JOSEPH I. LIEBERMAN, CONNECTICUT, CHAIRMAN

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JERRY MORAN, KANSAS

MICHAEL L. ALEXANDER, STAFF DIRECTOR
NICHOLAS A. ROSSI, MINORITY STAFF DIRECTOR

United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510–6250

February 28, 2012

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

Dear Mr. Cordray:

As part of the Subcommittee's ongoing oversight of public relations and advertising contracts, we are writing to ask for information regarding the Consumer Financial Protection Bureau's contracts for the acquisition of public relations, publicity, advertising, communications, or similar services. Please provide a list of all the Bureau's contracts for these types of services awarded on or after October 1, 2008. Please submit your response using the spreadsheet provided with the following information for each contract:

(1) The contract number;

(2) The date of contract award;

(3) The name of the contractor and any subcontractors;

(4) The type of competition;

(5) The cost of the contract, including the base and options value, as well as the obligated amount of the contract;

(6) A brief description of the contract scope and the work performed; and

(7) The agency initiative, project, or policy supported by the contract.

We request that you provide information to the Subcommittee by **March 16, 2012.**

The jurisdiction of the Subcommittee on Contracting Oversight is set forth in Senate Rule XXV clause 1(k); Senate Resolution 445 section 101 (108th Congress); and Senate Resolution 73 (111th Congress). An attachment to this letter provides additional information about how to respond to the Subcommittee's request.

We appreciate your assistance. Please contact Rafael Roman with Senator Portman's Subcommittee staff at (202) 228-5512 or Sarah Garcia with Senator McCaskill's Subcommittee staff at (202) 224-1014 with any questions. Please send any official correspondence relating to this request to kelsey_stroud@hsgac.senate.gov.

Sincerely,

Claire McCaskill
Chairman
Subcommittee on Contracting Oversight

Rob Portman
Ranking Member
Subcommittee on Contracting Oversight

Enclosures

Request for Publicity-Related Contract Information

The following nineteen (19) North American Industry Classification System (NAICS) Codes identify publicity-related categories. For the purposes of your response, please treat this list as illustrative, but not exhaustive:

512	Motion Picture and Sound Recording Industries
51219	Postproduction Services and Other Motion Picture and Video Industries
512110	Motion Picture and Video Production
512199	Other Motion Picture and Video Industries
515111	Radio Networks
515120	Television Broadcasting
515210	Cable and Other Subscription Programming
519130	Internet Publishing and Broadcasting and Web Search Portals
541430	Graphic Design Services
541613	Marketing Consulting Services
541810	Advertising Agencies
541820	Public Relations Agencies
541840	Media Representatives
541850	Display Advertising
541860	Direct Mail Advertising
541890	Other Services Related to Advertising
541910	Marketing Research and Public Opinion Polling
711320	Promoters of Performing Arts, Sports and Similar Events without Facilities
711519	Independent Artists, Writers and Performers

Consumer Financial Protection Bureau

1801 L Street NW, Washington, DC 20036

March 13, 2012

The Honorable Claire McCaskill
613B Hart Senate Office Building
Washington, DC 20510

The Honorable Robert Portman
605 Hart Senate Office Building
Washington, Dc 20510

Dear Senators McCaskill and Portman:

This letter is in response to your request for information about the Consumer Financial Protection Bureau's (CFPB) contracts for public relations and advertising.

The CFPB opened on July 21, 2011 with contracting beginning in Fiscal Year 2011. We have identified one contract for public relations and advertising that meets your criteria, which is listed on the attached spreadsheet. The contract was in the amount of $5,999.88, and provided general media training for CFPB executives, unrelated to any specific agency initiative or policy.

I hope this information is useful.

Sincerely,

Richard Cordray
Director
Consumer Financial Protection Bureau

Rob—
Sorry to miss the Ohio Birthday
Party last week—I understand
your spoke and it all went fabulous
Rich

ROB PORTMAN
OHIO

COMMITTEES
BUDGET
ENERGY AND
NATURAL RESOURCES
FINANCE
HOMELAND SECURITY
AND GOVERNMENTAL AFFAIRS

United States Senate

WASHINGTON, DC 20510

February 1, 2013

Hon. Richard Cordray
Director
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

Dear Director Cordray:

President Obama's resubmission of your nomination to lead the Consumer Financial Protection Bureau has renewed public interest in the unaccountable structure of this powerful new agency. The recent D.C. Circuit decision striking down the President's attempted recess appointments to another agency — made on the same day as your recess appointment — also casts a shadow over the CFPB and your nomination.[1] I write today to ask for your commitment to work toward some basic accountability reforms of the Bureau, the merits of which you and I have discussed on several occasions.

The CFPB has vast power to limit consumer choices on everything from buying a first home to paying for a college education. As you noted in testimony before Congress, the Bureau's broad regulatory mandate is "a little bit of a puzzle" because it is in some areas wholly undefined and, in other areas, unlimited by past standards adopted by other financial regulators.[2] Rather than clarify its mandate by developing clear rules of the road, the Bureau has largely taken a "facts and circumstances" approach over the past year. This know-it-when-we-see-it approach to regulation gives little notice or certainty to businesses and consumers about what is permitted or prohibited. In effect, it gives the Bureau almost unchanneled discretion to initiate enforcement actions on a case-by-case basis.

That kind of authority would be troubling in any hands. But the CFPB is no ordinary regulator. By law, the CFPB writes its own budget without congressional approval, is controlled by a single person, and cannot be restrained by other regulators unless its actions threaten the stability of the entire banking system. No other federal regulator has so much power over everyday economic decisions, with so little responsibility to answer to the American people and their elected representatives.

[1] *Noel Canning v. Nat'l Labor Relations Bd.*, No. 12-1115 (D.C. Cir. Jan. 25, 2013).

[2] *How Will the CFPB Function Under Richard Cordray*: Hearing Before the Subcomm. on TARP, Financial Services, and Bailouts of Public and Private Programs of the H. Comm. on Oversight & Gov't Reform, 112th Cong. (2012) (testimony of Richard Cordray); *see also* Dodd-Frank Act, Pub. L. No. 111-203, tit. X, sec. 1022(b)(4)(B).

338 Russell Senate Office Building
Washington, DC 20510
Phone: (202) 224-3353

312 Walnut Street
Suite 2075
Cincinnati, OH 45202
Phone: (513) 684-3265

1240 East 9th Street
Suite 2061
Cleveland, OH 44199
Phone: (216) 522-7095

37 West Broad Street
Suite 300
Columbus, OH 43215
Phone: (614) 469-6774

420 Madison Avenue
Suite 1210
Toledo, OH 43604
Phone: (419) 255-3625

www.portman.senate.gov

As you and I have discussed, there are some commonsense reforms that would bring the CFPB's structure in line with other agencies of similar importance.

First, the CFPB should be funded through the normal, transparent appropriations process. Under current law, the CFPB has access to an annual blank check worth more than $400 million. The Dodd-Frank Act actually bars congressional appropriators from even attempting to "review" the CFPB's self-funded budget.[3] Instead, the law authorizes the CFPB Director to unilaterally claim up to 12% of the Federal Reserve Board's $3.7 billion in annual operating expenses, with no congressional approval.[4] Meanwhile, the Bureau is free to pay out large salaries, with a reported 60% of its employees making more than $100,000 per year by last account. To ensure accountability and fiscal responsibility, I believe the Bureau should be subject to the same appropriations process that applies to other independent agencies including the Securities and Exchange Commission, the Commodity Futures Trading Commission, and the Consumer Product Safety Commission.

Second, the Bureau's powers should not be lodged in the hands of a single director but instead should be entrusted to a multi-member board — much like the Federal Reserve Board, the SEC, the CFTC, and other independent agencies with comparable authority. As you noted when we discussed this issue, leadership by a bipartisan board provides some stability and continuity in regulation over time. Concentration of power in a single director who cannot be removed by the President and need not answer to congressional appropriators creates an obvious opportunity for abuse.

The Obama Administration's refusal to even engage on these and other proposed reforms has resulted in an impasse on your nomination, as evidenced by a letter issued today by 42 Senators.

As a nominee to lead an independent agency, you have an opportunity to stake out a reasonable position on these proposals independent of the White House. Now is the time to exercise that independence and lend your support to these commonsense reforms to make the Bureau more effective and accountable to the American people, so that the Senate can find a path forward on your nomination.

Sincerely,



Rob Portman

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[3] Dodd-Frank Act, tit. X, sec. 1017(a)(2)(C).

[4] *Id.*, sec. 1017(a)(1)-(2).

cfpb Consumer Financial Protection Bureau

February 11, 2013

The Honorable Rob Portman
338 Russell Senate Office Building
Washington, D.C. 20510

Dear Senator Portman:

I write to address some of the issues raised in your letter to me dated February 1, 2013, and to assure you of both my continued commitment to accountability at the Consumer Financial Protection Bureau and my willingness to engage in further discussions with you on these issues.

As you know, all federal banking regulators – including the Consumer Bureau – are funded independently, outside of the appropriations process. Congress has consistently provided for independent funding for banking regulators to allow for long-term planning and to ensure that banks are examined regularly, thoroughly, and in a manner insulated from political influence. The Bureau's independent funding mirrors that of its fellow independent banking regulators, except that the Bureau is the only independent banking regulator with a hard cap on its funding, which was imposed by Congress itself. Our funding was a central issue during the debate over the Dodd-Frank Wall Street Reform and Consumer Protection Act. The statutory compromise that resulted included independent funding caps for the Bureau at levels that are a fraction of the funding levels for other independent banking regulators. In addition, our financial statements are required to be audited annually by the Government Accountability Office, the investigative arm of Congress; our operations and budget must be audited annually by an independent auditor from the private sector; the Bureau is audited regularly by its Inspector General; the Bureau is required to submit reports to Congress twice each year with information about its budget; and I am required to testify before Congress at least twice annually on the contents of those reports.

The Consumer Bureau's accountability and structure also were central issues during the debate over the Dodd-Frank Act and were resolved by the Congress in our governing law. The statutory compromise that resulted ensured that there are multiple and, in some cases, unprecedented checks on our authority. Like other regulatory agencies, the final actions of the Bureau, including our final rules, are subject to judicial review under the Administrative Procedure

Act, and may be set aside by the courts. In addition, Congress may overturn any rule of the Bureau by enacting a statute. But the Bureau also is subject to a provision allowing the Financial Stability Oversight Council to review and overturn our regulations; no other regulator is subject to this veto provision. The Bureau also is required to consult with other federal regulators about prudential, market, and systemic objectives during its rulemakings. Unlike every other federal financial regulator, our rulemakings are subject to the Small Business Regulatory Enforcement Flexibility Act review panel process, which requires us to consult with affected small businesses during the development of certain rules prior to proposing them for public comment. We are required to reassess significant rules every five years. We are required to consider not only the potential costs and benefits of our rules for industry and consumers (including potential reductions in access to credit or other financial services), but also the specific impact of our proposed rules on banks and credit unions with $10 billion or less in assets, as well as the impact on consumers in rural areas. The latter provisions are also unique to the Bureau. Before issuing an examination report about a depository institution, we must share a draft of the report with the prudential regulator and take into account their comments. And we are required to report to Congress twice a year, including information on all significant rules and orders that we adopt.

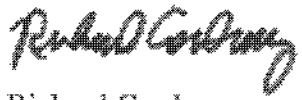
It is true that the Consumer Bureau is led by a single individual, as are many Federal agencies. For 150 years, the same has been true of the Office of the Comptroller of the Currency, which is the agency charged with overseeing the safety and soundness of national banks. The same is also true of the Federal Housing Finance Agency, which Congress created in 2008 to strengthen regulatory and supervisory oversight to ensure the safety and soundness of the GSEs and other vital components of the American mortgage market. As Director of the Bureau, I have made it a priority to be accountable both to the American people and to Congress. That commitment is demonstrated by the fact that officials of the Bureau have already testified before Congress 29 times – more than once a month since we assumed our regulatory authority on July 21, 2011.

As we have discussed, I am always glad to hear suggestions from you and your colleagues about how the Bureau can improve its work. Yet my focus has been – and remains – on successfully accomplishing the important work that Congress has given us to protect our fellow Americans as they take part every day in consumer financial markets. So far, we are producing results. We have

worked closely with our fellow regulators to return $425 million to consumers who were mistreated by their credit card companies. We are examining both banks and non-bank financial institutions for compliance with the law, and have addressed and resolved many issues through these efforts. We are working to protect servicemembers, students, and older Americans in consumer financial markets. Our Consumer Response team has helped more than 100,000 consumers with individual problems related to credit cards, mortgages, student loans, and bank accounts. And we have faithfully followed the law that Congress enacted by adopting sensible rules, on time, designed to help consumers through their mortgage experience – from signing up for a loan to paying it back. These efforts demonstrate our commitment to a balanced approach that protects consumers, supports responsible financial providers, and provides greater certainty for consumer financial markets and the American economy.

If you have additional thoughts about how the Bureau can best carry out its duties imposed by the Congress in our governing law, I welcome them and will give them careful consideration. And I am also available to discuss these issues further with you at any time. Thank you.

Sincerely,



Richard Cordray
Director

cfpb Consumer Financial Protection Bureau

March 6, 2013

The Honorable Kelly Ayotte
144 Russell Senate Office Building
Washington DC 20510

Dear Senator Ayotte:

Congress created the Consumer Financial Protection Bureau as the first federal agency tasked solely with protecting consumers in the financial marketplace. During National Consumer Protection Week, we wanted to take this opportunity to highlight some of the different ways the Consumer Bureau can help – and is already assisting – your constituents.

The Bureau accepts consumer complaints on a variety of financial products and services – including mortgages, student loans, and credit cards – through our toll-free number, through our website, by mail, and by fax. We encourage your office to refer complaints related to consumer financial products and services to us, using the enclosed instructions. Our consumer response specialists review all incoming complaints, forward complaints to the appropriate company for review and resolution, and work to ensure that complaints are handled appropriately. We have already handled more than 130,000 complaints from consumers around the country who contacted us for help resolving issues they have experienced with consumer financial products and services, ranging from improper charges on credit cards to mortgage payments that were wrongly applied. Since the CFPB began taking consumer complaints, we have already received 903 complaints from consumers in your state.

We hope that you, your staff, and your constituents will feel free to visit our website at ConsumerFinance.gov and check out our useful web tools. In addition to consumer complaints, we offer tools like our "Paying for College" module on making sound financial decisions about higher education, and "AskCFPB," which is an interactive, user-friendly database of over 900 plain-language answers to common consumer financial questions.

Please feel free to contact our Office of Legislative Affairs at 202-435-7960 if you have questions or would like more information about our work on behalf of American consumers.

Sincerely,

We are glad to help –
Rich

Richard Cordray
Director

Enclosure

cfpb Consumer Financial Protection Bureau

March 6, 2013

The Honorable Richard Burr
217 Russell Senate Office Building
Washington DC 20510

Dear Senator Burr:

Congress created the Consumer Financial Protection Bureau as the first federal agency tasked solely with protecting consumers in the financial marketplace. During National Consumer Protection Week, we wanted to take this opportunity to highlight some of the different ways the Consumer Bureau can help – and is already assisting – your constituents.

The Bureau accepts consumer complaints on a variety of financial products and services – including mortgages, student loans, and credit cards – through our toll-free number, through our website, by mail, and by fax. We encourage your office to refer complaints related to consumer financial products and services to us, using the enclosed instructions. Our consumer response specialists review all incoming complaints, forward complaints to the appropriate company for review and resolution, and work to ensure that complaints are handled appropriately. We have already handled more than 130,000 complaints from consumers around the country who contacted us for help resolving issues they have experienced with consumer financial products and services, ranging from improper charges on credit cards to mortgage payments that were wrongly applied. Since the CFPB began taking consumer complaints, we have already received 3,271 complaints from consumers in your state.

We hope that you, your staff, and your constituents will feel free to visit our website at ConsumerFinance.gov and check out our useful web tools. In addition to consumer complaints, we offer tools like our "Paying for College" module on making sound financial decisions about higher education, and "AskCFPB," which is an interactive, user-friendly database of over 900 plain-language answers to common consumer financial questions.

Please feel free to contact our Office of Legislative Affairs at 202-435-7960 if you have questions or would like more information about our work on behalf of American consumers.

Sincerely,

Richard Cordray
Director

Enclosure

cfpb Consumer Financial Protection Bureau

March 6, 2013

The Honorable Ted Cruz
B40B Dirksen Senate Office Building
Washington DC 20510

Dear Senator Cruz:

Congress created the Consumer Financial Protection Bureau as the first federal agency tasked solely with protecting consumers in the financial marketplace. During National Consumer Protection Week, we wanted to take this opportunity to highlight some of the different ways the Consumer Bureau can help – and is already assisting – your constituents.

The Bureau accepts consumer complaints on a variety of financial products and services – including mortgages, student loans, and credit cards – through our toll-free number, through our website, by mail, and by fax. We encourage your office to refer complaints related to consumer financial products and services to us, using the enclosed instructions. Our consumer response specialists review all incoming complaints, forward complaints to the appropriate company for review and resolution, and work to ensure that complaints are handled appropriately. We have already handled more than 130,000 complaints from consumers around the country who contacted us for help resolving issues they have experienced with consumer financial products and services, ranging from improper charges on credit cards to mortgage payments that were wrongly applied. Since the CFPB began taking consumer complaints, we have already received 6,656 complaints from consumers in your state.

We hope that you, your staff, and your constituents will feel free to visit our website at ConsumerFinance.gov and check out our useful web tools. In addition to consumer complaints, we offer tools like our "Paying for College" module on making sound financial decisions about higher education, and "AskCFPB," which is an interactive, user-friendly database of over 900 plain-language answers to common consumer financial questions.

Please feel free to contact our Office of Legislative Affairs at 202-435-7960 if you have questions or would like more information about our work on behalf of American consumers.

Sincerely,

Richard Cordray

Richard Cordray
Director

I believe Jeff Sutton and Miguel Estrada may be married friends of yours — I was the first SG in Ohio —
Rich

Enclosure

cfpb Consumer Financial Protection Bureau

March 6, 2013

The Honorable Ron Johnson
386 Russell Senate Office Building
Washington DC 20510

Dear Senator Johnson:

Congress created the Consumer Financial Protection Bureau as the first federal agency tasked solely with protecting consumers in the financial marketplace. During National Consumer Protection Week, we wanted to take this opportunity to highlight some of the different ways the Consumer Bureau can help – and is already assisting – your constituents.

The Bureau accepts consumer complaints on a variety of financial products and services – including mortgages, student loans, and credit cards – through our toll-free number, through our website, by mail, and by fax. We encourage your office to refer complaints related to consumer financial products and services to us, using the enclosed instructions. Our consumer response specialists review all incoming complaints, forward complaints to the appropriate company for review and resolution, and work to ensure that complaints are handled appropriately. We have already handled more than 130,000 complaints from consumers around the country who contacted us for help resolving issues they have experienced with consumer financial products and services, ranging from improper charges on credit cards to mortgage payments that were wrongly applied. Since the CFPB began taking consumer complaints, we have already received 1,436 complaints from consumers in your state.

We hope that you, your staff, and your constituents will feel free to visit our website at ConsumerFinance.gov and check out our useful web tools. In addition to consumer complaints, we offer tools like our "Paying for College" module on making sound financial decisions about higher education, and "AskCFPB," which is an interactive, user-friendly database of over 900 plain-language answers to common consumer financial questions.

Please feel free to contact our Office of Legislative Affairs at 202-435-7960 if you have questions or would like more information about our work on behalf of American consumers.

Sincerely,

Richard Cordray

Richard Cordray
Director

Enclosure

cfpb Consumer Financial Protection Bureau

March 6, 2013

The Honorable Rand Paul
208 Russell Senate Office Building
Washington DC 20510

Dear Senator Paul:

Congress created the Consumer Financial Protection Bureau as the first federal agency tasked solely with protecting consumers in the financial marketplace. During National Consumer Protection Week, we wanted to take this opportunity to highlight some of the different ways the Consumer Bureau can help – and is already assisting – your constituents.

The Bureau accepts consumer complaints on a variety of financial products and services – including mortgages, student loans, and credit cards – through our toll-free number, through our website, by mail, and by fax. We encourage your office to refer complaints related to consumer financial products and services to us, using the enclosed instructions. Our consumer response specialists review all incoming complaints, forward complaints to the appropriate company for review and resolution, and work to ensure that complaints are handled appropriately. We have already handled more than 130,000 complaints from consumers around the country who contacted us for help resolving issues they have experienced with consumer financial products and services, ranging from improper charges on credit cards to mortgage payments that were wrongly applied. Since the CFPB began taking consumer complaints, we have already received 822 complaints from consumers in your state.

We hope that you, your staff, and your constituents will feel free to visit our website at ConsumerFinance.gov and check out our useful web tools. In addition to consumer complaints, we offer tools like our "Paying for College" module on making sound financial decisions about higher education, and "AskCFPB," which is an interactive, user-friendly database of over 900 plain-language answers to common consumer financial questions.

Please feel free to contact our Office of Legislative Affairs at 202-435-7960 if you have questions or would like more information about our work on behalf of American consumers.

Sincerely,

Richard Cordray
Director

Enclosure

cfpb Consumer Financial Protection Bureau

March 6, 2013

The Honorable Rob Portman
338 Russell Senate Office Building
Washington DC 20510

Dear Senator Portman:

Congress created the Consumer Financial Protection Bureau as the first federal agency tasked solely with protecting consumers in the financial marketplace. During National Consumer Protection Week, we wanted to take this opportunity to highlight some of the different ways the Consumer Bureau can help – and is already assisting – your constituents.

The Bureau accepts consumer complaints on a variety of financial products and services – including mortgages, student loans, and credit cards – through our toll-free number, through our website, by mail, and by fax. We encourage your office to refer complaints related to consumer financial products and services to us, using the enclosed instructions. Our consumer response specialists review all incoming complaints, forward complaints to the appropriate company for review and resolution, and work to ensure that complaints are handled appropriately. We have already handled more than 130,000 complaints from consumers around the country who contacted us for help resolving issues they have experienced with consumer financial products and services, ranging from improper charges on credit cards to mortgage payments that were wrongly applied. Since the CFPB began taking consumer complaints, we have already received 3,965 complaints from consumers in your state.

We hope that you, your staff, and your constituents will feel free to visit our website at ConsumerFinance.gov and check out our useful web tools. In addition to consumer complaints, we offer tools like our "Paying for College" module on making sound financial decisions about higher education, and "AskCFPB," which is an interactive, user-friendly database of over 900 plain-language answers to common consumer financial questions.

Please feel free to contact our Office of Legislative Affairs at 202-435-7960 if you have questions or would like more information about our work on behalf of American consumers.

Sincerely,

Richard

Richard Cordray
Director

I would be happy to meet with you anytime to see if we can find a way through this –
Rob

Enclosure

cfpb Consumer Financial Protection Bureau

March 6, 2013

The Honorable Marco Rubio
317 Hart Senate Office Building
Washington DC 20510

Dear Senator Rubio:

Congress created the Consumer Financial Protection Bureau as the first federal agency tasked solely with protecting consumers in the financial marketplace. During National Consumer Protection Week, we wanted to take this opportunity to highlight some of the different ways the Consumer Bureau can help – and is already assisting – your constituents.

The Bureau accepts consumer complaints on a variety of financial products and services – including mortgages, student loans, and credit cards – through our toll-free number, through our website, by mail, and by fax. We encourage your office to refer complaints related to consumer financial products and services to us, using the enclosed instructions. Our consumer response specialists review all incoming complaints, forward complaints to the appropriate company for review and resolution, and work to ensure that complaints are handled appropriately. We have already handled more than 130,000 complaints from consumers around the country who contacted us for help resolving issues they have experienced with consumer financial products and services, ranging from improper charges on credit cards to mortgage payments that were wrongly applied. Since the CFPB began taking consumer complaints, we have already received 11,910 complaints from consumers in your state.

We hope that you, your staff, and your constituents will feel free to visit our website at ConsumerFinance.gov and check out our useful web tools. In addition to consumer complaints, we offer tools like our "Paying for College" module on making sound financial decisions about higher education, and "AskCFPB," which is an interactive, user-friendly database of over 900 plain-language answers to common consumer financial questions.

Please feel free to contact our Office of Legislative Affairs at 202-435-7960 if you have questions or would like more information about our work on behalf of American consumers.

Sincerely,

Richard Cordray
Director

Enclosure

cfpb Consumer Financial Protection Bureau

March 6, 2013

The Honorable Patrick J. Toomey
502 Hart Senate Office Building
Washington DC 20510

Dear Senator Toomey:

Congress created the Consumer Financial Protection Bureau as the first federal agency tasked solely with protecting consumers in the financial marketplace. During National Consumer Protection Week, we wanted to take this opportunity to highlight some of the different ways the Consumer Bureau can help – and is already assisting – your constituents.

The Bureau accepts consumer complaints on a variety of financial products and services – including mortgages, student loans, and credit cards – through our toll-free number, through our website, by mail, and by fax. We encourage your office to refer complaints related to consumer financial products and services to us, using the enclosed instructions. Our consumer response specialists review all incoming complaints, forward complaints to the appropriate company for review and resolution, and work to ensure that complaints are handled appropriately. We have already handled more than 130,000 complaints from consumers around the country who contacted us for help resolving issues they have experienced with consumer financial products and services, ranging from improper charges on credit cards to mortgage payments that were wrongly applied. Since the CFPB began taking consumer complaints, we have already received 4,128 complaints from consumers in your state.

We hope that you, your staff, and your constituents will feel free to visit our website at ConsumerFinance.gov and check out our useful web tools. In addition to consumer complaints, we offer tools like our "Paying for College" module on making sound financial decisions about higher education, and "AskCFPB," which is an interactive, user-friendly database of over 900 plain-language answers to common consumer financial questions.

Please feel free to contact our Office of Legislative Affairs at 202-435-7960 if you have questions or would like more information about our work on behalf of American consumers.

Sincerely,

Richard

Richard Cordray
Director

Enclosure

We are glad to help as we can –
Rich

I appreciate you time and advice when we met before, and would be glad to meet with you your anytime –

ROB PORTMAN
UNITED STATES SENATOR

OHIO

April 30, 2013

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

Dear Rich,

Good to see you at my office in Washington last week. I appreciated the opportunity to discuss your nomination and what the President and Congress can do to make the structure of the Consumer Financial Protection Bureau more accountable for the future.

As we discussed, I hope we can work together to find a path forward on your nomination while addressing reasonable concerns about the structure of the Bureau. I was encouraged by your openness to backing the possible reforms we discussed -- including strengthening FSOC's veto and creating a role for OIRA review that still preserves the Bureau's independence.

We are now reaching out to several potential participants on both sides of the aisle. Brian Callanan on my staff will be in touch with your staff this week to provide an update on our discussions.

All best,

Rob Portman

NOT PAID FOR AT TAXPAYER EXPENSE

ROB PORTMAN
OHIO

United States Senate

WASHINGTON, DC 20510

COMMITTEES:
BUDGET
ENERGY AND
NATURAL RESOURCES
FINANCE
HOMELAND SECURITY
AND GOVERNMENTAL AFFAIRS

May 29, 2013

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

Dear Rich,

I want to express my concern about final rules issued by the Consumer Financial Protection Bureau (CFPB) that may hurt many of Ohio's rural communities. Especially with agriculture being the largest industry in Ohio, proposals that could have a negative economic impact Ohio's rural communities are particularly concerning.

According to many U.S. government definitions, over half of Ohio's 88 counties are defined as rural. However, under the narrower definition used by the CFPB, only 20 counties in Ohio qualify for this designation. This narrower definition could have significant impacts on the ability of Ohio farmers and residents of rural areas to get a mortgage or to start a small business. Moreover, many of these rural borrowers have long-standing relationships with local banks, which lend to these borrowers facing unique circumstances. I am advised that this proposed definition could force many community banks to exit the mortgage market.

Given the concerns that have been shared with me by fellow Ohioans in rural communities, I urge you to broaden this proposed definition in order to include a fuller picture of Ohio's rural areas. Thank you for your attention to this issue.

Sincerely,

Rob Portman

Rob Portman

448 Russell Senate Office Building
Washington, DC 20510
Phone: (202) 224-3353

312 Walnut Street
Suite 3025
Cincinnati, OH 45202
Phone: (513) 684-3265

1240 East 9th Street
Suite 3061
Cleveland, OH 44199
Phone: (216) 522-7095

37 West Broad Street
Suite 350
Columbus, OH 43215
Phone: (614) 469-6774

420 Madison Avenue
Suite 1210
Toledo, OH 43604
Phone: (419) 241-3535

www.portman.senate.gov

Congress of the United States
Washington, DC 20515

June 6, 2013

David Silberman
Associate Director, Research, Markets, and Regulations
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, D.C. 20552

Dear Associate Director Silberman:

We are writing to you concerning the Consumer Financial Protection Bureau's (CFPB) definition of rural counties as it applies to qualified mortgages under the Ability-to-Repay (ATR) rule.

Under section 1412 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (P.L. 111-203), balloon payments in rural or underserved areas are considered qualified mortgages. Unfortunately, CFPB's method of defining rural, using the United States Department of Agriculture's (USDA) Urban Influence Codes, excludes numerous counties in Ohio that should and need to be included in this definition.

The current CFPB definition of rural will have a negative effect on protections for community lenders who provide balloon mortgages to farmers, small businesses, and other trusted members of the community. Without a revised definition of rural, many qualified borrowers in counties across Ohio will not be able to get a mortgage.

We are pleased that the CFPB recently announced a two-year transition period to review the current definition of rural and will allow for Qualified Mortgage (QM) protection for many small creditors who make balloon payment mortgages. During the review process, we strongly urge the CFPB to reconsider their definition of rural for the purposes of balloon mortgages and use a method that provides a more accurate definition of Ohio's and America's rural counties. Thank you for your time and we look forward to your response.

Sincerely,

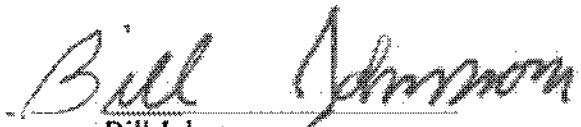
Robert E. Latta
Member of Congress

Rob Portman
United States Senator

Steve Chabot
Member of Congress

Bob Gibbs
Member of Congress

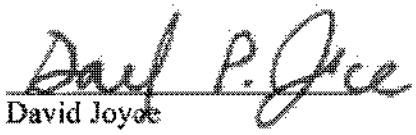
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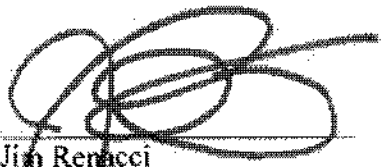
Bill Johnson
Member of Congress



Jim Jordan
Member of Congress



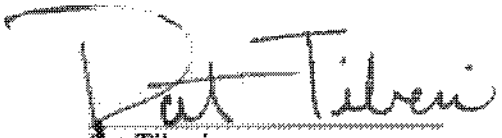
David Joyce
Member of Congress



Jim Renacci
Member of Congress



Steve Stivers
Member of Congress



Pat Tiberi
Member of Congress



Michael Turner
Member of Congress



Brad Wenstrup
Member of Congress

cfpb Consumer Financial Protection Bureau

June 2013

Dear Senator,

Thank you for your recent note, and for all the effort you are making to find a way through on my nomination and confirmation. I believe that we are doing important work in a reasonable and balanced manner that advances the interests of both consumers and [redacted] honest, responsible businesses. Feel free to share with me anything I should know at any time.

Yours,

Richard

consumerfinance.gov

cfpb Consumer Financial Protection Bureau

July 9, 2013

The Honorable Robert Latta
U.S. House of Representatives
2448 Rayburn House Office Building
Washington, DC 20515

The Honorable Rob Portman
U.S. Senate
448 Russell Senate Office Building
Washington, DC 20510

Dear Representative Latta and Senator Portman:

Thank you for your June 6, 2013 letter about the definition of rural counties under the Bureau's Ability-To-Repay and Escrow rules issued in January of 2013.

As you note in your letter, the Bureau's rule provided a general definition of "rural" using the Department of Agriculture's Urban Influence Codes. Those codes, in turn, are based on definitions developed by the Office of Management and Budget, in particular "metropolitan statistical area" and "micropolitan statistical area." One of the challenges the Bureau faced in using these codes is whether they accurately depict significant differences among geographical areas within Ohio and elsewhere.

I am gratified by your recognition of the Bureau's recent decision to provide a two-year transition period, during which balloon loans made by small creditors and held in portfolio will be treated as Qualified Mortgages regardless of the location of the particular creditor. As you note, this decision will allow time for the Bureau to review whether its definition of rural should be adjusted. As Director, I am committed to such a review to ensure that the Bureau's definition accurately reflects significant differences among geographic areas, to calibrate access to credit concerns, and to facilitate implementation.

We look forward to working with you and your staff as we undertake this review.

Sincerely,

Richard

Richard Cordray
Director

Thanks for your interest and advocacy here — we will think this through carefully
Rich

cc: The Honorable Steve Chabot
The Honorable Bob Gibbs
The Honorable Bill Johnson

The Honorable Jim Jordan
The Honorable David Joyce
The Honorable Jim Renacci
The Honorable Steve Stivers
The Honorable Pat Tiberi
The Honorable Michael Turner
The Honorable Brad Wenstrup

cfpb Consumer Financial Protection Bureau

September 10, 2013

Dear Senator Ayotte,

Thank you for supporting the motion to advance my nomination to be the Director of the Consumer Financial Protection Bureau through the confirmation process. I look forward to working with you on consumer financial protection issues that are important to you and your constituents. Please do not hesitate to contact me if I can ever be of assistance to you.

Sincerely,

Richard

Richard Cordray
Director

Thank you for your support in the process — we will continue to work to earn your respect and that of the people of New Hampshire as well as all Americans —

Rich

cfpb Consumer Financial Protection Bureau

September 10, 2013

Dear Senator Portman,

Thank you for supporting my confirmation to be the Director of the Consumer Financial Protection Bureau. I am grateful for your confidence in me to lead the agency and am honored to have the opportunity to do so. I look forward to working with you on consumer financial protection issues that are important to you and your constituents. Please do not hesitate to contact me if I can ever be of assistance to you.

Sincerely,

Richard

Richard Cordray
Director

You made a real difference to cause this to happen, and I am grateful. We will continue to work to earn your respect and that of all Americans.

Rich

United States Senate

WASHINGTON, DC 20510

October 30, 2013

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

Dear Director Cordray:

We write to express concerns regarding the process by which the Consumer Financial Protection Bureau ("CFPB" or "Bureau") has issued guidance that could curtail a pro-competitive feature of the indirect vehicle financing market and to request greater transparency for the Bureau's activity related to this matter.

As you know, indirect vehicle financing is an optional method in which an auto dealer arranges financing for a consumer from a third-party lender, such as a bank, credit union, or other financing source. The dealer typically is compensated for this service by negotiating its retail margin with the consumer. This compensation is capped by contract. This system provides consumers with the opportunity to determine if dealers can "meet or beat" the best financing rate that the consumer can secure from other creditors, which frequently results in consumers obtaining a lower cost of credit than is otherwise available to them.

On March 21, 2013, the Bureau issued a fair lending guidance bulletin widely interpreted as pressuring lenders to eliminate or severely limit an auto dealer's discretion to negotiate competitive financing for their customers, and instead encourage lenders to compensate auto dealers through "a different mechanism… such as a flat fee per transaction." As acknowledged in the guidance bulletin, the CFPB is attempting to bring about this change through a "disparate impact" theory of liability under the Equal Credit Opportunity Act ("ECOA"). Although ECOA does not mandate or even address flat fees, the Bureau's guidance bulletin suggests this change because of its concern that permitting negotiation over a consumer's interest rate creates a "significant risk" of "pricing disparities on the basis of race, national origin, and potentially other prohibited bases."

We support the Bureau's desire to eliminate any unlawful lending practices and are committed to ensuring that credit markets function competitively and efficiently for all consumers. Although the CFPB has alleged that "disparate impact" discrimination is present in the indirect auto financing market, the Bureau has yet to explain its basis for this assertion. Nor has the Bureau released the complete statistical methodology it employs for determining whether disparate impact is present in an auto lender's portfolio and the extent to which it has considered how the practical effect of its guidance will affect competition in the auto loan marketplace.

To promote greater transparency and help ensure that the Bureau issued its fair lending guidance to auto lenders in a proper manner that is consistent with sound public policy, we request that the Bureau:

(i) Provide complete details concerning the statistical methodology the Bureau employs to determine whether disparate impact is present in an auto creditor's portfolio, including:

(1) the quantitative degree of accuracy that applies to that methodology for each group of consumers the Bureau has examined;

(2) a complete list of analytical controls the Bureau considers to ensure that consumers being compared are similarly situated; and

(3) the numerical basis point threshold at which the Bureau concludes that statistically significant pricing disparities exist for each group of consumers that the Bureau has examined;

(ii) Identify the full range of the Bureau's coordination with the Board of Governors of the Federal Reserve and the Federal Trade Commission prior to March 21, 2013, concerning its fair lending guidance to auto lenders;

(iii) Explain the Bureau's decision to avoid the Administrative Procedures Act rulemaking process and instead seek to bring about this market change via a guidance bulletin;

(iv) Explain why the Bureau did not afford the public an opportunity to comment on the content of the guidance or its potential effect on the marketplace; and

(v) Describe whether, and to what extent, the Bureau conducted a cost-benefit analysis into how an industry adoption of flat fees as a mechanism to compensate dealers for arranging financing would affect the cost of credit for consumers, including those at the lower end of the credit spectrum.

We note that a bipartisan majority of the House Financial Services Committee recently asked for information about the CFPB's methods and analysis used to justify the March 21 guidance. Unfortunately, the Bureau has not provided complete responses to several of the questions presented by our House colleagues. Given your statements that the CFPB will operate as a transparent and data-driven agency, we request that the data used to support the March 21 guidance be made public.

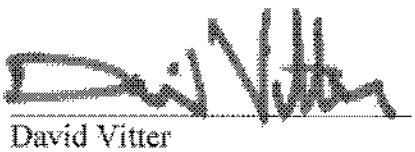
We would appreciate your reply to this letter within 30 days of its receipt. Thank you in advance for your cooperation.



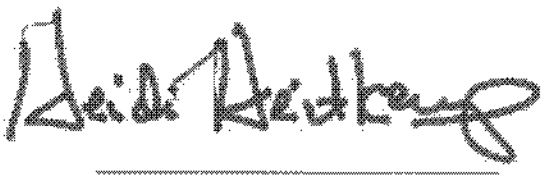
Rob Portman
U.S. Senator



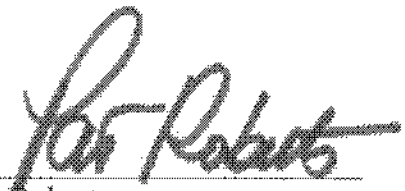
Jeanne Shaheen
U.S. Senator



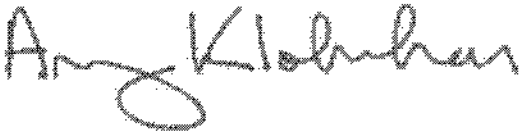
David Vitter
U.S. Senator



Heidi Heitkamp
U.S. Senator



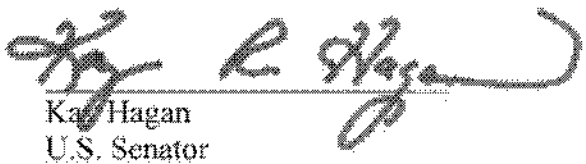
Pat Roberts
U.S. Senator



Amy Klobuchar
U.S. Senator



Kelly Ayotte
U.S. Senator



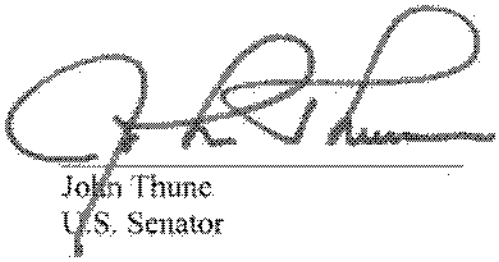
Kay Hagan
U.S. Senator



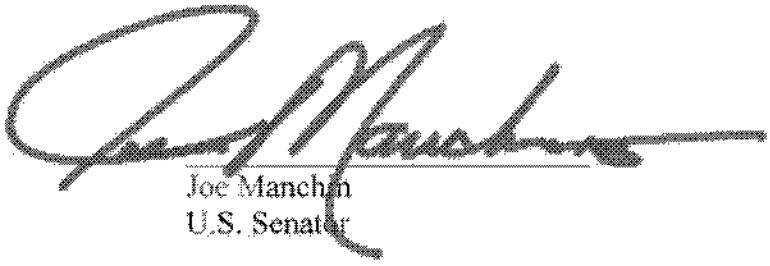
Deb Fischer
U.S. Senator



Mark Begich
U.S. Senator



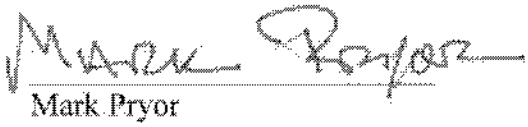
John Thune
U.S. Senator



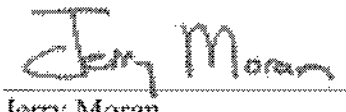
Joe Manchin
U.S. Senator



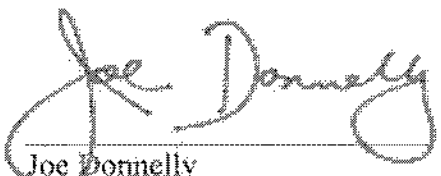
Richard Burr
U.S. Senator



Mark Pryor
U.S. Senator



Jerry Moran
U.S. Senator



Joe Donnelly
U.S. Senator

Mike Crapo
U.S. Senator

Bill Nelson
U.S. Senator

Jeff Sessions
U.S. Senator

Mary Landrieu
U.S. Senator

Rand Paul
U.S. Senator

Mazie Hirono
U.S. Senator

cfpb Consumer Financial Protection Bureau

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

November 4, 2013

The Honorable Rob Portman
U.S. Senate
448 Russell Senate Office Building
Washington, DC 20510

The Honorable Jeanne Shaheen
U.S. Senate
520 Hart Senate Office Building
Washington, DC 20510

Dear Senators Portman and Shaheen,

Thank you for your October 30, 2013 letter about indirect auto lending practices and compliance with anti-discrimination laws, such as the Equal Credit Opportunity Act (ECOA) of 1974. 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.

As you note in your letter, credit markets should function competitively and efficiently for all consumers. The Bureau takes seriously its duty to address discrimination across the consumer credit industry, including indirect auto lending by depository and nonbank institutions. 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. 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. This historical experience has been documented by scholars[1] and is reflected in relevant case law[2] and Department of Justice enforcement actions.[3]

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[1] For example, *see* Cohen, Mark A. (2012). "Imperfect Competition in Auto Lending: Subjective Markups, Racial Disparity, and Class Action Litigation." Review of Law and Economics vol. 8, no. 1 (21-58). Working Paper available at http://ssrn.com/abstract=951827.

[2] *See*, Coleman v. Gen. Motors Acceptance Corp., 196 F.R.D. 315 (M.D.Tenn. 2000), *vacated and remanded on unrelated grounds*, 296 F.3d 443 (6th Cir. 2002); Jones v. Ford Motor Credit Co., 2002 WL 88431 (S.D.N.Y. Jan. 22, 2002); Smith v. Chrysler Fin. Co., 2003 WL 328719 (D.N.J. Jan. 15, 2003); Osborne v. Bank of America Nat'l Ass'n, 234 F.Supp.2d 804 (M.D. Tenn. 2002); Wise v. Union Acceptance Corp., 2002 WL 31730920 (S.D. Ind. Nov. 19, 2002).

[3] *See, e.g.*, United States v. Springfield Ford, Inc., No. 2:07-cv-03469-PBT (E.D. Pa. Aug. 21, 2007); United States v. Pacifico Ford, Inc., No. 2:07-cv-03470-PBT (E.D. Pa. Aug. 18, 2007); United States v. NARA Bank, et al., No. 2:09-cv-07126-RGK-JC (C.D. Cal. Nov.18, 2009); see also United States v. Countrywide Fin. Corp., No. 2:11-cv-10540-PCG-AJW, (C.D. Cal. Dec. 28, 2011); United States v. AIG Fed. Sav. Bank, No. 1:99-mc-0999 (D. Del. Mar. 4, 2010).

The Bureau's March 21, 2013 Auto Bulletin was published to offer guidance to all indirect auto lenders within the Bureau's jurisdiction about compliance with the fair lending requirements of ECOA.[4]

The Auto 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 Auto Bulletin's intent was to help indirect auto lenders recognize and mitigate the risk of discrimination resulting from discretionary dealer markup and compensation policies. This is the type of fair lending risk of which lenders need to be aware and monitor in their portfolios.

1) Your letter requested the detailed methodology that measures whether discrimination is present in an auto creditor's portfolio.

You specifically requested a more detailed explanation of the accuracy of the methodology, appropriate controls, and disparity "threshold." Demographic information, such as race, sex, and ethnicity, is not collected by non-mortgage lenders. However, this information is vital to assessing fair lending compliance. Thus, federal regulatory and enforcement agencies have long used proxy methods in non-mortgage data analysis. 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.[5]

In general, the proxy methodology used depends on the characteristic being proxied. For example, to proxy for gender, the Bureau relies on a first-name database from the Social Security Administration that reports counts of individuals by gender and birth year for first names occurring at least five times for a particular gender in a birth year.[6] The proxy method assigns a probability that a particular applicant is female based on the distribution of the population across gender categories (male or female) for the applicant's first name.

There are a greater variety of methods to proxy for race and national origin. A common method for proxying the probability that an applicant is Hispanic or Asian is to use the surname database

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[4] 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.

[5] *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 .

[6] http://www.ssa.gov/oact/babynames/limits.html.

published by the Census Bureau.[7] Another method to proxy for race and national origin—typically referred to as "geocoding"—uses the demographics of the census geography (e.g., census tract or block group) in which an individual's residence is located, and assigns probabilities about the individual's race or national origin based on the demographics of that area. This method is frequently used to proxy the probability that an applicant is African American, and it can be used to proxy for other racial and ethnic groups as well.

Over the last decade, another method to proxy for race and national origin has been developed that integrates the surname and geographical approaches described above. This method was developed by health research economists,[8] and it combines the respective probabilities generated by the surname and geographical proxies. Published research has found that the integrated approach produces proxies that correlate highly with self-reported race and national origin data and is more accurate than using surname or geography alone.[9] The Bureau uses the integrated proxy as the primary method for proxying race and national origin in our non-mortgage analyses.

We are aware of proxy methods for race and national origin that use nonpublic information, such as proprietary databases developed in the private sector matching first or middle names to certain racial or ethnic groups. For the purpose of conducting our supervisory work, we have chosen to use proxy methods that rely solely on public data so that lenders can replicate our methods without the need to recreate or purchase proprietary databases as part of their own fair lending compliance management systems.

As we noted above, proxy methods vary based on the characteristic being proxied (race, national origin, or gender), and there are several reasonable methods of proxying for each of these characteristics. Some methods, for example, use solely surname or geocoding. The Federal Reserve Board, which publicly released some of its proxy methods in July, uses a surname Census database to determine if a borrower is Hispanic and geocoding to determine majority minority census tracts.[10] Other methods, like the Bureau's, integrate the same sources of data into a single proxy for race and national origin. We have chosen the integrated method because we consider it appropriate and helpful in evaluating the large and complex portfolios of the auto lenders supervised by the Bureau. Similarly, we expect lenders to choose a proxy method that will support a compliance management system commensurate with their size, organizational complexity, and risk profile.

You have also inquired about controls applied to the analysis of dealer participation. Each supervisory examination or enforcement investigation is based upon the particular facts presented by the entity under review. Thus, in our analyses we consider analytical controls which are appropriate to each particular entity. The controls are dependent upon the particular lender's

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[7] http://www.census.gov/genealogy/www/data/2000surnames/index.html.
[8] Marc N. Elliott et al., *A New Method for Estimating Race/Ethnicity and Associated Disparities Where Administrative Records Lack Self-Reported Race/Ethnicity*, HEALTH SERVICES RESEARCH 43:5, Part I (Oct. 2008).
[9] Marc N. Elliott et al., *Using the Census Bureau's Surname List to Improve Estimates of Race/Ethnicity and Associated Disparities*, HEALTH SERVICES & OUTCOMES RESEARCH METHODOLOGY (2009) 9:69-83.
[10] http://www.philadelphiafed.org/bank-resources/publications/consumer-compliance-outlook/outlook-live/2013/080613.pdf.

policies, practices, and procedures. 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. Because of this case-by-case determination we cannot identify each control that we apply in the analysis to ensure that borrowers are similarly situated.

You have also asked about the "threshold at which the Bureau concludes that statistically significant pricing disparities exist." Consistent with the Bureau's peer agencies, the Bureau makes case-by-case assessments of whether to pursue supervisory or enforcement activity in response to statistically significant disparities. This assessment is not based solely on the size of statistical disparities, but rather varies based on a number of additional relevant factors, for example the extent of consumer harm, the nature of the activity under consideration (e.g., underwriting, pricing, fees), and whether the statistical findings are supported by additional evidence of discrimination.

2) You requested an explanation of how the issuance of the Bureau's March 21, 2013 Auto Bulletin is consistent with federal law, including the Administrative Procedures Act.

As a preliminary matter, it is helpful to note that the Bureau has a number of tools at its disposal when dealing with practices that cause consumer harm, including nonpublic supervisory action, enforcement actions, rulemaking, and consumer education, among others. There are many factors that the Bureau considers when deciding which tools to use, and in determining what is the most appropriate tool to address a certain issue. When we consider whether to engage in rulemaking, a key question is whether existing laws, regulations, and official commentary already address the topic under consideration.

The ECOA and Regulation B, which was the result of notice and comment, make it illegal for a "creditor" to discriminate in any aspect of a credit transaction because of race, color, religion, national origin, sex, marital status, age, receipt of income from any public assistance program, or the exercise, in good faith, of a right under the Consumer Credit Protection Act.[11]

The Bureau published the Auto Bulletin to remind lenders of their responsibilities under ECOA and to offer guidance on how to address the identified risks to all indirect auto lenders within the jurisdiction of the Bureau. Consistent with Bureau procedures, the Bulletin was reviewed prior to issuance to ensure compliance with all legally applicable requirements. The Administrative Procedure Act (APA) sets out the principles by which federal agencies engage in regulatory activity and in applicable cases allows for comments from affected parties and the general public concerning an agency's activity. The APA does not impose a notice and comment requirement for general statements of policy, non-binding informational guidelines, or interpretive memoranda. Accordingly, the Bureau was not statutorily required to solicit comments about the Auto Bulletin.

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[11] 15 U.S.C. § 1691 *et seq.*; 12 C.F.R. pt. 1002 *et seq.*

The Bureau advised the Federal Reserve Board and the Federal Trade Commission, who are also responsible for administering and/or enforcing ECOA, about the Auto Bulletin prior to its publication.

3) Your letter requested whether the Bureau conducted a cost-benefit analysis of how an industry move to compensate dealers for arranging financing through "flat fees" would affect the marketplace and the consumers it serves.

Cost-benefit analysis is an approach that is often utilized, when appropriate, in the administrative rulewriting process to assess the impact of changes to regulatory requirements. As discussed above and below, the Auto Bulletin does not change or create any new regulatory requirements. Accordingly, a formal cost-benefit analysis is not appropriate in this circumstance.

The Auto Bulletin was issued pursuant to the Bureau's supervisory and enforcement authority and expresses the Bureau's views regarding the fair lending risks present in any indirect automobile lending program that permits dealers discretion to increase consumers' interest rates for reasons not supported by a legitimate business need. The Auto Bulletin advises lenders that the Bureau will closely review the operations of indirect auto lenders subject to its jurisdiction and employ the appropriate tool to address any unlawful conduct. The Bureau frequently provides information highlighting the existing risk of certain behaviors for which lenders should monitor in their compliance programs.

Flat fees are mentioned in the Bulletin merely as one example of a non-discretionary compensation mechanism; the Bulletin does not mandate flat fees or any other particular system of dealer compensation. It is our understanding that a number of indirect auto lenders currently compensate auto dealers using a variety of non-discretionary or flat fee programs, and lenders may choose to adopt a variety of means, including, but not limited to, alternative compensation policies, to address fair lending risk. However, the Bureau has not undertaken a study of how market-wide adoption of a single non-discretionary compensation program would affect the availability of credit, nor has it attempted to analyze the impact of all the potential actions lenders may take to eliminate discrimination from their indirect auto lending programs. As a general matter, however, the Bureau believes that fair lending and the legitimate business needs of creditors are compatible.

Thank you for bringing your concerns to the Bureau's attention and for the opportunity to respond. I look forward to working with you on this important issue as the Bureau continues to work to help markets operate more fairly and effectively for consumers and businesses.

Sincerely,



Richard Cordray
Director

cc: The Honorable David Vitter
The Honorable Heidi Heitkamp
The Honorable Pat Roberts
The Honorable Amy Klobuchar
The Honorable Kelly Ayotte
The Honorable Kay Hagan
The Honorable Deb Fischer
The Honorable Mark Begich
The Honorable John Thune
The Honorable Joe Manchin
The Honorable Richard Burr
The Honorable Mark Pryor
The Honorable Jerry Moran
The Honorable Joe Donnelly
The Honorable Mike Crapo
The Honorable Bill Nelson
The Honorable Jeff Sessions
The Honorable Mary Landrieu
The Honorable Rand Paul
The Honorable Mazie Hirono

United States Senate

WASHINGTON, DC 20510

November 6, 2013

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

Dear Director Cordray:

As the Consumer Financial Protection Bureau (CFPB) continues implementing rules intended to protect our nation's homeowners, we ask that you give manufactured housing (MH) loans appropriate consideration.

The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) expanded Home Ownership and Equity Protection Act's definition of high-cost mortgages to include: 1) first mortgages with interest rates that are 6.5 percent greater than the average prime offer rate or 8.5 percent greater than the prime offer rate for mortgages on properties under $50,000; and 2) mortgages with points and fees in excess of 5 percent of the total transaction amount for loans of at least $20,000 or 8 percent of the total transaction cost or $1,000, whichever is greater, for loans under $20,000. According to the Census Bureau, in 2012, the average sales price for a new single-section manufactured home was $41,100 and the average price of an existing manufactured home was $30,000. Both figures are substantially below the $50,000 interest rate trigger threshold, resulting in interest rates and fees that are often a larger percentage of MH mortgage costs, and putting many of these mortgages over the high-cost mortgage triggers, even with the distinct rules for loans with lower balances.

Representatives of the MH industry believe that lenders will be highly unlikely to make certain high-cost loans. We are concerned that overly broad high-cost triggers could limit credit availability for low-income borrowers taking out loans to purchase MH. As you have noted in the past, under Section 103(bb)(2)(A) of the Truth in Lending Act, as amended by 1431 of the Dodd-Frank Act, the CFPB has the authority to make adjustments to the applicable percentage rate triggers if the CFPB determines that the adjustment is "consistent with the consumer protections against abusive lending" and "warranted by the need for credit."

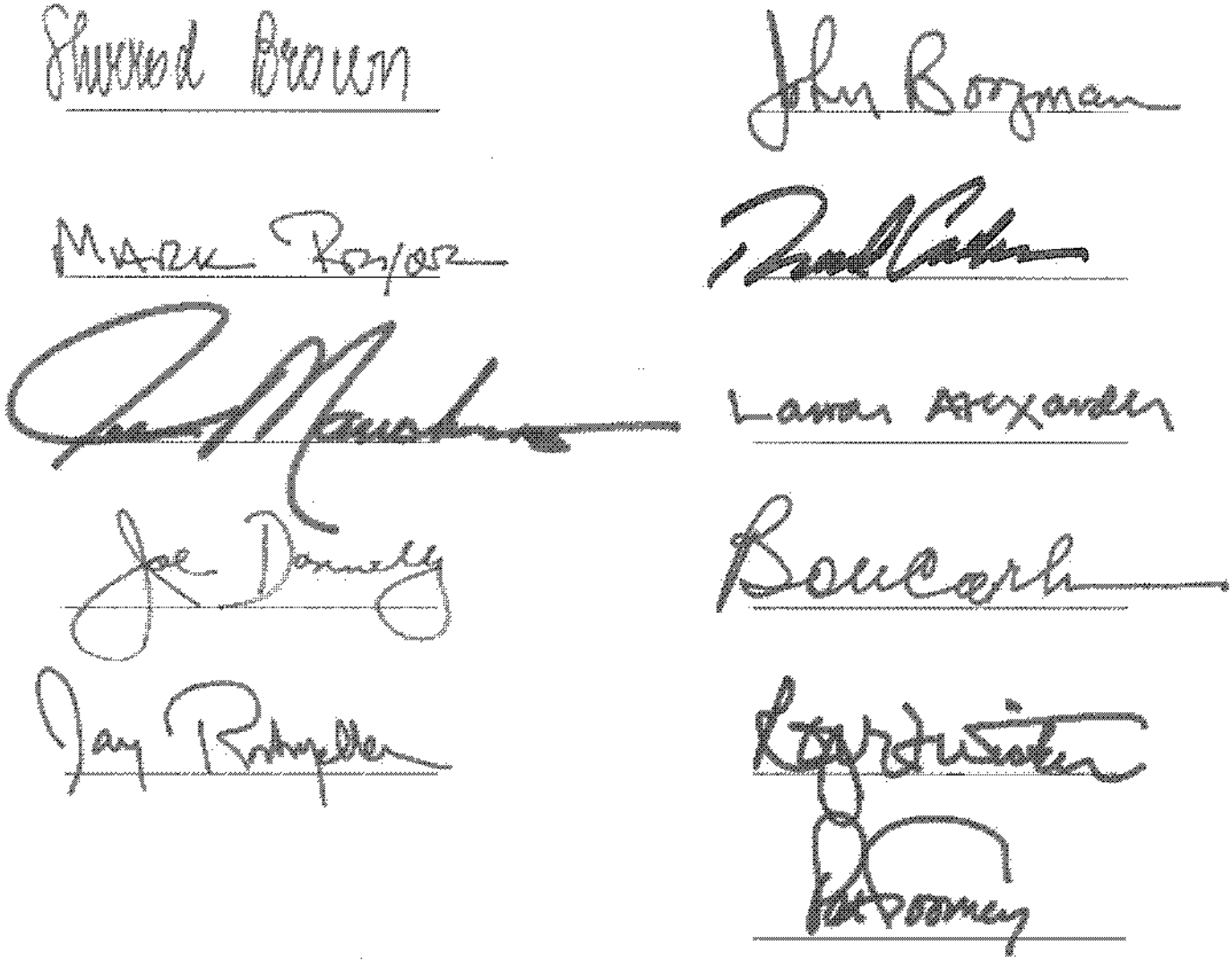
Over the past few months, the largest MH industry actors have shared evidence regarding the range of reasonable adjustments that could be made that would balance preserving the intent of high-cost triggers with ensuring the wide availability of credit. We urge the CFPB to continue working with the MH industry to better understand the issues involved with applying high-cost triggers to MH loans, and to exercise its discretion to adopt high-cost loan regulations that take into consideration the special circumstances involved in manufactured home mortgages.

As the CFPB considers adjustments to the high-cost triggers for MH, we urge you to delay applying the high-cost rules that are currently scheduled to take effect on January 1, 2014, to MH

loans. It seems overly burdensome to require an industry to comply with a rule that is under review and that could change several months after it took effect.

Thank you for considering our views on this important matter.

Sincerely,



Consumer Financial Protection Bureau

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

December 9, 2013

The Honorable Sherrod Brown
United States Senate
713 Hart Senate Office Building
Washington, DC 20510

Dear Senator Brown:

Thank you for your letter concerning the implementation of our mortgage rules and their impact on manufactured housing loans. I appreciate the opportunity to address the issue with you and your colleagues.

The Consumer Financial Protection Bureau's (Bureau) mortgage rules were designed to restrict specific practices and foster a thriving, more sustainable marketplace. As you know, the Bureau finalized several mortgage rules in January 2013. Among these rules, the Ability-to-Repay rule protects consumers from irresponsible mortgage lending by requiring that lenders generally make a reasonable, good-faith determination that prospective borrowers have the ability to repay their loans. The mortgage servicing rules establish strong protections for homeowners facing foreclosure, and the loan originator compensation rules address certain practices that incentivized steering borrowers into risky or high-cost loans. The Bureau also finalized rules that strengthened consumer protections for high-cost mortgages and instituted a requirement that escrow accounts be established for a minimum of five years for certain higher-priced mortgage loans.

These mortgage rules will be extremely important in addressing some of the most serious problems that had undermined the mortgage market during the financial crisis. Congress established specific deadlines for certain rules it required the Bureau to write, and the effective dates reflect these deadlines.

In September 2013, the Bureau finalized amendments and clarifications to its January 2013, mortgage rules in order to help industry comply and to better protect consumers. In this process, effort was made to further address manufactured housing loans and facilitate compliance. For retailers of manufactured homes and their employees, the revisions clarify what compensation must be counted toward certain thresholds for points and fees under the Ability-to-Repay and

high-cost mortgage rules. The revisions also clarify when employees of manufactured housing retailers may be considered loan originators.

The final high-cost mortgage rule does provide more relaxed treatment for "smaller-sized manufactured home loans" that are secured by liens on personal property. The CFPB provided the same accommodation that Congress prescribed in this respect. In so doing, as in its approach to all of its rulemakings under title XIV of the Dodd-Frank Act, the Bureau has remained mindful of the need to ensure that regulations do not unduly restrict access to credit in any market, including manufactured housing.

The Bureau has met jointly with representatives from the manufactured housing industry and consumer advocates. Following that meeting, the Bureau requested additional data from a larger set of manufactured housing lenders to gain a more complete understanding of their concerns regarding the potential effects of this as well as other rules on the market for manufactured home loans. The Bureau will evaluate the information it receives, but it must not prejudge any future decisions. For that reason the Bureau has not committed, and cannot commit, to making any further modifications to the rules it has adopted.

The Bureau has also embarked on an implementation plan to prepare mortgage businesses for the rules that take effect next 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 understand this poses a challenge for industry. 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 provide new protections for consumers and provide certainty that the industry has been seeking. Rest assured that we will continue to monitor the situation closely for any evidence of significant impact on this segment of the mortgage market.

Thank you again for taking the time to share your concerns with me. I look forward to working with you on the important consumer financial protection issues that impact the constituents that you represent.

Sincerely,

Richard Cordray
Director

We will keep in touch with representatives from the industry, share your interest and concerns, and are glad to hear your further thoughts as we go — Rich

Cc: The Honorable John Boozman, United States Senator
The Honorable Mark Pryor, United States Senator
The Honorable Thad Cochran, united States Senator
The Honorable Joe Manchin, United States Senator
The Honorable Lamar Alexander, United States Senator
The Honorable Joe Donnelly, United States Senator
The Honorable Bob Corker, United States Senator
The Honorable Jay Rockefeller, United States Senator
The Honorable Roger Wicker, United States Senator
The Honorable Pat Toomey, United States Senator

Notably, Goldman Sachs has since run an analysis and concluded that, had our new rules been in place then, a full 50% of the loans that defaulted to bring about the financial crisis would not have been made — Rich

KELLY A. AYOTTE
NEW HAMPSHIRE

COMMITTEES
ARMED SERVICES
COMMERCE
HOMELAND SECURITY & GOVERNMENTAL AFFAIRS
BUDGET
AGING

United States Senate

WASHINGTON, DC 20510
(202) 224-3324

144 Russell Building
Washington, DC 20510

1589 Elm Street, Suite 3
Manchester, NH 03101

144 Main Street
Nashua, NH 03060

14 Manchester Square, Suite 140
Portsmouth, NH 03801

10 Fleasant Street, Suite 400
Berlin, NH 03570

February 25, 2014

Richard Cordray
Director
Consumer Financial Protection Bureau
1700 G Street NW 6111E
Washington, DC 20552

Dear Director Cordray:

Today I am writing in support of the nomination of Michael Gallagher of Enterprise Bank to serve on the Consumer Financial Protection Bureau's (CFPB) Community Bank Advisory Council.

New Hampshire maintains a strong and vibrant community banking industry. One of my greatest concerns for the industry is ensuring that federal regulations do not stifle its strength and long-term viability. I appreciate the CFPB's desire to ensure community banks in my state and across the country are heard through the Advisory Council. However, it does not appear that New England community banks have been adequately represented on the Council. I urge you to consider selecting Michael in an effort to ensure this region of the country has strong representation.

Michael currently serves as Senior Vice President of Risk Management for Enterprise Bank, a $1.5 billion state-chartered institution headquartered in Massachusetts with five branches located in New Hampshire. Given the current regulatory environment, the challenge for community banks to evaluate, prepare, and respond to risks is greater than it ever has been before. His experience navigating this risk for a community bank would bring tremendous value to the Council.

Michael has served as a leader among bankers in both New Hampshire and Massachusetts. He has a keen understanding of the risks banks must consider, including compliance, information technology, and vendor management. He continues to use his experience by bringing bankers together through both the New Hampshire Bankers Association Risk Management Committee and the Rick Management Association of New England. His participation in both of these organizations would enable him to bring the perspective and feedback of New England bankers to the Council.

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I am hopeful you will consider Michael for the Advisory Council. His experience in the New England banking industry makes him the ideal candidate for this position.

Sincerely,

Kelly Ayotte
United States Senator