

Testimony of David Silberman
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Consumer Financial Protection Bureau
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on Financial Institutions and Consumer Credit
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Chairman Neugebauer, Ranking Member Clay, and Members of the Subcommittee, thank you for the opportunity to testify today about the Consumer Financial Protection Bureau's (Bureau) work to strengthen our financial system so that it better serves consumers, responsible businesses, and our economy as a whole. My name is David Silberman and I am the Associate Director for Research, Markets, and Regulations at the Consumer Financial Protection Bureau.

I joined the Bureau as part of the implementation team in December 2010. Prior to the Bureau, I served as General Counsel and Executive Vice President of Kessler Financial Services, a privately-held company focused on creating and supporting credit card and other financial services to membership organizations. My involvement in consumer financial services began when, as Deputy General Counsel of the AFL-CIO, I helped create an organization to provide financial services to union members and negotiated the first AFL-CIO credit card program. I began my career as a law clerk to Justice Thurgood Marshall.

As you know, the Consumer Bureau is the nation's first federal agency whose sole focus is protecting consumers in the financial marketplace. Products like mortgages and student loans involve some of the most important financial transactions in people's lives. Since we opened our doors, we have focused on making markets work better for consumers in America, and helping consumers improve their financial lives. Through fair rules based on research and quantitative analysis, consistent oversight, appropriate enforcement, and broad-based consumer engagement, the Bureau is working to restore consumer trust in the financial marketplace and to level the regulatory playing field for honest businesses. To date, our enforcement actions have helped secure approximately \$5.3 billion in relief to millions of consumers victimized by violations of Federal consumer financial laws.

My role at the Bureau is to lead the Division of Research, Markets, and Regulations. The Division is responsible for articulating a research-driven, evidence-based perspective on consumer financial markets, consumer behavior, and regulations to inform the public discourse, inform Bureau thinking on priority areas, identify areas where Bureau intervention may improve market outcomes, and support efforts to reduce outdated, unnecessary, or unduly burdensome regulations. Where our research and analysis suggests the need for regulatory intervention, we seek to develop regulations which will protect consumers without unintended consequences or unnecessary costs. As part of the rulemaking process, we carefully assess the benefits and costs

of the regulations we are considering on consumers and financial institutions. Balanced regulations are essential for protecting consumers from harmful practices and ensuring that consumer financial markets function in a fair, transparent, and competitive manner.

As Director Cordray has said many times, the responsible lending that is the hallmark of community banks and credit unions did not cause the financial crisis. These institutions play a vital role in many communities and in our economy. Their traditional model of relationship lending has been beneficial for many people, especially in rural areas and small towns across this country. We are committed to ensuring that the Bureau incorporates the perspectives of small depository institutions into our policy-making process, communicates relevant policy initiatives to community banks and credit unions, and works with community banks and credit unions to identify potential areas for regulatory simplification. We reinforce our commitment to this model of responsible lending by meeting regularly with community bankers and credit union leaders in all 50 states. We also receive valuable insight and feedback from members of our Credit Union Advisory Council and Community Bank Advisory Council, which consist of more than 30 credit union and community bankers from every region.

As such, the Bureau is committed to ensuring our rules and regulations are tailored and balanced, so that as we fulfill our mandate to protect consumers, we are mindful of the impact of compliance on financial institutions and responsive to their concerns. We engage in rigorous evaluation of the effects of proposed and existing regulations on consumers and financial institutions throughout our rulemaking process, and maintain steady dialogue with consumer advocates and industry participants. To support the implementation of and industry compliance with its rules, the Bureau has published plain-language compliance guides and video presentations summarizing them, and it has actively engaged in discussions with industry about ways to achieve compliance.

Our ongoing efforts allow us to be responsive to concerns and make reasonable adjustments along the way. Congress also specifically mandated the agency to undertake a regulatory review process as part of our rulemaking authority. For example, under Section 1021 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act), the purpose of the Bureau is to implement and 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. To more fully carry out this purpose, 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 assess the rule's effectiveness in meeting the purpose and objectives of Consumer Financial Protection Act and any other stated goals for a particular rule.¹ The Bureau is committed to this

¹ 12 U.S.C. § 5512(d).

review and, as required under the Act, will seek public comment and publish a report on its assessments as we complete each review.

Beginning in 2011, the Bureau demonstrated an early commitment to achieving effective regulations by issuing a Request for Information (RFI) to help identify priorities for streamlining inherited regulations. The Bureau identified a number of potential opportunities for streamlining, including simplifying regulations that have become unnecessarily difficult to understand and comply with over time; standardizing definitions of common terms across regulations where statutes permit; updating regulations that are outdated or unnecessary due to changing technologies; and removing unnecessary restrictions on consumer choice or business innovation.

Based upon comments received from stakeholders in response to this RFI, the Bureau identified a requirement that certain fee disclosures be posted on automated teller machines as a candidate for elimination. The Bureau provided technical assistance to Congress on the issue and Congress took action. The Bureau then issued a rule to implement the congressional directive.

The Bureau likewise targeted a provision of the regulations implementing the Credit Card Accountability Responsibility and Disclosure Act (the CARD Act), when we received feedback from some creditors that it precluded them from issuing credit cards to non-working, but otherwise creditworthy spouses. The Bureau amended that regulation to provide appropriate regulatory relief.

Additionally, the Bureau identified certain requirements regarding delivery of annual privacy notices under the Gramm-Leach-Bliley Act as potentially redundant. Then 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. The approach we took considerably eases the financial burdens of such notices for many companies while still maintaining consumer disclosures. We estimate that choosing the new online disclosure method could save the industry about \$17 million annually.

As you know, much of the Bureau's early work centered on the mortgage market, the primary cause of the financial crisis and thus where Congress saw reform as essential. As directed by Congress in the Dodd-Frank Act, the Bureau issued a series of mortgage rules, the majority of which took effect in January 2014, to address a variety of practices that contributed to the housing crisis and ensuing financial meltdown. Throughout the rulemaking process, the Bureau engaged with industry stakeholders and the public to ensure balanced rulemaking that would provide robust safeguards for consumers and clear guidance for financial institutions without imposing undue burdens.

In addition, the Bureau published exam guidelines months before the effective date of the mortgage rules to give institutions the time and confidence to prepare. We also distributed a readiness guide with a checklist of things to do before the rules took effect, such as updating policies and procedures and providing staff training. Bureau staff attended industry conferences and answered questions about implementing the mortgage rules. We also participated in webinars attended by thousands of participants.

The Bureau also maintains a regulatory implementation program, which connects industry representatives to regulatory experts to answer questions about the rules. As the Bureau became aware of critical operational or interpretive issues, we addressed them. In this vein, we adjusted and clarified the rules where needed, which included reopening the notice-and-comment process several times in limited areas. By addressing and clarifying industry questions, we reduced the need for individual institutions to spend time reaching their own uncertain judgments on these matters. And we recognized all along that if we could ease implementation without sacrificing any of our key objectives, the result would be better and more effective consumer financial protection.

As part of the Bureau's initial work mandated by Congress to reform the mortgage market, the Bureau developed a set of special provisions to provide "small creditors" – mostly community banks and credit unions – greater leeway to originate Qualified Mortgages (QMs). Among other things, these provisions provided a two-year transition period, during which balloon loans made by small creditors and held in portfolio can be treated as QMs, regardless of where the loans are originated and provided that after that period balloon loans originated by small creditors in rural or underserved areas would be treated as QMs. We then committed to a thorough review of whether our definition of "rural or underserved" could be better calibrated to reflect significant differences in geographic areas, and facilitate access to credit for consumers.

We then undertook considerable analysis on the "rural or underserved" and also the "small creditor" definitions to prepare a proposed rule that would provide more room for residential mortgage lending by small creditors such as community banks and credit unions. The Bureau's proposal would expand the definition of "small creditor" by adjusting the origination limit to encourage more lending by these small local institutions. We also are proposing to expand the definition of "rural" areas to provide more access to credit in those areas. We accepted public comments on these issues through March 30, which we are now reviewing.

In a similar vein, in adopting our mortgage servicing rules, the Bureau created an exemption from most of the rules' requirements for "small servicers" which we defined so as to capture 98% of the community banks and credit unions who service mortgage loans. And, in the proposal we issued last year to implement the Dodd-Frank's expansion of data collection under the Home Mortgage Disclosure Act (HMDA), the Bureau proposed an exemption that we

estimate would reduce the number of community banks and credit unions obligated to submit HMDA reports by over 20%.

Under the Dodd-Frank Act, Congress directed the Bureau to combine the required mortgage disclosure forms for the Real Estate Settlement Procedures Act (RESPA) and Truth in Lending Act (TILA). After extensive consultation with the public, the Bureau developed new, easy-to-understand “Know Before You Owe” forms, which were finalized in November 2013. In response to concerns raised by stakeholders, the Bureau finalized minor amendments to the rule, designed to ease compliance, in January 2015.

As you may know, the Bureau has taken a number of steps to support industry implementation of the integrated disclosure rule and to help creditors, vendors, and others affected by the new rule understand, operationalize, and prepare to comply with the rule’s new consumer protections. Since the integrated disclosure 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, including focused efforts on the needs of smaller institutions. The Bureau’s regulatory implementation program for the integrated disclosure rule includes the following:

Inter-agency coordination. The Bureau coordinates with other federal government regulators that also conduct examinations of mortgage companies to promote a consistent regulatory experience for industry. In-depth exam procedures were approved by the Federal Financial Institutions Examination Council on February 12, 2015 and ultimately published by the Bureau on April 1, 2015.

Publish “readiness guide,” plain-language guides, and other resources. The “readiness guide” includes a detailed check-list of things for industry to do prior to the integrated disclosure rule effective date, such as updating policies and procedures and providing training for staff. The Bureau also published a compliance guide, a guide to the new integrated disclosure forms, and an illustrative timeline.² In addition, the Bureau has made the regulation easily navigable online through eRegulations.³

Publish an amendment to the integrated disclosure rule in response to industry requests. In January 2015, after extensive outreach to stakeholders, the Bureau adopted two minor modifications to the integrated disclosure rule in order to smooth compliance.⁴

Provide unofficial staff guidance. Bureau staff attorneys have provided oral guidance in response to over 600 regulatory interpretation inquiries relating to the integrated disclosure rule since it was issued.

² www.consumerfinance.gov/regulatory-implementation/tila-respa/

³ http://www.consumerfinance.gov/eregulations/1026-1/2014-25503_20150801#1026-1-a.

⁴ 80 FR 8767 (February 19, 2015).

Engage with stakeholders. Bureau staff has provided remarks and addressed questions about the integrated disclosure rule and related implementation matters at over 40 formal events and over 50 informal stakeholder meetings since the integrated disclosure rule was issued in November 2013.

Conduct webinars. The Bureau has conducted a series of four free, publicly available webinars, available for viewing through the Bureau's website,⁵ that provide guidance on how to interpret and apply specific provisions, including one conducted with the National Credit Union Administration specifically designed to address the concerns of credit unions. A fifth webinar is scheduled for May 26, 2015.

The Bureau's work supporting implementation of the integrated disclosure rule does not end with the effective date of the integrated disclosure rule. We expect to continue working with industry, consumers, and other stakeholders to answer questions, provide guidance, and evaluate any issues industry and consumers experience as the integrated disclosure rule is implemented.

A deep and thorough understanding of the consumer financial marketplace is essential to accomplish the Bureau's mission, and as such be evidence-driven. As the events leading up to the financial crisis illustrated, all regulators must have timely and accurate information about the markets they oversee. Information is essential to properly regulate markets, supervise market participants, protect consumers and honest businesses from unscrupulous activities, and ensure the stability of the financial system and of the economy generally.

While my work at the Bureau focuses on research, markets, and regulations, I want to mention that the Bureau's supervision program continues to be refined, improved, and matured as authorized under the Dodd-Frank Act. The Bureau supervises depository institutions and credit unions with total assets of more than \$10 billion, and their affiliates. The Bureau also has authority under the Dodd-Frank Act to supervise nonbanks in specific markets. Bureau staff strive to conduct effective examinations while minimizing unnecessary burden on supervised entities. Examinations typically involve work done both off site and on site, scoped to focus on areas posing the highest potential risks to consumers. The Bureau has made it a priority to coordinate the timing and substance of examination activities with our federal and state regulatory partners.

When examinations reveal legal violations, we require appropriate corrective action, including financial restitution to consumers. We are also insistent that institutions have compliance management systems to prevent violations and ensure appropriate self-monitoring, correction, and remediation where violations have occurred. This work has strengthened compliance management at the large banks and caused many large nonbank firms to implement compliance management systems for the first time. Reinforcement of these expectations is helping to level the playing field for competitors across entire markets, regardless of charter or corporate form.

⁵ <http://www.consumerfinance.gov/regulatory-implementation/tila-respa/>

Part of our statutory mandate is to address consumer financial issues in an even-handed manner across all market participants. We continue to build out our risk-based supervision program both for banks and for non-bank financial firms. This approach is enabling us to provide more consistent treatment that ensures compliance with Federal consumer financial laws and helps level the playing field among competing firms in mortgage origination, mortgage servicing, debt collection, student loan servicing, and other markets.

The premise at the heart of our mission is that consumers deserve to be treated fairly in the financial marketplace, and they should have someone stand on their side when that does not happen. So far, our Office of Consumer Response has received more than 590,000 consumer complaints about mortgages, credit cards, student loans, auto loans, credit reporting, debt collection, and many other consumer financial products or services, which has resulted in relief for many consumers.

The progress we have made has been possible thanks to the engagement of hundreds of thousands of Americans who have utilized our consumer education tools, submitted complaints, participated in rulemakings, and told us their stories through our website and at numerous public meetings from coast to coast. We have also benefited from an ongoing dialogue and constructive engagement with the institutions we supervise, with community banks and credit unions with whom we regularly meet, and with consumer advocates throughout the country.

Thank you for the opportunity to testify today. I look forward to your questions.