hultgren, Member of Congress
The Honorable Sean Duffy, Member of Congress
The Honorable Scott Garrett, Member of Congress

The Honorable Steve Stivers, Member of Congress
The Honorable Tom Graves, Member of Congress
The Honorable Frank Lucas, Member of Congress
The Honorable Mimi Walters, Member of Congress
The Honorable Peter King, Member of Congress
The Honorable Mia Love, Member of Congress
The Honorable Robert Hurt, Member of Congress
The Honorable Mike Fitzpatrick, Member of Congress
The Honorable Marsha Blackburn, Member of Congress
The Honorable Bradley Byrne, Member of Congress
The Honorable F. James Sensenbrenner, Member of Congress
The Honorable Ken Buck, Member of Congress
The Honorable Pete Olson, Member of Congress
The Honorable Mick Mulvaney, Member of Congress
The Honorable Mark Walker, Member of Congress
The Honorable Erik Paulsen, Member of Congress
The Honorable Kristi Noem, Member of Congress
The Honorable Joe Barton, Member of Congress
The Honorable Diane Black, Member of Congress
The Honorable Barry Loudermilk, Member of Congress
The Honorable Frank Guinta, Member of Congress
The Honorable Steve Womack, Member of Congress
The Honorable Pete Sessions, Member of Congress
The Honorable Lynn Westmoreland, Member of Congress
The Honorable Mike Bishop, Member of Congress
The Honorable Keith Rothfus, Member of Congress
The Honorable Stevan Pearce, Member of Congress
The Honorable Blaine Luetkemeyer, Member of Congress
The Honorable Paul Cook, Member of Congress
The Honorable Scott Tipton, Member of Congress
The Honorable Will Hurd, Member of Congress
The Honorable David Schweikert, Member of Congress
The Honorable Edward Royce, Member of Congress
The Honorable Tom Emmer, Member of Congress
The Honorable Billy Long, Member of Congress
The Honorable Brett Guthrie, Member of Congress
The Honorable Mike Rogers, Member of Congress
The Honorable Ann Wagner, Member of Congress
The Honorable Ander Crenshaw, Member of Congress
The Honorable Bill Posey, Member of Congress
The Honorable Cathy McMorris Rodgers, Member of Congress
The Honorable Evan Jenkins, Member of Congress
The Honorable Mark Amodei, Member of Congress
The Honorable Robert Aderholt, Member of Congress
The Honorable Martha Roby, Member of Congress
The Honorable Charles J. Fleischmann, Member of Congress

The Honorable Michael Burgess, Member of Congress
The Honorable Randy Neugebauer, Member of Congress
The Honorable French Hill, Member of Congress
The Honorable Barbara Comstock, Member of Congress
The Honorable J. Randy Forbes, Member of Congress
The Honorable Tom Cole, Member of Congress
The Honorable Roger Williams, Member of Congress
The Honorable David Joyce, Member of Congress
The Honorable Ken Calvert, Member of Congress
The Honorable Duncan Hunter, Member of Congress
The Honorable Daniel M. Donovan, Jr., Member of Congress
The Honorable Leonard Lance, Member of Congress
The Honorable Bill Flores, Member of Congress
The Honorable Kevin Cramer, Member of Congress
The Honorable David Young, Member of Congress
The Honorable Adrian Smith, Member of Congress
The Honorable Jaime Herrera Beutler, Member of Congress
The Honorable James Renacci, Member of Congress
The Honorable Darrell Issa, Member of Congress
The Honorable Doug LaMalfa, Member of Congress
The Honorable Michael R. Turner, Member of Congress
The Honorable Peter J. Roskam, Member of Congress
The Honorable Louie Gohmert, Member of Congress
The Honorable John Carter, Member of Congress
The Honorable Tim Walberg, Member of Congress
The Honorable Don Young, Member of Congress
The Honorable Stephen Fincher, Member of Congress
The Honorable Robert Pittenger, Member of Congress
The Honorable Harold Rogers, Member of Congress
The Honorable Ron DeSantis, Member of Congress
The Honorable Luke Messer, Member of Congress
The Honorable Glenn Grothman, Member of Congress
The Honorable Martha McSally, Member of Congress
The Honorable David Jolly, Member of Congress
The Honorable Dave Brat, Member of Congress
The Honorable Ryan Costello, Member of Congress
The Honorable Steve Scalise, Member of Congress
The Honorable Mark Meadows, Member of Congress
The Honorable Andy Harris, Member of Congress
The Honorable Chris Stewart, Member of Congress
The Honorable Lee Zeldin, Member of Congress
The Honorable David Rouzer, Member of Congress
The Honorable Dan Newhouse, Member of Congress
The Honorable Bob Goodlatte, Member of Congress
The Honorable Tom Marino, Member of Congress
The Honorable Robert Dold, Member of Congress

House Committee on Financial Services
The Semi-Annual Report of the Bureau of Consumer Financial Protection
Questions for the Record
March 16, 2016

Questions for the Honorable Richard Cordray, Director, Consumer Financial Protection Bureau, from Congressman Mick Mulvane:

Question 1

Director Cordray, in remarks you made during a February 3, 2016 field hearing on checking account access, you acknowledged as a “positive development” the decision some banks and credit unions have made to provide consumers with real-time information about their available account funds using modern communication tools, such as online banking and text and e-mail alerts. You stated that this real-time communication can reduce the risks that consumers inadvertently overspend their accounts.

Wouldn't the use of modern communication methods with consumers who owe a debt offer a similar benefit of early and effective access to important financial information, giving consumers an opportunity to resolve their accounts in a timely way? This seems particularly helpful in instances when they may have inadvertently missed a payment, reducing the risk of future financial harm. Wouldn't this also be a positive development?

Response

In addition to the positive developments in the use of technology for checking accounts, many consumers are taking advantage of modern communication technologies offered by many credit card issuers. These issuers are providing consumers with real-time text and e-mail alerts such as transaction and payment alerts and instant web or mobile account access to help consumers better manage their credit card debts and combat fraud.

Use of these technologies on more delinquent or charged off accounts may be more problematic for both consumers and debt collectors. Consumers may consider them more intrusive in terms of channel and frequency, especially when the purpose of the communications shifts from helping the consumer manage an active account to attempting to collect a debt. Email, text, chat, and other digital forms of communications are not widely used by third party debt collectors putatively due to regulatory uncertainty. For that reason, the Bureau is considering updating federal collection regulations to allow for the use of technologies not extant when the Fair Debt Collection Practices Act (FDCPA) was enacted in 1977. The Bureau is hopeful that our debt collection rulemaking efforts will provide more clarity around the use of technologies for both the banks collecting in their own name and the third party vendors with whom they contract.

Congress of the United States

Washington, DC 20515

December 1, 2016

The Honorable Richard Cordray
Director
Bureau of Consumer Financial Protection
1700 G Street, NW
Washington, D.C. 20552

Dear Director Cordray:

We write to you to express our concerns regarding the Consumer Financial Protection Bureau's ("CFPB" or the "Bureau") June 2, 2016 proposed rules regarding payday, vehicle title, and certain high-cost installment loans¹. The CFPB's framework not only preempts the statutory and regulatory frameworks currently in place in our states, but has been constructed in a way that will result in the elimination of regulated small dollar credit products from the market, leaving our constituents without access to credit or forcing them to seek riskier, illegal forms of short term credit. Furthermore, the Bureau's proposal fails to consider the effects this constriction of credit will have on the consumers who need these financial products and will actually harm the very same hard-working Americans the Bureau claims it is trying to protect.

The CFPB's proposal attempts to further regulate an industry that is already highly regulated by nearly a dozen federal laws including the Truth in Lending Act, the Fair Credit Reporting Act, the Equal Credit Opportunity Act, and the Electronic Funds Transfer Act. In addition, our states and tribal governments presently possess their own regulatory frameworks governing short-term credit providers, reflecting hard earned compromises between government officials, consumers and industry. Unfortunately, the CFPB's proposed regulations will preempt these longstanding laws that have protected consumers while continuing to provide them with access to their products.

By the CFPB's own admission, under these rules, lenders will lose up to 75 percent of their revenue which will put most out of business, yet does not suggest where consumers should turn to fulfill their short term credit needs. As you are well aware, the need for credit does not simply disappear. Access to credit has, and will continue to be, critical to millions of Americans. In fact, the Federal Reserve reported last year that nearly 47 percent of all American consumers could not cover a \$400 emergency.² Consumers use short term credit to cover unexpected expenses, or to fill the gaps in irregular income. To take what is often times the only lawful option available to make ends meet away from individuals without offering an alternative is irresponsible and is

¹ Notice of Proposed Rulemaking on Payday, Vehicle Title, and Certain High-Cost Installment Loans, Docket No. CFPB-2016-0025.

² <http://www.federalreserve.gov/newsevents/press/2015/08/20150814a.htm>, being as households 201600017.

in direct conflict of the CFPB's mission to "make consumer financial markets work for consumers, responsible providers, and the economy as a whole."

Of further concern is the CFPB's lack of consumer research during the drafting of this proposed rule. During a February 11, 2016 House Financial Services Subcommittee on Financial Institutions and Consumer Credit hearing, Acting Deputy Director David Silberman told the Subcommittee that he had never been to a short-term lending provider location. He had not talked to consumers about their experiences with short term credit and how the proposed changes to short-term credit products may impact their families. Millions of Americans rely on small dollar loans, and we expect the Bureau to understand from those who will be affected the most by this proposed rule what the impact will be on them.

We are also troubled by the Bureau's reporting of consumer comments during this rulemaking process. While your agency prides itself on transparency, there was a significant delay in the opening of the electronic comment portal on Regulations.gov which, according to your website, is the preferred mechanism for the submission of comments. Over a month lapsed from the time the rule proposal was announced on June 2 to its publishing on Regulations.gov in late July. While your agency provided a short extension on the comment period window, it was only for roughly half of this time period. Since the comment portal opened, it has been brought to our attention that the majority of consumer comments submitted to the CFPB were not visible on the website, potentially leaving thousands of voices unheard, including those of our constituents. We understand the comment period is intended to be "public" so that all interested parties can review comments for themselves.

Accordingly, please answer the following questions regarding the Bureau's Proposed Rulemaking on Payday, Vehicle Title, and Certain High-Cost Installment Loans in addition to the CFPB's rulemaking process more generally:

Why was there a delay in the opening of the electronic portal (Regulations.gov) for public comments and why weren't all comments published in real time?

- 1) To date, how many comments has the Bureau received on the rule, how many of those comments have been published and how much time on average does it take for comments to be published from the time they are submitted for this rule and other rules?
- 2) Is not the point of the portal to put these comments into the public domain, allowing people to read them, formulate an opinion, and respond? We understand that upwards of 1.4 million comments have been submitted, however only a fraction are posted on the website³. Is there intent to hide the comments

³ Lorraine Woellert, "Payday-lending crackdown draws 1.4 million letters of protest," *Politico*, October 18, 2016: <http://www.politico.com/story/2016/10/consumer-lenders-payday-lending-curbs-draws-1-4-million-letters-of-protest-229942>.

of consumers who support the current state regulatory framework of legal licensed short term lending?

- 3) What happens after public comments are received? Is there any type of subjective analysis that occurs prior to posting? Please share any guidelines or procedures that the Bureau may follow with respect to receiving and publishing comments.
- 4) If 75 percent of revenue is lost to the lending industry, where do our constituents and the millions of Americans who rely on state and federally regulated short term loans turn to for their credit needs?

We look forward to your response by not later than December 1, 2016. If you have any questions regarding this request, please contact andy.taylor@mail.house.gov (Duffy) or Jared Sawyer at jared.sawyer@mail.house.gov (Neugebauer).

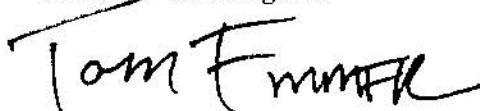
Sincerely,



SEAN DUFFY
Member of Congress



BLAINE LUETKEMEYER
Member of Congress



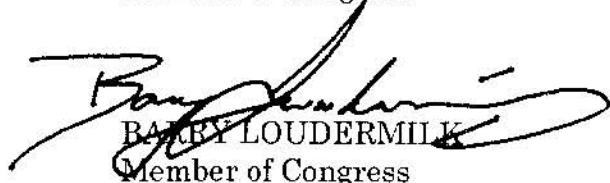
TOM EMMER
Member of Congress



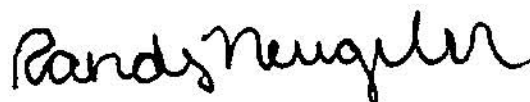
ANDY BARR
Member of Congress



STEVE STIVERS
Member of Congress



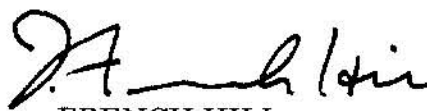
BARRY LOUDERMILK
Member of Congress



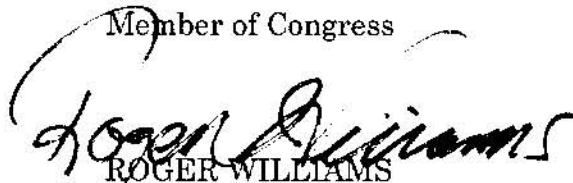
RANDY NEUGEBAUER
Member of Congress



DAVID SCHWEIKERT
Member of Congress



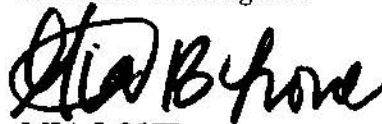
FRENCH HILL
Member of Congress



ROGER WILLIAMS
Member of Congress



MICK MULVANEY
Member of Congress



MIA LOVE
Member of Congress



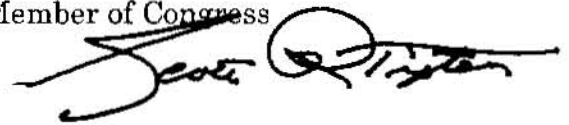
RANDY WEBER
Member of Congress



STEVE PEARCE
Member of Congress



KEN BUCK
Member of Congress



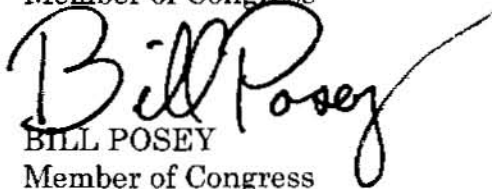
SCOTT TIPTON
Member of Congress



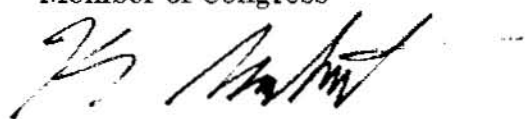
MARLIN STUTZMAN
Member of Congress



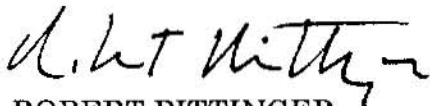
LYNN WESTMORELAND
Member of Congress



BILL POSEY
Member of Congress



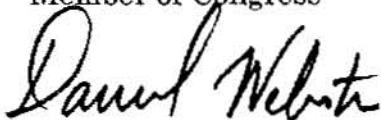
KENNY MARCHANT
Member of Congress



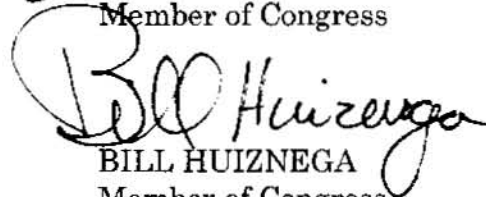
ROBERT PITTINGER
Member of Congress



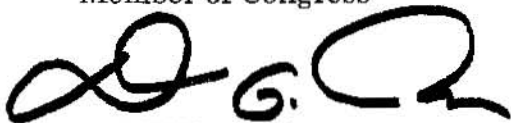
LUKE MESSER
Member of Congress




DANIEL WEBSTER
Member of Congress



BILL HUIZENGA
Member of Congress



DENNIS ROSS
Member of Congress



CHUCK FLEISCHMANN
Member of Congress



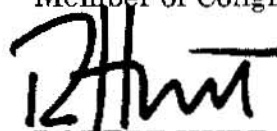
MIKE ROGERS
Member of Congress



TOM GRAVES
Member of Congress



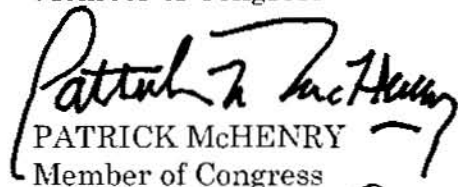
EARL L. 'BUDDY' CARTER
Member of Congress



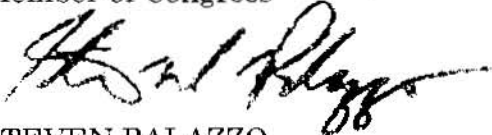
ROBERT HURT
Member of Congress



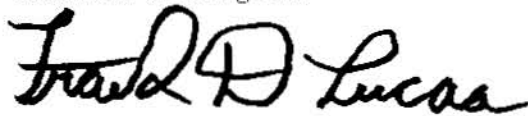
KEITH ROTHFUS
Member of Congress



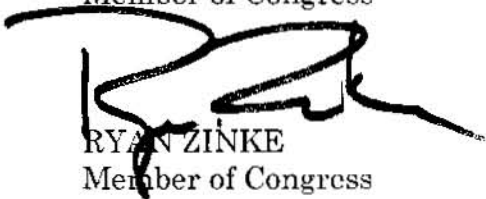
PATRICK McHENRY
Member of Congress



STEVEN PALAZZO
Member of Congress



FRANK LUCAS
Member of Congress



RYAN ZINKE
Member of Congress



DAVE TROTT
Member of Congress



MICHAEL McCAUL
Member of Congress



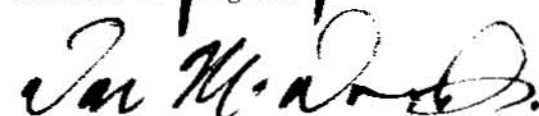
JOHN RATCLIFFE
Member of Congress



TREY GOWDY
Member of Congress



DON YOUNG
Member of Congress



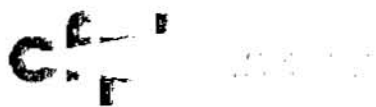
DANIEL M. DONOVAN, JR.
Member of Congress



BRUCE WESTERMAN
Member of Congress



RALPH ABRAHAM, M.D.
Member of Congress



1700 G Street, NW Washington, DC 20002

December 15, 2016

The Honorable Sean Duffy
1208 Longworth House Office Building
U.S. House of Representatives
Washington, DC 20515

The Honorable Randy Neugebauer
1424 Longworth House Office Building
U.S. House of Representatives
Washington, DC 20515

Dear Congressmen Duffy and Neugebauer:

Thank you for your letter regarding the Consumer Financial Protection Bureau's proposed rule on payday, vehicle title, and certain high-cost installment loans.¹ The Bureau is committed to ensuring that all of our regulations reflect a thorough and balanced review of stakeholder viewpoints, and we will carefully consider written comments submitted by the public and all interested stakeholders, in developing a final rule.

As part of carrying out its statutory mandate, the Bureau intends for consumers to have a fair and transparent marketplace that balances consumer protection regulation with affordable access to credit. The Bureau is concerned that risky lender practices in the payday, auto title, and payday installment markets leave borrowers trapped in unaffordable loans. Faced with unaffordable payments, consumers must choose between defaulting, reborrowing, or skipping other financial obligations like rent or basic living expenses like food and medical care. The Bureau is concerned that these practices also lead to collateral damage in other aspects of consumers' lives such as steep penalty fees, bank account closures, and vehicle seizures.

Over the past four years, the Bureau has studied an enormous amount and variety of information about the small dollar lending market gathered from lenders engaged in payday, vehicle title, and similar lending; from affected consumers; from federal, state, tribal and local government agencies and officials; from academics; from advocates; from trade organizations; and from others. The proposed rule also comes after extensive research by the Bureau that examined how certain high-cost financial products affect consumers.²

On June 2, 2016, the Bureau posted the notice of proposed rulemaking to its website and submitted the NPRM to the Office of the Federal Register by courier. Following typical practice, an editor at

¹ <http://www.consumerfinance.gov/regaffairs/2016/12/15/duffy-vehicle-title-payday-lender-practices-response/>

² <http://www.consumerfinance.gov/regaffairs/2016/03/22/bureau-releases-report-on-payday-lending/>

<http://www.consumerfinance.gov/regaffairs/2016/03/22/bureau-releases-report-on-payday-lending/>

<http://www.consumerfinance.gov/regaffairs/2016/03/22/bureau-releases-report-on-payday-lending/>

<http://www.consumerfinance.gov/regaffairs/2016/03/22/bureau-releases-report-on-payday-lending/>

<http://www.consumerfinance.gov/regaffairs/2016/03/22/bureau-releases-report-on-payday-lending/>

the OFR reviewed the document, and Bureau and OFR staff agreed upon certain non-substantive, technical edits before the final rule was scheduled for publication in the Federal Register. Given the length of the NPRM, this process took several weeks. On July 11, 2016, the OFR scheduled the NPRM for publication on July 22, 2016 and notified the Bureau that the document would be placed on public inspection on regulations.gov on July 21, 2016. The NPRM was published on July 22, 2016, as scheduled. At that time, the Bureau extended the comment period to ensure that we captured as much feedback as possible.

Your letter asks about the volume of comments the Bureau has received in response to the payday NPRM. Bureau staff is working to process the over one million comments. Processing comments takes a considerable amount of time, due to a number of manual administrative steps. For example, for the hundreds of thousands of paper comments received, processing includes opening envelopes, removing any staples, preparing and scanning the comments into electronic format, and uploading and posting the comments to regulations.gov. We will continue to update the electronic docket on regulations.gov on a rolling basis. The Bureau is currently reviewing comments received during the notice and comment period on the proposed rule, and will consider and respond to comments in the final rule in accordance with its obligations under the Administrative Procedure Act.

Your letter also reiterates concerns regarding the potential impact the Bureau's proposal could have on the payday loan industry and other providers of small dollar credit and on the ability of consumers to have access to responsible credit options. The Bureau shares this concern and agrees there is a need to balance consumer protection regulation with ensuring that consumers have access to safe, affordable credit. Moreover, when promulgating regulations, the Bureau is required pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act to consider the potential benefits and costs to consumers and to industry, including smaller depository institutions and credit unions, as well as the impact on access to consumer financial products or services resulting from the rule. We undertook this analysis in promulgating the proposed rule and are now considering all comments received. As we move forward, we will continue to seek a balance between consumer protection regulation and access to credit.

Thank you for your continued interest in the Bureau's work. Should you have any additional questions, please do not hesitate to contact me or have your staff contact Patrick O'Brien in the Bureau's Office of Legislative Affairs. Mr. O'Brien can be reached at 202-435-7180.

Sincerely,



Richard Cordray
Director

cc: The Honorable Blaine Luetkemeyer, Member of Congress
The Honorable David Schweikert, Member of Congress

The Honorable Tom Emmer, Member of Congress
The Honorable French Hill, Member of Congress
The Honorable Andy Barr, Member of Congress
The Honorable Roger Williams, Member of Congress
The Honorable Steve Stivers, Member of Congress
The Honorable Mick Mulvaney, Member of Congress
The Honorable Barry Loudermilk, Member of Congress
The Honorable Mia Love, Member of Congress
The Honorable Randy Weber, Member of Congress
The Honorable Steve Pearce, Member of Congress
The Honorable Ken Buck, Member of Congress
The Honorable Scott Tipton, Member of Congress
The Honorable Marlin Stutzman, Member of Congress
The Honorable Lynn Westmoreland, Member of Congress
The Honorable Bill Posey, Member of Congress
The Honorable Kenny Marchant, Member of Congress
The Honorable Robert Pittenger, Member of Congress
The Honorable Luke Messer, Member of Congress
The Honorable Daniel Webster, Member of Congress
The Honorable Bill Huizenga, Member of Congress
The Honorable Dennis Ross, Member of Congress
The Honorable Chuck Fleischmann, Member of Congress
The Honorable Mike Rogers, Member of Congress
The Honorable Tom Graves, Member of Congress
The Honorable Earl L. "Buddy" Carter, Member of Congress
The Honorable Robert Hurt, Member of Congress
The Honorable Keith Rothfus, Member of Congress
The Honorable John Ratcliffe, Member of Congress
The Honorable Patrick McHenry, Member of Congress
The Honorable Trey Gowdy, Member of Congress
The Honorable Steven Palazzo, Member of Congress
The Honorable Don Young, Member of Congress
The Honorable Frank Lucas, Member of Congress
The Honorable Daniel M. Donovan, Jr., Member of Congress
The Honorable Ryan Zinke, Member of Congress
The Honorable Bruce Westerman, Member of Congress
The Honorable Dave Trott, Member of Congress
The Honorable Ralph Abraham, M.D., Member of Congress
The Honorable Michael McCaul, Member of Congress