

**Written Testimony of Kathy Kraninger
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Before the House Committee on Financial Services
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Chairwoman Waters, Ranking Member McHenry, and distinguished Members of the Committee, thank you for the opportunity to present the Consumer Financial Protection Bureau's most recent Semi-Annual Reports to Congress. While the reports describe actions undertaken before I arrived, they provide a touchstone as we create a fresh outlook at the agency under my leadership.

The Bureau presents these Semi-Annual Reports to Congress and the American people in fulfillment of its statutory responsibility and commitment to accountability and transparency. The Bureau's Spring 2018 (October 1, 2017 to March 31, 2018) and Fall 2018 (April 1, 2018 to September 30, 2018) Semi-Annual Reports meet this mandate. My testimony highlights the contents of these reports.

1. Significant problems faced by consumers in shopping for or obtaining consumer financial products or services

In each Semi-Annual Report, the Bureau identifies relevant trends affecting consumers shopping for or obtaining consumer financial products or services. In the two Reports submitted to Congress in 2018, the Bureau identified a total of four trends of relevance.

First are credit products marketed to "non-prime borrowers." Given the higher late payment and default rates associated with "non-prime borrowers," products issued to these consumers generally feature higher all-in costs than products issued to consumers with higher scores, but offer such consumers the dual possibility of access to the credit card market as well as an avenue for building or rehabilitating credit records when timely repayments are made.

Second are secured credit cards. Consumer awareness and demand for secured cards have increased in recent years, however, low product awareness remains a barrier to secured credit card adoption. Outside research has found that many "non-prime borrowers" may not be aware that secured credit cards are a potential option for them, or even that the product exists.

Third, the Bureau found that credit invisibility—i.e., lacking a credit record that is treated as "scorable" by widely used credit scoring models—among adults 25 and older is concentrated in rural and highly urban geographies. Lack of internet access appears to have a stronger relationship to credit invisibility than does the presence of a bank branch. Among consumers who successfully transition out of credit invisibility, the overall rate of using a credit card as an entry product is much lower for those living in rural areas and in lower-income neighborhoods.

Lastly, many homebuyers do not comparison shop for their mortgages even though mortgage interest rates and loan terms can vary considerably across lenders. Reasons may include that rates change regularly, getting an accurate rate quote generally requires sharing personal financial information, and most consumers believe comparison shopping doesn't make a difference. A Bureau study found that consumers

who were encouraged to comparison shop became more knowledgeable and confident regarding the mortgage market.

2. Justification of the budget request of the previous year

The Bureau is funded principally by transfers from the Federal Reserve System, up to the limits set forth in the Dodd-Frank Act. Funding from the Federal Reserve System for FY 2018 is capped at \$663 million. As of September 30, 2018, the Bureau had received a total of \$381.3 million in transfers for FY 2018, which was added to the \$177.1 million the Bureau had in unobligated balances at the end of FY 2017.

As of September 30, 2018, the end of the fourth quarter of FY 2018, the Bureau had spent approximately \$553 million in FY 2018 funds to carry out the authorities of the Bureau under Federal financial consumer law. Approximately \$320.5 million was spent on employee compensation and benefits for the 1,510 Bureau employees who were on-board by the end of the quarter.

3. Significant rules and orders adopted by the Bureau, as well as other significant initiatives conducted by the Bureau, during the preceding year and the plan of the Bureau for rules, orders, or other initiatives to be undertaken during the upcoming period

In its Semi-Annual Reports, the Bureau set forth the rules it had produced during the year preceding each report and the initiatives it intends to take during the upcoming reporting period. Below is a selection of the most relevant such matters.

Significant Rules Adopted by the Bureau During the Preceding Year:

- Final Rule: Payday, Vehicle Title, and Certain High-Cost Installment Loans.
- Final Rule: Arbitration Agreements (note, however, that this rule will not go into effect because Congress subsequently adopted a joint resolution of disapproval which the President signed pursuant to the Congressional Review Act).¹

Less Significant Rules:

- Final Rule: Mortgage Servicing Rules under the Truth in Lending Act (Regulation Z).²
- Final Rule: Rules Concerning Prepaid Accounts Under the Electronic Fund Transfer Act (Regulation E) and the Truth in Lending Act (Regulation Z).³

¹ www.federalregister.gov/documents/2017/07/19/2017-14225/arbitration-agreements.
www.federalregister.gov/documents/2017/11/22/2017-25324/arbitration-agreements.

² www.federalregister.gov/documents/2018/03/12/2018-04823/mortgage-servicing-rules-under-the-truth-in-lending-act-regulation-z.

³ www.federalregister.gov/documents/2018/02/13/2018-01305/rules-concerning-prepaid-accounts-under-the-electronic-fund-transfer-act-regulation-e-and-the-truth.

- Interim Final Rule: Mortgage Servicing Rules under the Real Estate Settlement Procedures Act (Regulation X).⁴
- Final Rule: Equal Credit Opportunity Act (Regulation B) Ethnicity and Race Information Collection.⁵
- Final Rule: Home Mortgage Disclosure Act (Regulation C).⁶
- Final Rule: Amendments to Federal Mortgage Disclosure Requirements Under the Truth in Lending Act (Regulation Z).⁷

Significant Initiatives:

- Notice of Proposed Policy Guidance: Policy to Encourage Trial Disclosure Program.
- Symposium on Building a Bridge to Credit Visibility.
- Call for Evidence.

Plan for Upcoming Initiatives

- Policy Statement: Public Release of Home Mortgage Disclosure Act Data.
- Pre-Rule Activity: Threshold Adjustment to Escrow Provision for Higher Priced Mortgage Loans.

Plan for Upcoming Rules

- Payday, Vehicle Title, and Certain High-Cost Installment Loans: the Bureau announced in January 2018 that it intends to open a rulemaking to reconsider its 2017 rule titled Payday, Vehicle Title, and Certain High-Cost Installment Loans. The Notice of Proposed Rulemaking was issued by the Bureau on February 6, 2019.⁸
- Debt Collection Rule: The Bureau is working toward releasing a proposed rule regarding FDCPA collectors' communications practices and consumer disclosures.
- Home Mortgage Disclosure (Regulation C): The Bureau announced in December 2017 that it intends to engage in a rulemaking to reconsider various aspects of the Bureau's 2015 rule under the Home Mortgage Disclosure Act (Regulation C), which could involve issues such as the institutional and transactional coverage tests and the rule's discretionary data points.
- Partial Exemptions from the Requirements of the Home Mortgage Disclosure Act under the Economic Growth, Regulatory Relief, and Consumer Protection Act (Regulation C):

⁴ www.federalregister.gov/documents/2017/10/16/2017-21912/mortgage-servicing-rules-under-the-real-estate-settlement-procedures-act-regulation-x.

⁵ www.federalregister.gov/documents/2017/10/02/2017-20417/equal-credit-opportunity-act-regulation-b-ethnicity-and-race-information-collection.

⁶ www.federalregister.gov/documents/2017/09/13/2017-18284/home-mortgage-disclosure-regulation-c.

⁷ www.federalregister.gov/documents/2017/08/11/2017-15764/amendments-to-federal-mortgage-disclosure-requirements-under-the-truth-in-lending-act-regulation-z.

⁸ www.consumerfinance.gov/policy-compliance/rulemaking/rules-under-development/payday-vehicle-title-and-certain-high-cost-installment-loans-delay-of-compliance-date/

The Bureau will incorporate into Regulation C interpretations and procedures set forth in an interpretive and procedural rule issued to implement and clarify the requirements of section 104(a) of the Economic Growth, Regulatory Relief, and Consumer Protection Act, which amended certain provisions of the Home Mortgage Disclosure Act.

4. Analysis of complaints about consumer financial products or services that the Bureau has received and collected in its central database on complaints during the preceding year

The Bureau's Office of Consumer Response analyzes consumer complaints, company responses, and consumer feedback to assess the accuracy, completeness, and timeliness of company responses. The Bureau uses insights gathered from complaint data to scope and prioritize examinations and ask targeted questions when examining companies' records and practices, to help understand problems consumers are experiencing in the marketplace, to provide access to information about financial topics and opportunities to build skills in money management that can help them avoid future problems, and to inform enforcement investigations to help stop unfair, deceptive, or abusive acts or practices.

In the Spring 2018 Semi-Annual Report, the Bureau noted that it had received approximately 326,200 consumer complaints and sent approximately 260,200 (or 80%) to companies, and companies responded to approximately 94% of complaints that the Bureau sent to them. In the Fall 2018 Semi-Annual Report, the Bureau received approximately 329,000 consumer complaints and sent approximately 263,200 (or 80%) to companies, and companies responded to approximately 93% of complaints that the Bureau sent to them. The Bureau does not verify all the facts alleged in complaints, but takes steps to confirm a commercial relationship between the consumer and the company.

In both reports, the credit or consumer reporting categories received the most complaints, at 37% in the most recent report, and debt collection received the second highest number of complaints, at 25% in the most recent report. The remaining categories, from highest to lowest percentage of total complaints, are: mortgage (10%), credit card (9%), checking or savings (7%), student loan (3%), money transfer or service or virtual currency (3%), vehicle loan or lease (3%), personal loan (1% each period), payday loan (0.7%), prepaid card (0.7%), credit repair (0.3%), and title loan (0.2%).

5. Public supervisory and enforcement actions to which the Bureau was a party during the preceding year

The Bureau's supervisory activities with respect to individual institutions are non-public. The Bureau has, however, issued numerous supervisory guidance documents and bulletins described in the Spring and Fall Semi-Annual Reports.

The Reports note that the Bureau was a party in several public enforcement actions, as well as actions involving Office of Administrative Adjudication Orders with respect to covered persons which are not credit unions or depository institutions, between the two Reports. For a list of each case, along with brief descriptions, please refer to the Bureau's Semi-Annual Reports.

6. *Actions taken regarding rules, orders, and supervisory actions with respect to covered persons which are not credit unions or depository institutions*

The Bureau's Semi-Annual Reports list all its public enforcement actions, noting when the action was taken against a covered person that is not a credit union or depository institution. Additionally the Bureau's *Supervisory Highlights* publications provide general information about the Bureau's supervisory activities and key findings at banks and nonbanks without identifying specific companies.

7. *Assessment of significant actions by State attorneys general or State regulators relating to Federal consumer financial law*

For purposes of the section 1016(c)(7) reporting requirement, the Bureau determined that any actions asserting claims pursuant to section 1042 of the Dodd-Frank Act are "significant." The reporting period of the two most recent Semi-Annual Reports is October 1, 2017, through September 30, 2018. The Bureau is aware of three State Attorney General actions that were initiated during the reporting period(s) and that asserted Dodd-Frank Act claims: State of Alabama et al. v. PHH Mortgage Corporation, No. 18-cv-0009 (D.D.C. Jan. 3, 2018); Navajo Nation v. Wells Fargo & Company, Wells Fargo Bank, N.A., and Does 1-10, No. 17-cv-1219 (D.N.M. Dec. 12, 2017); and Commonwealth of Pennsylvania v. Navient Corporation and Navient Solutions, L.L.C., No. 17- cv-1814 (M.D. Pa. Oct. 5, 2017).

8. *Analysis of the efforts of the Bureau to fulfill the fair lending mission of the Bureau*

The Bureau's Spring and Fall 2018 Semi-Annual Reports highlight the Bureau's fair lending enforcement and rulemaking activities, along with its continued efforts to fulfill the Bureau's fair lending mission through, for example, supervision, interagency coordination, and outreach.

For exam reports issued by Fair Lending Supervision during the reporting period, the most frequently cited violations of Regulation B and Regulation C were:

- Section 1002.5(d)(2): Improperly requesting information about an applicant's source of income.
- Section 1002.6(b)(2): Improperly considering age or whether income is derived from any public assistance program.
- Section 1002.9(c)(2): Failure to adequately notify an applicant that additional information is needed for an application.
- Section 1002.14(a): Failure to routinely provide a copy of an appraisal report to an applicant for credit secured by a lien on a dwelling.
- Section 1003.4(a): Failure by a financial institution to collect data regarding applications for covered loans that it receives, originates, or purchases in a calendar year, or, failure to collect data regarding certain requests under a preapproval program in a calendar year.

In the Spring Report, the Bureau conducted fewer fair lending supervisory events, and issued fewer matters requiring attention (MRAs) or memoranda of understanding (MOUs) than in the prior period, and cleared a substantially higher number of MRAs or MOU items from past supervisory events than in the prior period. In the Fall Report, the Bureau initiated a higher number of fair lending supervisory events, and issued a greater number of MRAs or MOUs than in the prior period, and found that entities satisfied a lower number of MRAs or MOU items from past supervisory events than in the prior period.

In addition to fair lending supervision, the Bureau has the statutory authority to bring enforcement actions pursuant to the Home Mortgage Disclosure Act (HMDA) and the Equal Credit Opportunity Act (ECOA). The Bureau announced a fair lending public enforcement action involving credit cards, as described in the Semi-Annual Reports.

The Bureau continues to administer prior fair lending enforcement actions, including consent orders requiring defendants to pay redress to affected consumers. These matters include ongoing orders pertaining to auto-lending that govern American Honda Finance Corporation and mortgage lending governing Provident Funding Associates and BancorpSouth Bank.

The Bureau also conducts fair lending outreach through issuance of Reports to Congress, Interagency Statements, *Supervisory Highlights*, Compliance Bulletins, letters and blog posts, as well as through the delivery of speeches, meetings, and presentations addressing fair lending and access to credit matters. As set forth in the two most recent Semi-Annual Reports, Fair Lending staff worked directly with stakeholders, and, on September 17, 2018, the Bureau held a day-long symposium titled Building a Bridge to Credit Visibility. The symposium explored challenges related to access to consumer and small business credit and potential innovations and strategies to expand credit access. On the day of the symposium, the Bureau also released a new research publication providing a closer look at the relationship between geography and credit invisibility.

The Spring and Fall 2018 Semi-Annual Reports also describe that Fair Lending staff coordinated with partners on the Interagency Task Force on Fair Lending, the Interagency Working Group on Fair Lending Enforcement, and the Federal Financial Institutions Examinations Council (FFIEC) HMDA Data Collection Subcommittee.

9. Analysis of the efforts of the Bureau to increase workforce and contracting diversity consistent with the procedures established by the Office of Minority and Women Inclusion (OMWI)

The Bureau developed its “Diversity and Inclusion Strategic Plan 2016-2020” to guide the Bureau’s efforts to manage its diversity and inclusion goals, and objectives. The Bureau also publishes an Annual OMWI report in the spring of each year; its 2017 report was issued on March 29, 2018.

As of September 2018, an analysis of the Bureau’s current workforce reveals the following key points:

- Women represent 49% of the Bureau’s workforce in 2018 with no change from 2017.
- Minorities represent 40% of the Bureau workforce in 2018 with a one percentage point increase of ethnic minority employees (Hispanic, Black, Asian, Native Hawaiian/Other Pacific Islander (NH/OPI), American Indian/Alaska Native (AI/AN) and employees of

Two or More races) from 2017.

- As of September 30, 2018, 12.4% of Bureau employees (excluding interns) identified as an individual with a disability. Out of the workforce, 3.2% of employees identified as an individual with a targeted disability. The Bureau has already exceeded the workforce goals of 12% for employees with disabilities and 2.0% for employees with targeted disabilities — exceeding in both salary categories as required in the EEOC’s Section 501 regulations.

The Bureau enhances diversity by recruiting, hiring, and retaining highly qualified individuals from diverse backgrounds to fill positions at the Bureau. To promote an inclusive work environment, the Bureau focuses on strong engagement with employees and utilizes an integrated approach to education, training, and engagement programs that ensures diversity and inclusion and non-discrimination concepts are part of the learning curriculum and work environment. The Bureau also ensures that senior leaders are aware of demographic trends of the Bureau’s workforce. Planning is done to increase inclusion and retention of the diverse workforce.

Further, in accordance with the mandates in section 342(b)(2)(B) of the Dodd-Frank Act, the Bureau takes efforts to increase contracting opportunities for diverse businesses including Minority-owned and Women-owned Businesses (MWOBs), including: creating and publishing a procurement forecast; proactively making recommendations that promote the use of qualified MWOB contractors in Bureau contracts; updating, distributing, and publishing online technical assistance guides for businesses; publishing the Bureau’s supplier diversity policy on the Bureau website; participating in four national supplier diversity conferences aimed at MWOBs; and providing technical assistance meetings to businesses new to government contracting or doing business with the Bureau. As a result of these efforts, 32.6% of the \$139 million in contracts that the Bureau awarded during this time went to MWOBs.

Finally, in accordance with the mandates in section 342(c)(2) of the Dodd-Frank Act, the Bureau’s Diversity and Inclusion Plan describes the Bureau’s efforts to determine that a contractor will ensure, to the maximum extent possible, the fair inclusion of women and minorities in the contractor and subcontractor workforce. The Bureau developed and inserted a contract clause, known as the Good Faith Effort, into all Bureau contracts, and as a result more than 200 Bureau contractors will submit documentation detailing their workforce diversity practices in FY 2019.

Conclusion

The reports describe actions undertaken before my tenure as Director of the Bureau, yet they provide a touchstone as we create a fresh outlook at the agency under my leadership.

Since my confirmation, I have been engaged in a listening tour to meet as many of our stakeholders as possible, including many of you. Through listening, I am building relationships, both inside and outside of the Bureau. Hearing all perspectives is critical to bring the best thinking as we carry out our mission of protecting consumers.

Looking ahead, I will be setting priorities for the Bureau, including setting the tone for how we

will operate as an agency. I expect to emphasize stability, consistency, and transparency as hallmarks as we mature the agency and institutionalize the many partnerships that are key to our success. I am also examining how we can best utilize all the tools that Congress has given us—broadening our efforts to focus on prevention of harm as a primary goal for our actions.

Thank you again for the opportunity to present the CFPB's work to you.