CFPB'S ROLE IN EMPOWERING PREDATORY LENDERS: EXAMINING THE PROPOSED REPEAL OF THE PAYDAY LENDING RULE

HEARING

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OF THE

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CFPB'S ROLE IN EMPOWERING PREDATORY LENDERS: EXAMINING THE PROPOSED REPEAL OF THE PAYDAY LENDING RULE

Thursday, May 16, 2019

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ECONOMIC AND CONSUMER POLICY,
COMMITTEE ON OVERSIGHT AND REFORM,
Washington, D.C.

The subcommittee met, pursuant to notice, at 2:07 p.m., in room 2154, Rayburn House Office Building, Hon. Raja Krishnamoorthi (chairman of the subcommittee) presiding.

Present: Representatives Krishnamoorthi, Pressley, Tlaib, Connolly, and Cloud.

Mr. KRISHNAMOORTHI. Good afternoon. The Subcommittee on Economic and Consumer Policy will come to order. Without objection, the chair is authorized to declare a recess of the committee at any time.

This hearing is being convened to examine CFPB's role in empowering predatory lenders and examine the proposed repeal of the Payday Lending Rule.

I now recognize myself to give an opening statement.

In the wake of the financial crisis, the CFPB was established to stop predatory financial activity central to the collapse. For years, the CFPB has stood up to financial predators, holding companies accountable for wrongdoing and returning $12 billion of ill-gotten money to consumers.

When the CFPB saw predatory payday and auto title lenders targeting the poorest Americans with high-interest debt traps, it began studying the issue. Five years of careful research uncovered an industry preying on desperation. Many lenders advertised short-term loans, but they know the truth; their products lock in the average consumers for 11 months. In fact, most consumers pay more in fees than they borrowed in the first place. Furthermore, interest rates approach 400 percent.

But you don't have to take my word for how predatory these loans are. Please watch this video on the CFPB's own website.

[Video shown.]

Mr. KRISHNAMOORTHI. Well, I think we'll see it eventually after it ends the buffering here. Why don't you pause the video, please.

Most types of lenders make money when loans are repaid, but payday and auto title lenders succeed when their borrowers fail.

Ninety percent of fees come from people who take out seven or more loans just to repay the first.

CFPB's five years of research produced substantial evidence that action was needed. It issued the 2017 rule, also known as the Payday Lending Rule, to stop the debt traps, by simply requiring payday, title, and other high-cost installment lenders to determine up front whether people could afford to repay.

Indeed, Americans overwhelmingly support this commonsense rule. Nationwide, 73 percent of Americans support requiring payday lenders to check a borrower's ability to repay before lending money, including 74 percent of Democrats, 72 percent of Republicans, and 77 percent of Independents.

Today, we are going to discuss the CFPB's proposed repeal of this wildly popular rule. Why are we so focused on it? Listen to the plight of Billy A, one of the many borrowers central to the story. Billy A is from Springfield, Illinois. She is disabled and on a fixed income. She took out a title loan to help when her grandchild was born. After a year, she had paid $1,500 on a $1,000 payday loan, and still owed $800 on top of that. She couldn't pay basic living expenses, turning to a food bank, and eventually living in her car. One month she took out a payday loan to cover her title loan to avoid repossession.

The lender never asked about other debts or if she could repay, but it got her bank information so it could pull from her account every month. When there is no money, it charges her $25 more. Billy describes her situation as, quote: "being like a hamster on one of those wheels. I just keep running and running and never get anywhere. It's scary to tell my story, but someone's got to tell people what the payday lending industry is doing to us. They are profiting off the backs of poor people. It's predatory, plain and simple, and it's got to stop," close quote.

Billy is just one of 12 million Americans who use these types of loans each year, and her story is not unique. The CFPB's 2017 Payday Lending Rule was developed over the course of a half a decade to protect people like Billy, but the CFPB's current leadership has decided to abandon it, based on no new research. In this hearing we will ask the question why?

Today, Mr. Pahl is here from the CFPB to discuss payday lending. We in this room may not be payday borrowers, but we need to stand up for them. If we do not, what protections will CFPB come for next?

The chair now recognizes the ranking member, Mr. Cloud of Texas, for five minutes for an opening statement.

Mr. CLOUD. Thank you, Chairman.

We are here today to discuss the CFPB's Payday Lending Rule, which if allowed to come into effect later this year, could do major disservice to the very people the CFPB is charged with serving. Since the passage of Dodd-Frank and other post-crisis financial regulatory legislation, it has become increasingly difficult for many Americans to access the financial system.

It is too often the case that Congress can make snap knee-jerk reactions to problems and passes legislation that has far-reaching and unintended consequences. Before these laws were implemented, 76 percent of bank accounts qualified for free checking.

After Dodd-Frank, this number fell to just 39 percent. Congress has made it more expensive to participate in the financial system, and Americans who lack financial resources are the ones who paid the price most dearly and continue to struggle today.

From 2009 to 2012, the average minimum balance required to have fees waived on a bank account rose from $186 to $723. Even at $15 an hour wage, that's more than a full week's salary for many people. If you're someone getting established in life and living paycheck to paycheck, you can't afford that, and Congress has shut you out of the financial system many Americans take for granted every day.

Because of these regulatory burdens that Congress put in place, low-income and credit-impaired Americans were forced to look elsewhere for financial services. For up to 12 million Americans, that meant turning to payday loans. These Americans are generally considered to be unbanked or underbanked. They lack a credit history and so can't obtain credit through traditional channels like credit cards or they have an adverse credit history that makes banks unwilling to lend to them. They tend to be younger, hourly wage workers toward the beginning of their career, with 56 percent of payday loan customers making between $25,000 and $75,000 per year.

The CFPB could have tried to make payday loans safer for the people who use them through requirements like increased disclosure and more enforcement against lenders who take advantage of consumers or engage in fraud. Instead, the CFPB sought to kill the industry and remove one of the few remaining sources of credit for a significant number of Americans.

The CFPB's own analysis of the rule impacts project up to 80 percent decline in the number of loans being issued to the rule. Payday lenders commissioned their own study of the rule and an impact, as estimated, could be 90 percent of a decline.

The CFPB did this while ignoring the impact its rule will have on unbanked and underbanked consumers who use these loans. Research has shown that when access to small-dollar consumer credit, like payday loans is restricted, people turn to illegal and unregulated lenders like loan sharks to make ends meet. Studies also show that restricting access to small-dollar consumer credit results in consumers bouncing checks and filing for bankruptcy at much higher rates than when credit like payday loans is available.

The CFPB also ignored the role that states were already playing in regulating these credit markets. All 50 states regulate small-dollar consumer credit like payday loans, and states have long been the primary regulators of consumer credit and lending. There is no unregulated Wild West crying out for Federal intervention, particularly when the Federal intervention ignored the evidence before them.

Before regulating, the Bureau should have considered whether the proposed rule would harm consumers. They are required to do (this) under the law, and that did not adequately happen in this case. Professor Ronald Mann of Columbia Law School, whose work the CFPB used to build the foundation for the Payday Lending Rule, disputed how the Bureau used his own research. He even went so far to write a letter to the CFPB, calling his use of research on consumer credit, quote, “inaccurate and misleading,” unquote.

Professor Mann further alleged that the CFPB was engaging in, quote, “a distortion of evidence to suit policies that the Bureau has preselected for implementation,” unquote. The Bureau finalized the rule anyway, saying simply that they disagreed with how Professor Mann was interpreting his own research.

I am glad that under the CFPB’s new leadership, the agency appears to be serious about having rigorous, research-based regulatory process, and that the agency is willing to look back at its prior actions and identify any mistakes when necessary and consequently how to correct them.

Thank you. I yield back.

Mr. KRISHNAMOORTHI. Thank you, Mr. Cloud.

Today we are joined by Thomas Pahl, the policy associate director for Research, Markets and Regulations at the Consumer Financial Protection Bureau, the CFPB.

If the witness would please rise, I will begin by swearing you in.

Do you swear or affirm that the testimony you are about to give is the truth, the whole truth, and nothing but the truth, so help you God?

Thank you.

Let the record show that the witness answered in the affirmative. Thank you, and please be seated.

We will begin with questions. And before that, we will start with an opening statement. How is that?

Mr. Pahl.

STATEMENT OF THOMAS PAHL, POLICY ASSOCIATE DIRECTOR OF THE RESEARCH, MARKETS AND REGULATIONS DIVISION, CONSUMER FINANCIAL PROTECTION BUREAU

Mr. PAHL. Thank you.

Chairman Krishnamoorthi, Ranking Member Cloud, and distinguished members of the subcommittee, thank you for the opportunity to testify here today. I am Thomas Pahl. I am the policy associate director for the Division of Research, Markets and Regulations at the CFPB. I have worked at the FTC and CFPB for more than 25 years doing consumer protection work, primarily as a career staff attorney.

I am pleased to discuss the Bureau’s activities concerning payday lenders and what the CFPB is doing to make a final determination whether there is a sufficient factual and legal basis for the 2017 rule.

Our goal is to protect borrowers from harm, while not unduly restricting the ability of borrowers to decide what credit is best for them. A large portion of American consumers live paycheck to paycheck, sometimes facing a financial shortfall due to an emergency expense or a pressing bill and a lack of liquid savings. These consumers are the primary potential customers for small-dollar lenders.

Rulemaking is just one of the four tools the CFPB uses to prevent harm to these consumers. To get a complete picture of what the Bureau is doing to protect these consumers requires an understanding of the Bureau’s use of all of its tools.

First, the CFPB's consumer education activities are focused on helping consumers help themselves, protect their own interests, choose the financial products and services that best fit their needs. This education is vital to preventing consumer harm and building a high level of financial well-being.

The Bureau's efforts include its new Start Small, Save Up initiative, which consumers are encouraged to build a basic savings cushion and develop a savings habit. Having such emergency savings is critical to helping people address the broader issues in their financial lives around attaining and retaining good credit, managing their debt, and saving habitually. The Bureau is firmly committed to doing the work needed to move the needle on emergency savings.

Second, the CFPB's supervision program examines lenders and other firms to ensure that they comply with a variety of existing Federal statutes and regulations. The Dodd-Frank Act provides the Bureau with express authority to engage in supervision of payday lenders. The Bureau uses supervision effectively and efficiently to increase compliance with the law and prevent consumer harm, including by keeping payday lenders on the straight and narrow.

Third, the Bureau's enforcement program targets bad actors. Over the past year, the Bureau has initiated five new enforcement actions involving payday lenders and obtained final judgments on two other previously filed payday lending cases. These cases are a testament to the agency's commitment to use its enforcement tool to take decisive action to deter wrongdoers so that all lenders can compete with each other on a level playing field. In its supervisory activities and its law enforcement, the Bureau often cooperates and coordinates with other Federal and state agencies.

Let me now turn to the small-dollar rulemaking. In November 2017, the Bureau published a rule to regulate small-dollar lenders. That rule addressed two discrete topics. First, the rule contains mandatory underwriting provisions. Second, the rule contains provisions with respect to attempts to withdraw payments from consumers' checking or other accounts.

The Bureau has not proposed to rescind or delay the rule's payment provisions. However, with respect to the mandatory underwriting provisions, the Bureau has doubts as to whether the appropriate standards for unfairness and abusiveness under the Dodd-Frank Act were applied. The Bureau also has doubts whether, despite the abundance of evidence in the record on many issues, the evidence was sufficiently robust and reliable to support the necessary factual findings to support the conclusion that a lack of mandatory underwriting was unfair and abusive.

The Bureau, therefore, decided in February 2019 to issue a notice of proposed rulemaking to reconsider the mandatory underwriting provisions of the rule, especially important in light of the large and lasting effects that the mandatory underwriting provisions would have on the market and on consumers' ability to choose small-dollar loans to address financial shortfalls.

The Bureau also preliminarily concluded at the same time that delaying the compliance date for the mandatory underwriting provisions was necessary for an orderly rulemaking process to proceed.

The CFPB, therefore, also issued a notice of proposed rulemaking to delay the compliance date.

The comment periods on both notices of proposed rulemakings have now closed. The Bureau received 145 comments on the delay proposal, and as of May 13, the agency had received more than 150,000 comments, and counting, on the reconsideration proposal.

Because the Bureau is in the midst of rulemaking proceedings, I'm sure you'll understand that I can neither offer any final views nor comment on the Bureau's internal deliberations. I can assure the subcommittee, however, that the Bureau will approach comments with an open mind and will carefully review them before reaching any conclusions. We also are committed to a fair and transparent rulemaking process.

Thank you very much. I look forward to answering any questions that you may have.

Mr. KRISHNAMOORTHI. Thank you, Mr. Pahl.

It looks like the video is now working, so we're going to play your own website video for one minute.

Could you please roll the video?

[Video shown.]

Mr. KRISHNAMOORTHI. Well, that was a nice video from the CFPB. Thank you.

I am going to recognize myself for five minutes for questions.

Mr. Pahl, thank you so much for being here. I'd like your help in establishing the timeline behind the Payday Lending Rule. As you know, the final payday rule was issued on October 5, 2017, and then CFPB leadership changed on November 27, 2017. Within a few days, on December 4, less than a week later, Director Mulvaney told the press that the CFPB was considering repealing the payday rule. And just one month later, in January 2018, the CFPB formally announced that it was reconsidering the payday rule.

Isn't that your understanding as well, Mr. Pahl?

Mr. PAHL. Thank you. I returned to the Bureau in April 2018, so those events preceded my return to the agency, but what you have described is consistent with what my understanding is of the course of events.

Mr. KRISHNAMOORTHI. Very good. And two days after that announcement, that formal announcement, on January 18 of 2018, the CFPB voluntarily dismissed a lawsuit called CFPB v. Golden Valley Lending. This was a lawsuit against a payday lender that had charged 950 percent interest. Unfortunately, this was the beginning of a pattern in the litigation that the CFPB had previously initiated but now was beginning to dismiss.

Four days later, on January 22, Business Wire reported that CFPB ended its investigation into payday lender World Acceptance Corporation. Are you aware of this particular decision to drop that investigation as well?

Mr. PAHL. These events preceded my time returning to the Bureau. I have a general understanding that there were some payday lending investigations that were closed or matters that were closed, but, as I say, it predates my time. And also, I would note that I run the Division of Research, Markets and Regulations. All of the law enforcement activity is handled by a different division at the agency.

Mr. KRISHNAMOORTHI. I understand.

Mr. PAHL. And so it was not part of my responsibility to be involved in those decisions——

Mr. KRISHNAMOORTHI. I understand.

Mr. PAHL [continuing]. Even once I arrived.

Mr. KRISHNAMOORTHI. And, without objection, I enter into the record a New York Times report stating that on April 5, 2018—so this is nearing or after the time that you joined the Bureau—the deputy director of the CFPB met with payday lender group Consumer Financial Services of America to discuss repealing the payday rule.

Are you aware that four days later, on April 9, that same group of payday lenders sued CFPB to block the payday rule from going into effect? This was on April 9, 2018, Consumer Financial Services Association versus CFPB.

Mr. PAHL. I actually started later that same month. These two events also preceded my return to the Bureau. I do know that the CFSA suit was filed on the date you mentioned, and it is my understanding that there was a meeting between Acting Deputy Director or actually now Deputy Director Brian Johnson and CFSA.

Mr. KRISHNAMOORTHI. Very good. Interestingly, court records in that case show that instead of defending the lawsuit against it, CFPB joined with the payday lenders suing it and actually stopped the litigation and sued to stop the CFPB rule from going into effect. In fact, according to campaign finance records, the CFPB's industry partner in that case, Consumer Financial Services Association, made significant campaign contributions to Director Mulvaney while he was still in Congress.

Now, Mr. Pahl, are you aware that on February 1, 2019—so it's this year—CFPB settled with payday lender NDG Financial?

Mr. PAHL. Yes, I am aware of the settlement with NDG Financial. But, again, that was a matter handled by a different part of the agency than the part of the agency that I oversee.

Mr. KRISHNAMOORTHI. I understand. And do you know how much they settled that case for?

I'll tell you. It was zero dollars and zero cents. CFPB settled it for zero dollars, despite the fact that NDG had been alleged to charge illegally high interest rates and tried to collect on debts not owed.

So if you just stay with me, that's the fourth piece of litigation now that the CFPB has either dropped or settled for zero dollars and zero cents.

Will you commit to providing us, within two weeks, the names of the CFPB personnel that were involved in each of the four enforcement actions that I mentioned?

Mr. PAHL. Yes, I think we can do that. And—yes. One thing I would note—I do want to offer one response to the CFSA litigation versus the Bureau. I mean, we and CFSA are adverse parties in that litigation and our positions in that litigation are set forth in the briefs. But I do want to avoid——

Mr. KRISHNAMOORTHI. I understand.

Mr. PAHL [continuing]. The misimpression that we are somehow in alliance with CFSA. We are adverse parties and we are pursuing our own interests in that litigation.

Mr. KRISHNAMOORTHI. I understand. But both of you joined hands to stop the litigation and stop the rule from going into effect.

I want to move on to my last question here. Without objection, I enter into the record a February 27 New York Post article from this year. And in it, it says: Payday industry representative Hilary Miller confirmed to the New York Post that he, and I quote, "represented individual lenders in discussions with CFPB last year in the months before the agency scrapped the 2017 rule." That directly contradicts a statement from CFPB spokeswoman two days earlier on February 25 that, and I quote, "the Bureau did not discuss its proposal to rescind the rule with industry officials before making the announcement."

Will you commit to me, Mr. Pahl, information about the personnel from CFPB who were involved in those particular meetings with industry representatives before the CFPB scrapped the rule?

Mr. PAHL. Let me see how I can answer it this way. The CFPB spokeswoman's statement was accurate. Between the time the final rule was issued and the time that the notice of proposed rulemaking went out, no one in the Division of Research, Markets and Regulations that worked on the rule discussed the proposal with anybody in industry or any trade association. So the meetings—my understanding of the meetings you're defining, I don't think they exist.

Mr. KRISHNAMOORTHI. So you are saying that Hilary Miller is lying about what exactly happened?

Mr. PAHL. Mr. Miller, my understanding, has revised his statement to clarify that the period of time that he was referring to was prior to the time that the rule was issued in 2017, not post the time the rule was issued in 2017.

So what Hilary Miller has said with this modification and what the Bureau is saying are consistent. We did not talk to Hilary Miller from the time the final rule was issued until the proposal came out.

Mr. KRISHNAMOORTHI. So you did not discuss with anybody in industry between the time the final rule was issued in October 2017 and when the rescinding of the rule happened?

Mr. PAHL. We have many contacts with stakeholders that occur while we are doing rule development, including deciding whether we want to reconsider a rule and on what grounds. As part of that, we would have spoken with members of industry, consumer advocates, academics, all sorts of other people. But we never took our proposal and went to a payday lender or a payday trade association and said, what do you think about this, or do you have different ideas for proposals? We did, however, receive information and have meetings. You anticipate——

Mr. KRISHNAMOORTHI. So on those meetings—I understand what you're saying. You've met—you admit that the agency did meet with folks from the payday lending industry after October 5, 2017, with regard to this rule.

Will you commit to providing us the details of every single meeting that the CFPB had with industry representatives or officials?

Mr. PAHL. I believe—I believe that actually we have—yes. Frankly, I think we——

Mr. KRISHNAMOORTHI. Very good. We will expect that in two weeks. So thank you so much for that vital information. Thank you so much.

Okay. Mr. Cloud, I recognize you now for five minutes for questions.

Mr. CLOUD. Thank you, Chairman.

Thank you, Mr. Pahl, again, for being here. For me, the thing that I'm concerned with is good governance. You've mentioned that the prior rule was made on what was not well-researched information. And so a number of think tanks have criticized the Bureau's research in this regard. The research also failed to take into account state-level regulation. Professor Mann, as was mentioned, even had questions about his own research and how it was used.

Can you walk us through the role that this evidentiary concerns played into your decision or the Bureau's decision to reconsider the 2017 rule?

Mr. PAHL. Sure. One of the factual findings that needs to be made in order to support either a finding of unfairness or some of the theories of abusiveness under the Dodd-Frank Act is essentially that consumers couldn't reasonably avoid the harm from taking out loans that had not been underwritten.

What Professor Mann's study looked at is it really compared what consumers thought was going to happen in terms of how long they would be in a payday lending sequence versus what their actual experience had been. Professor Mann, looking at his own study, said that consumers made a realistic assessment of how long that they would be in those sequences and that they generally did a good job of predicting that they were likely to roll over and have more loans. The notion is that if consumers are aware of the risks of a product and they have reasonable opportunity to take steps to avoid those risks, then you don't have a basis for unfairness or abusiveness under some theories. That's what Professor Mann's original conclusion was.

What the Bureau did in the 2017 rule is took some of the data from Professor Mann's study and did its own analysis of it; and the Bureau decided, based upon its own analysis of Professor Mann's study, that it wasn't predictive. Consumers did not have an expectation as to what their experience was going to be with a payday loan. And the Bureau based its 2017 final rule essentially on that one piece of research or relied very heavily on that one piece of research.

One of the things that we have done in reconsidering the rule—and we are still—we just got tons of comments on this, of course, so it's being analyzed. But we went back and took a look at really how strong a basis is the Bureau's analysis of some data from the Mann study to support what the Bureau did, and decided that essentially it wasn't—we have questions about whether it really was strong support for two main reasons.

One is that it didn't address vehicle title loan customers. So one of the main products that's covered by the rule, the study didn't even purport to address those products.

The other is, even within payday loans, the Mann study involved one lender in five states. Obviously, there are numerous payday lenders throughout the United states. Consumers have the ability to get payday loans in 33 states, and in each of those states, there are different disclosure regimes, requirements that could affect consumers' experience.

So, essentially, what we decided in going forward with reconsidering it is that because the Mann study, even if you took what the CFPB had concluded in 2017 as accurate, even if you took it as accurate, the limited scope of the study—that it didn't deal with vehicle title loans, it only dealt with one payday lender, it only dealt with five states—that was a very thin basis on which to impose requirements which would have a draconian effect on the ability of vehicle title lenders and, to a lesser extent, payday lenders to operate.

Mr. CLOUD. So as limited as Mr. Mann's study is, your understanding is that his understanding of the data was that customers by and large knew what they were getting into and they were able to predict when they would have—when they would be able to pay back their loan, but somehow the Bureau flipped the equation on that?

Mr. PAHL. The Bureau did its own—yes. The Bureau did its own analysis and reached a conclusion. Professor Mann had reached a different conclusion. And so really what you have is two sets of experts looking at one set of data reaching very different conclusions about it. And that is the primary piece of evidence on a key factual finding that needs to be found in order to justify a finding of unfairness or abusiveness.

Mr. CLOUD. Do you have any insight into how that was reinterpreted?

Mr. PAHL. How——

Mr. CLOUD. How the Bureau at that time—I realize this was before he was able to reinterpret that data—to come to a different conclusion.

Mr. PAHL. Yes. I was either not at the Bureau or not working the project at that time. But my understanding is what the Bureau's economist, the economic staff working that did, is they got data from Professor Mann about his study. They did their own analysis to see whether there was a correlation between consumers' expectations and their actual experience.

The results they got, they reached out to Professor Mann and said, hey, this is what we found. And they engaged with him on that. So, really, it is two sets of experts talking about data and trying to decide whether they really think that it shows or does not show that consumers anticipate what their experience is going to be with payday loans.

And essentially, we have decided to reconsider the rule, in part, because the research that was done, you know, nothing wrong with it in and of itself, but it is not a very strong basis for addressing all vehicle title lenders nationwide, all payday lenders nationwide. And for that reason, we have questions about it, and that's why we put it out for public comment, to see if there are other sources of information on this point before the Bureau makes final determinations.

Mr. CLOUD. Thank you.

Mr. KRISHNAMOORTHI. Thank you, Mr. Pahl.

I now recognize Congresswoman Pressley for five minutes.

Ms. PRESSLEY. Mr. Pahl, thank you for joining us. I was fortunate enough to discuss this issue before the House Financial Services Committee just last month and to express my concerns regarding the perpetual debt trap that these products leave and create for some of our most vulnerable residents and consumers.

I want to ask you about CFPB's stated justifications for the proposed rule. They seem to share a similar focus. The proposed rule states, and I quote: "A more robust and reliable evidentiary record is needed to support a rule that would have such dramatic impacts on the viability of payday lenders."

Mr. Pahl, other than the industry just not liking it, by what measure are the five years of research and outreach leading up to this rule not robust or reliable evidentiary record?

Mr. PAHL. Thank you. I think the best example is reflected in the exchange that I just had with the members. Essentially, on one key determination as a matter of law that needs to be established, there was one study in the record. There's great debate/controversy as to the strength of that, as well as how limited in scope that study is. And it is looking, you know, not at overall the quantum of evidence that came in, but the evidence on some specific issues on which we need a factual predicate that was—our preliminary conclusion is that was weak, so we went out and asked the public, you know, is this all there is or is there other evidence on this specific point?

You know, it's not that we didn't get a lot of comments. We got 1.4 million comments last time. It's not that there aren't a number of studies that we considered as part of our analysis. But on the particular point that we have to establish as a matter of law to justify the provisions in the rule, the research on that particular point we thought was weak enough that it justified going out and seeking public comment on that particular issue.

Ms. PRESSLEY. In the interest of time. So CFPB also says that the 2017 rule is welfare-decreasing for lenders, and, quote, "reversing the restriction should, therefore, be welfare-enhancing for lenders," unquote.

Mr. Pahl, what is the name of your agency?

Mr. PAHL. The Consumer Financial Protection Bureau or the Bureau of Consumer Financial Protection.

Ms. PRESSLEY. Consumer, right. So why should the Consumer Financial Protection Bureau care about enhancing the welfare of predatory lenders? Are these lenders new consumers?

Mr. PAHL. Lenders are not consumers. I think, though, that the language that you're quoting from or paraphrasing is incomplete. Immediately following those statements in the notice of proposed rulemaking, there is an indication by the agency that those estimates are based upon assuming that consumers don't adequately understand what their risks are for taking out payday loans and being able to avoid them.

So essentially what happens is that that conclusion as to the welfare effects also is contingent upon the state of the record with regard to whether consumers anticipate loans or not, anticipate their experience.

Ms. PRESSLEY. Okay. But then let me just go on then. So then following the concern for lenders' welfare, then the CFPB states that the primary impact of the proposed rule would be, and I quote, "a substantial increase in the volume of loans and a corresponding increase than the revenue lenders realize from these loans," unquote.

Now, many would argue that the primary impact is to hurt consumers, but I guess you're right, that the flip side of that is to line lenders' pockets. So yes or no, is that an important consideration for the CFPB?

Mr. PAHL. When we do rulemakings, we look at the costs and the benefits of the rules that we put into place. The effects on industry, the effects on consumers are both things that we consider as part of our 1022 analysis, which is required by the Dodd-Frank Act.

Ms. PRESSLEY. I have to reclaim my time just in the interest of time.

So the proposed rule does not leave this to speculation. However, Mr. Pahl, CFPB's own cost-benefit analysis includes a projection of the additional amount that the predatory lenders will be able to extract from borrowers if the 2017 rule is repealed. So that additional revenue is around $8 billion per year. Is that correct?

Mr. PAHL. That is correct, yes.

Ms. PRESSLEY. Okay. So while borrowers are struggling to make ends meet, the agency tasked with their protection is busy gifting predatory lenders $8 billion a year. Is that correct?

Mr. PAHL. I wouldn't describe it as gifting. We are——

Ms. PRESSLEY. I'm sorry, in the interest of time. This confusion around the CFPB's mission even extends to court filings. When the payday lenders sued CFPB to block the rule, your agency joined hands with the industry suing it and asked the court to stop CFPB's rule from taking effect.

In that joint motion, CFPB stated that, quote, "the balance of equities heavily favors a stay, particularly in light of the irreparable injury that the payday lenders face," unquote.

And I yield.

Mr. KRISHNAMOORTHI. Thank you, Ms. Pressley.

Now I recognize Congresswoman Tlaib for five minutes.

Ms. TLAIB. Thank you, Chairman.

CFPB did an incredibly thorough job in developing a Payday Lending Rule. It studied the markets for five years. It held multiple field hearings, conducted supervisory examinations and multiple enforcement investigations, reviewed over a million comments. It published five research reports and reviewed the loan-level data of tens of millions of consumers, our residents. The mountain of evidence was gathered in support of the 2017 Payday Lending Rule, which now you seek to repeal.

To justify repealing the rule backed by such evidence, I would have expected you to have done at least that much work. In gathering support for the repeal, you didn't hold any field hearings or publish any research reports, did you?

Mr. PAHL. That is correct. We did not do any new research. We evaluated the strength of the research.

Ms. TLAIB. You know, you can just say no. You didn't do either of those things, correct?

Mr. PAHL. That is correct. Yes, we did not do either of those things.

Ms. TLAIB. It only took a few days in this tenure of Director Mulvaney——

Mr. PAHL. Mulvaney.

Ms. TLAIB [continuing]. Mulvaney, sorry, to announce CFPB was considering repealing the rule without any evidence supporting this change. I thought maybe there would be new studies, but the proposed rule states that no new studies influence the CFPB's views.

The proposed rule points to no new facts and no new evidence. Is it true that CFPB based its analysis on reinterpretation of the same evidence that was available in 2017?

Mr. PAHL. We reviewed the same evidence and found that there was a sufficient basis for believing it was lacking on fundamental legal prerequisites to having a rule.

Ms. TLAIB. As an objective observer, it is hard to see any gaps in the evidence, but if you think there are gaps, how can you justify not conducting the research to fill them?

Mr. PAHL. Well, in the short run, we asked for public comment. Public comment can provide that, can provide more studies, more information that could speak to the issue that—the issues that we think need more evidence.

The other reason is that none of the sort of research that would be required had been started under the prior administration. And so were we to do such research, it would probably take—and I'm just making a rough guess here—a year and a half, two years to do it. Delaying the entire proceeding for that kind of substantial period of time, the agency expressed concerns about whether that was really in the interest of consumers, industry, everybody else.

Ms. TLAIB. Yes. The CFPB is supposed to be research-driven.

Mr. PAHL. We are research-driven, yes.

Ms. TLAIB. Well, when was the initial decision made to reconsider the payday rule?

Mr. PAHL. Acting Director Mulvaney in January 2018——

Ms. TLAIB. Who was involved in the initial decision to reconsider the rule?

Mr. PAHL. That precedes my time at the Bureau. My understanding, it was the usual process, in which case people throughout the agency would have——

Ms. TLAIB. It was Mulvaney, I believe. But will you commit to providing us CFPB's decision memo within two weeks?

Mr. PAHL. No, I will not. That involves the deliberative process of the agency.

Ms. TLAIB. You can't give me the memo of how you all decided, how you made that decision?

Mr. PAHL. I cannot give you the memo with our recommendations that were made to the Director that formed the basis of his decision because we need to have frank and candid conversations about the evidence and the law to make decisions.

Ms. TLAIB. Prior to issuing the proposed rule, who did you meet or communicate with from the industry?

Mr. PAHL. I had one meeting with the board of FSCA in May 2018. I also met between October 2018 and February 2019 with the American Bankers Association, the Consumer Bankers Association, and the Online Lenders Alliance, to hear some of their concerns about the issues that we were not—we had not suggested that we would reconsider.

Ms. TLAIB. Will you commit to providing us with a calendar schedule, meeting notes, and communications regarding the proposed repeal within two weeks?

Mr. PAHL. I certainly can provide mine, yes.

Ms. TLAIB. Okay. Will you commit to helping us get the same information for the Director's and the Deputy Director?

Mr. PAHL. I will have to take that back to the agency. A lot of those—those are decisions for them to make in consultation with our general counsel.

Ms. TLAIB. Sir, how many people worked on the 2017 rule for the CFPB?

Mr. PAHL. I don't know. It was worked on over the course of roughly six years, so I don't know how many people at various times or total.

Ms. TLAIB. How many people worked on the proposed rule?

Mr. PAHL. On the current proposals?

Ms. TLAIB. Current, yes.

Mr. PAHL. Within my shop, it would be, I'd say roughly 10.

Ms. TLAIB. Okay. Will you commit to telling us within two weeks who worked on each rule?

Mr. PAHL. Yes, we can do that.

Ms. TLAIB. All right. Thank you.

I yield the rest of my time.

Mr. KRISHNAMOORTHI. Thank you, Congresswoman Tlaib.

I now recognize—we're going to a second round. Good news.

I now recognize Ranking Member Cloud for five minutes.

Mr. CLOUD. Thanks again, Mr. Chairman.

We mentioned that it was determined that the data was inconclusive and that right now you're in a listening session, so to speak, of public comment. Would it be fair to state the CFPB's position is that there's not enough evidence at this point to make a decision on this rule and that you're investigating it?

Mr. PAHL. That's fair. I mean, we decided that there were weaknesses in the evidence on particular points. That's why we went out for public comment. We will consider the comments, and then ultimately, the Director of the agency will make a decision as to whether she thinks that what we've got is sufficient or not. But at this point in time, we are looking for more information through the public comment process, which just concluded.

Mr. CLOUD. Do you have a ballpark of how long that process will take?

Mr. PAHL. We don't. We're moving as quickly as possible. You know, given that we have, at a minimum, 150,000 comments, it's going to take a while to go through the comments, because we do, in fact, read them all so we can consider them. We'll move as quickly as we can because we know that resolution of this matter and the outstanding issues, would be in everyone's interest to provide more certainty, and so we're committed to moving as quickly as we can.

Mr. CLOUD. Now, one of the issues with this study, as I understand, was that it didn't really take into account what states are doing to regulate. Could you speak to how many states do regulate these types of loans?

Mr. PAHL. Sure. It depends on which type of loan that you are talking about. With regard to payday loans, my understanding is that they are either prohibited or effectively prohibited in 17 states and 33 states allow them. With vehicle title loans, my understanding is that 17 states allow them.

I would offer the disclaimer that those estimates may be like a year or two old, and so there may have been some changes at the state level. But that gives you a rough idea of how many states permit and prohibit these types of products.

Mr. CLOUD. So all 50 states, I guess, at some level regulate or prohibit, depending on the state?

Mr. PAHL. Many states do. I don't know if it's all 50, and it will depend upon which of the two products as well.

Mr. CLOUD. Right. Okay. Could you speak to—I know they vary, but what would be a mean of the regulatory burden that already exists, I guess?

Mr. PAHL. Sure. I mean, it depends. Since much of the regulation of payday lending, there's some at the Federal level, traditionally it's been a matter of state law. Some of the regulations find their forum in usury caps that are applied. Some states require various disclosures. Some states limit how many loans you can take out. Some states limit the amount of loans you can take out. Some of them limit how frequently you can roll them over. Still, other states say if you get to a certain point in paying loans back and have problems, essentially you get an opportunity to go off the repayment track, rehabilitate yourself before you try to repay. I believe there are 16 states who have those restrictions. And some states mix and match each of them.

So what your costs are, what kind of state regulations you're subject to is highly dependent upon state law and state legislators' opinions/views on what their constituents need to protect themselves.

Mr. CLOUD. Okay. And you mentioned you're not the enforcement arm, but could you speak to what enforcement there is there for those who do fall predatory in their practices?

Mr. PAHL. Sure. Yes. You know, there are a number of different provisions that we can use as part of our law enforcement activities with regard to payday lenders. The primary tool is the Dodd-Frank Act, which prohibits unfair, deceptive, and abusive acts or practices. We frequently use that if payday lenders are making misrepresentations about, let's say, what the terms of the loan is; or if they're engaged in certain actions in collecting on loans, we will take action for violations of the Dodd-Frank Act against payday lenders.

Some payday lender activity is subject to the Truth in Lending Act and Regulation Z. We have brought cases against them for those violations. They are subject to the Gramm-Leach-Bliley Act in Regulation P. We have brought cases based upon that. They are subject to EFTA, the Electronic Funds Transfer Act, in its implementing Regulation E. The Bureau has brought cases under that statute and regulation as well.

So there are many different restrictions that apply both at the Federal and the state level to payday lenders and their activities. And also, what will be added to the mix if, as our proposal goes forward, is the payments provisions in the 2017 rule will also kick in.

So payday lenders, you know, are not getting off scot-free. There are many, many restrictions on what they do at the Federal and state level. What we have simply concluded preliminarily is that the evidence in the record is not sufficient to justify one particular intervention, that is the imposition of mandatory underwriting requirements.

Mr. CLOUD. Thank you. I yield back.

Mr. KRISHNAMOORTHI. Thank you, Mr. Cloud.

I now recognize my friend Congressman Connolly for five minutes.

Mr. CONNOLLY. Thank you, Mr. Chairman. And welcome, Mr. Pahl.

Mr. Pahl, how important do you think independent academic research is to rulemaking?

Mr. PAHL. It's very important.

Mr. CONNOLLY. Why is that?

Mr. PAHL. We try to figure out where consumers have problems that warrant regulatory responses and figure out what the proper responses to them are. Having the views of researchers of all types is incredibly important as we try to figure out the best possible decisions to make for consumers.

Mr. CONNOLLY. And when you do that, you want it to be as objective and untainted by industry influence as possible. Would that be a fair statement?

Mr. PAHL. When we look at research, our researchers, almost every piece of research we looked at is paid for by somebody. Industry pays for some. Consumer groups pay for some. Academic institutions pay for some. What we try to do is we look at all of the research, regardless of who funded it. We look at the underlying data to try to see how strong it is, how relevant it is to the issues that we have to decide.

So we don't go into looking at research from the perspective of we shouldn't consider those that are research funded by industry or we shouldn't consider it if it's funded by consumer advocates. We consider all of it.

Mr. CONNOLLY. Okay. But surely you rank them in terms of objectivity and consider the source. For example, The Washington Post and The Atlanta Journal talked about a story where the payday lending industry directly tried to influence the rulemaking process through the use of an academic research paper. Consumer Credit Research Foundation, a payday lending industry group led by Hilary Miller, paid a Kennesaw State University professor named Jennifer Priestley $30,000 to ghostwrite a, quote, "academic," unquote, study clearly designed to influence policy.

Emails show that Mr. Miller provided line edits and drafted the paper's abstract. That is to say the industry lobbyist and advocate, not the academic professor. He instructed the professor, however, not to use the term "cycle of debt."

In another, she responded, and I quote: I'm here to serve you, the special interest. I just want to make sure that what I'm doing analytically is reflecting your thinking, she said.

Professor Priestley offered Mr. Miller authorship credit, but he wisely declined, stating in an email, and I quote, "We want them to believe that the results are honest," unquote.

Now, is that the kind of research you'd look at just like any other academic research prior to rulemaking?

Mr. PAHL. I think what we would do is we would take a look at what the data itself was.

Mr. CONNOLLY. Let's not talk theoretically. Are you familiar with this case?

Mr. PAHL. With the——

Mr. CONNOLLY. The case I'm describing that was published and written up in The Washington Post and The Atlanta Journal.

Mr. PAHL. I have read that article at some point in time, yes.

Mr. CONNOLLY. Did it bother you?

Mr. PAHL. It bothered me in the sense that I never like the idea that people are trying to spin information in a way to achieve a result that information on the merits may not warrant. But from the point of view——

Mr. CONNOLLY. Does it bother you at all that somebody flat out would make an assertion that's not true? For example, the cover of Professor Priestley's ostensibly independent report falsely stated that the payday industry, and I quote, "did not exercise any control over the study or over the editorial content of the paper."

We know from emails that's flat out untrue. So she submitted a paper to your organization that was factually untrue and clearly misleading, at best.

Mr. PAHL. If someone submits something to us that is factually untrue, certainly that troubles me. What I think we would do as part of our rulemaking, however, is try to look at the actual data and analysis itself to see whether there were reasons why it may be useful to us or not. It may not be useful to us on the merits. But certainly, the idea that someone is making misstatements, misrepresentations about the research they provide us would concern us.

Mr. CONNOLLY. Well, I'm glad it concerns you. Maybe that's your Minnesota nice coming out. But for me, I'm bothered by that answer, because when we know that the industry is paying for it, when we know the industry is directly interfering with content and editing it, when we know that the author of that report is not telling the truth in asserting industry had no influence over this paper when, in fact, we know from emails the contrary is true, I'd throw that paper out. I don't care what data they've got. It's so tainted and it's so corrupt, you risk compromising public confidence in your rulemaking process even looking at something like that.

Mr. PAHL. I'd like to offer one response just to be very specific and clear. Our reconsideration proposal that was put together on my watch does not in any way rely on that particular research. So whatever its merits or demerits, it is not part of our current proceeding and what we're looking at.

Mr. CONNOLLY. Yes. Thank you. My time is up, but I'd feel better if you told me, when something comes to us that tainted, we put it aside. We don't allow it to corrupt the rest of the process. And I do think, Mr. Pahl, you've got to take into account, you know, public confidence in the process. And that's not—it may be intangible, but it's not inconsequential.

For all of government to work, we've got to make sure we're doing what we can to reassure the public that the process is an open, objective, fair one. And when we know that industry is paying for a paper posing as an academic research paper directly to influence your rulemaking on their self-interest, that taints and corrupts the process. And I'd feel a lot better if you told me, we throw that in the trash bin when we get it.

My time is up. Thank you, Mr. Chairman.

Mr. KRISHNAMOORTHI. Thank you, Mr. Connolly.

Without objection, I enter into the record a Washington Post report entitled, "How a payday lending industry insider tilted academic research in its favor"; an Atlanta Journal-Constitution article entitled, "Payday loan group paid KSU for favorable research, records show"; and third, a Huffington Post article entitled, "Emails show pro-payday loan study was edited by the payday loan industry."

Mr. KRISHNAMOORTHI. With that, I now recognize Congresswoman Tlaib for five minutes.

Ms. TLAIB. Thank you so much.

I do want to followup on my good colleague, Congressman Connolly, about corruption in this process. The comment period for the proposed payday lending payday rule repeal ended yesterday. So I want to ask you about CFPB's process for filtering the comments it has received.

Reports show that CFPB received duplicates, fake comments opposing the original 2017 payday rule at alarming rate. Out of 1.4 million comments, CFPB received it only deemed around about 200,000 to be so-called unique. Even this, quote, unique batch was plagued with fake duplicative comments.

According to a Wall Street Journal survey, 40 percent of the respondents it contacted claimed they had not submitted the comments made in their name. In one instance, a woman who took out $323 payday loan and ended up owing more than $8,000 had a fraudulent pro-payday—get this—comment submitted in her name which stated she said, quote, her only good option for borrowing money, so I hope these rules don't happen.

You would agree this seems a highly unlikely comment from someone who paid—who had a loan ballooned nearly 25 times over, correct?

Mr. PAHL. Yes. Knowing only those facts about that hypothetical consumer, yes.

Ms. TLAIB. Unfortunately, this story is not atypical. CFPB's own research supports that 80 percent of the payday loan borrowers' debts were rolled over or reborrowed within 30 days, ultimately costing borrowers much more than they anticipated.

Even more troubling is that the industry may be playing a significant role in submitting fake and even coerced comments. Reports show that lenders may have been asking borrowers to submit pro-industry comments while they are applying for their loans, Mr. Pahl.

Mr. Pahl, would you agree that payday lenders asking for vulnerable borrowers to submit comments while applying for a loan is, at best, suggestive and, at worst, coercive?

Mr. PAHL. I think it's real hard for me to speak to why consumers send in the comments they do. As you noted, we got 1.4 million comments last time. 1.4 million comments, there's probably a story behind each of them. What we try to do is try to read as many of them as we can to understand what the public thinks, recognizing that the problems you've identified, I think, are a big challenge to our agency and other agencies.

Ms. TLAIB. But, Mr. Pahl, I do hope you take this very seriously, because they're asking our residents to submit comments while applying for a loan.

So CFPB spokesperson, former Director—I want to get this right now—Mulvaney was, quote, concerned about any inauthentic data that comes to the Bureau and stated that, quote, we intend to look into this matter further.

Mr. Pahl, would you agree that any role industry played in submitting fake or coerced comments is worthy of additional scrutiny that could justify excluding such comments from consideration?

Mr. PAHL. One of the things I've seen this week is complaints from some groups that consumer advocates are sending problematic comments to us. I've also heard complaints that industry is sending problematic comments to us. I think we will do our best to try to figure out which are legitimate comments.

Ms. TLAIB. So what has the CFPB done to protect the integrity of the rulemaking process so far?

Mr. PAHL. Well, this particular rulemaking process, the comment period ended yesterday. So we are just starting to look at the comments. One of the things that we have done in the past is try to figure out which are, in fact, duplicates.

But one thing, I think looking at numbers of comments in some ways misses the point. To go back to some of the earlier discussion, we're really looking at the quality of information that goes to the most relevant issues in the record, and so it really isn't about numbers. I know that that's what many people view the public comment process as.

Ms. TLAIB. I agree, it has to be both. Is it a Federal crime to intentionally make—it is a Federal crime to intentionally make false or fraudulent statements to a government agency. However, The Wall Street Journal reports that payday lending industry hired a firm called IssueHound to create websites to gather rule comments. An alarming number of fake comments can be traced back to the IssueHound platform used by payday groups.

Mr. Pahl, our democracy and our voice of the American people are undermined when abuses of this nature go unchecked. Can you agree today to ensure fake comments are filtered and that when industry players abuses the comment process, they will be held accountable?

Mr. PAHL. I think we will do our best not to consider comments that are inappropriate, and I think anyone who submits commits that are problematic, we deserve—it warrants taking a look to see what remedies may be appropriate for that.

Ms. TLAIB. Thank you. I do look forward to the Bureau making meaningful and swift action to ensure this process is not corrupted.

Thank you so much, and I yield the rest of my time, Chairman.

Mr. KRISHNAMOORTHI. Thank you, Congresswoman Tlaib.

Without objection, I'd like to enter the following four documents into the record. First, a Wall Street Journal report entitled "Millions of People Post Comments on Federal Regulations. Many Are Fake"; two, a Cleveland Plain Dealer article entitled "Payday lenders get thousands of borrowers to complain to government about rules meant to protect them"; third, a Vice article entitled "How Predatory Lenders Plot to Fight Government Regulation"; and fourth, a Wall Street Journal article entitled, "Payday Lenders Mobilize in Support of Rules Repeal."

Mr. KRISHNAMOORTHI. I now recognize myself for five minutes.

Mr. Pahl, you were hired in April 2018, correct?

Mr. PAHL. That is correct, yes.

Mr. KRISHNAMOORTHI. And what did you do before this position?

Mr. PAHL. Immediately prior to that, I was the acting director of the Bureau of Consumer Protection at the Federal Trade Commission.

Mr. KRISHNAMOORTHI. Okay. And in your conversations leading up to your hire in April 2018 in this current position, did you talk to Director Mulvaney about the Payday Lending Rule?

Mr. PAHL. No, I did not.

Mr. KRISHNAMOORTHI. Did you talk to anybody else at the Consumer Financial Protection Bureau about this rule?

Mr. PAHL. As part of the interviewing process, I was told that the Bureau was moving forward to reconsidering it. So I knew that from part of the interviewing process, but I was not asked for my—I was not—what—the conversation didn't go beyond that.

Mr. KRISHNAMOORTHI. And what did you say in response to their telling you that the Payday Lending Rule was being reconsidered?

Mr. PAHL. I think I said that I have experience as both one who is engaged in the rulemaking process, someone who's done litigation, and if that were part of the job, that I would have the ability to do that.

Mr. KRISHNAMOORTHI. And have you written anything on this particular issue of payday loans or auto title loans in the past?

Mr. PAHL. Not on either of those topics, no.

Mr. KRISHNAMOORTHI. Have you written anything on the issue of high-cost installment loans?

Mr. PAHL. Nothing that I can recall.

Mr. KRISHNAMOORTHI. Did you talk to anybody at the White House before being hired in this current job about the Payday Lending Rule?

Mr. PAHL. I have not, did not.

Mr. KRISHNAMOORTHI. How many supervisor examinations have been conducted of payday or title loan lenders during the tenures of Directors Mulvaney and Kraninger?

Mr. PAHL. I don't know the answer to that because that's not the shop at the Bureau that I'm responsible for.

Mr. KRISHNAMOORTHI. Okay. Could you commit to assist us in getting that type of information?

Mr. PAHL. I can take that back to the agency and we can see what could be provided.

Mr. KRISHNAMOORTHI. What is the current litigation pending against any payday or title loan lender?

Mr. PAHL. Sorry, I don't understand your question.

Mr. KRISHNAMOORTHI. Okay. Let me back up. Is there any litigation currently pending against any auto title lender or payday lender?

Mr. PAHL. I don't know the answer to that. I would have to check, because again, that's not the part of the organization that I'm responsible for.

Mr. KRISHNAMOORTHI. Sure. Can you please provide that—or go back to the agency and provide that information to us?

Mr. PAHL. If there are cases that we have filed or announced, we can give you that information, certainly.

Mr. KRISHNAMOORTHI. Sure. Unfair, deceptive, and abusive practices are what Dodd-Frank covers. Is there any level of interest rate above which a payday loan would be considered unfair or abusive?

Mr. PAHL. The Dodd-Frank Act explicitly prohibits the agency from imposing usury requirements, so basically doing any kind of regulation based upon the price of a loan. And so for that reason, the price of a loan is not something that we can use essentially as a basis for our actions.

Mr. KRISHNAMOORTHI. Is there any interest rate above which you would think a payday loan is unconscionable?

Mr. PAHL. I think unconscionability is a matter of state law traditionally. And so, to me, to figure out whether there is such a rate would depend upon what state you were and with the judgment of that state.

Mr. KRISHNAMOORTHI. So you don't believe that there's any threshold that would necessarily apply across the board? So, for instance, would an interest rate of 500 percent be unconscionable to you?

Mr. PAHL. It is not part of the Bureau's work. And also, if it's a 500 percent rate, I also would want to know what's included and how it's calculated.

Mr. KRISHNAMOORTHI. Okay. Tell me how you could justify a 500 percent rate on a payday loan.

Mr. PAHL. It's not whether I could or could not justify it. It's just something that is not within the ambit of my agency's responsibility or authority. And so therefore, you know, my personal opinions as to pulling a number, you know, as to what's too high or too low for an interest rate alone is not part of my job, part of my position, part of my agency's work.

Mr. KRISHNAMOORTHI. So, Mr. Pahl, I have another question for you. Do you believe that the lion's share of deregulation is likely to commence once President Trump's appointees assume their leadership roles throughout the Federal Government, including the CFPB?

Mr. PAHL. I'm sorry, could you repeat the question?

Mr. KRISHNAMOORTHI. Do you believe that the lion's share of deregulation is likely to commence once President Trump's appointees assume their leadership roles throughout the Federal Government, including the CFPB?

Mr. PAHL. That's a question that goes way beyond my expertise.

Mr. KRISHNAMOORTHI. Well, that's what you wrote back on—let's see here. You wrote in The Hill, in an article, on February 2, 2017, an article titled, "The tortoise, not the hare, will win the deregulation race."

Mr. PAHL. Right.

Mr. KRISHNAMOORTHI. So I think it's within your expertise, if it was back then.

Mr. PAHL. My point was simply that I was making a general statement in that article that it takes a long time to make regulatory changes, pro or con. I thought you were asking me whether—about other specific agencies and other specific regulatory regimes and who benefits from them.

Mr. KRISHNAMOORTHI. And you're one of those senior appointees at CFPB, correct?

Mr. PAHL. I am, yes.

Mr. KRISHNAMOORTHI. Thank you. Thank you.

Well, I'd like to thank our witness for his testimony today. Without objection, all members will have five legislative days within which to submit additional written questions for the witness to the chair which will be forwarded to the witness for his response. I ask our witness to please respond as promptly as you are able, and we will followup as well on our request to you for the information that was posed in this hearing.

Mr. PAHL. Chairman, there is one point I'd like to make, with your indulgence. You know, I received some requests for information from members of this panel. I want to clarify that I'm not authorized to provide documents on the agency's behalf.

Mr. KRISHNAMOORTHI. Are you asserting executive privilege over that too?

Mr. PAHL. I would be asserting executive privilege as—depends on what the documents are as to——

Mr. KRISHNAMOORTHI. We're going to followup with the request. You've already answered those questions during the hearing, and then you can put on paper what you—what objections you have. But I think you already answered on the record with regard to those documents. So if you want to go back and ask those questions of the agency as to what you're going to be able to provide, I appreciate it.

Thank you very much. This hearing is adjourned.

[Whereupon, at 3:37 p.m., the subcommittee was adjourned.]

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