

**Testimony of Paul Watkins
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**Before the House Committee on Financial Services
Task Force on Financial Technology
“Overseeing the Fintech Revolution:
Domestic and International Perspectives on Fintech Regulation”**

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Good afternoon, Chairman Lynch, Ranking Member Hill, and members of the Task Force. Thank you for the opportunity to testify today. My name is Paul Watkins. I am the Assistant Director for the Office of Innovation at the Bureau of Consumer Financial Protection (Bureau). I bring to this role a background in consumer protection. Prior to my time at the Bureau, I was the Chief Counsel of the Civil Litigation Division in the Arizona Office of the Attorney General, where I managed the State’s litigation in areas such as consumer fraud and civil rights. I also designed the State’s FinTech Sandbox. I welcome this opportunity to talk with you about the Bureau’s financial innovation work.

The Bureau created the Office of Innovation (OI) in July 2018 to facilitate consumer-beneficial innovation. Congress included facilitation of innovation and access to financial products and services in the Bureau’s objectives. Innovation can also contribute to the Bureau’s statutory purpose by increasing fairness, transparency, competition, and consumer access within financial services. In concert with other Bureau offices, OI aims to fulfill this mission through:

- Revising the Bureau’s innovation policies and creating regulatory sandboxes, which are designed to address regulatory uncertainty that may impede innovation;
- Collaborating with other Federal, State, and international regulators; and
- Engaging with stakeholders on issues related to innovation.

Innovation Policies

To date, where the Bureau has proposed policies to fulfill this mission, it has sought public comment in order to solicit feedback from a broad spectrum of stakeholders. The Bureau has received approximately 60 comments from a variety of parties, including consumer advocates, civil rights groups, state officials, and business groups. Each of the proposed policies that I will discuss are just that – proposals. The Director has not yet decided whether to finalize them or in what form. While I cannot comment on the Bureau’s internal and on-going deliberations about the proposals, I can say that the Bureau approaches the public’s comments with an open mind and is carefully considering all input we have received on the proposed policies.

With that said, let me briefly describe each of the Bureau’s proposed policies in turn. In September 2018, as a first step in revising the Bureau’s innovation policies and creating regulatory sandboxes, the Bureau proposed the creation of a Disclosure Sandbox through

revisions to the Bureau's existing Policy to Encourage Trial Disclosure Programs.¹ Both the existing and proposed policies are based on the same statutory authority in Section 1032(e) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), which allows the Bureau to deem a covered person conducting a trial disclosure program to be in compliance with or exempt from a requirement of a Bureau rule or certain federal laws.² The existing Policy was issued in 2013 to enable firms to conduct in-market testing of innovative disclosures, but the Bureau has not approved any trial disclosure programs under the Policy.

In order to more effectively encourage companies to conduct trial disclosure programs, the proposed revisions would seek to, among other things:

- Streamline the application process and review time frame;
- Increase guidance regarding the testing time frame;
- Specify procedures for extensions of successful trial disclosure programs; and
- Provide for coordination with existing or future programs offered by other regulators designed to facilitate innovation.

The Bureau is proposing to focus the review process primarily on the extent to which the trial disclosures are likely to be an improvement over existing disclosures, and the extent to which the testing program mitigates risks to consumers. To facilitate the Bureau's awareness of the effects of trial disclosures on consumers, the proposed Policy would require participants to notify the Bureau of material changes in complaint patterns or other information that the Bureau should investigate. The terms of participation could also include additional data sharing requirements. In addition, under the proposed Policy the Bureau could revoke its permission to conduct a trial disclosure program in certain circumstances, such as failure to comply with the Bureau's terms and conditions of participation.

The proposed Policy would also inform potential applicants of the Bureau's expectation that a two-year testing period would be appropriate in most cases and include specific procedures for requesting an extension for successful trial disclosure programs. Finally, the proposed Policy would add a new section regarding Bureau coordination with other regulators that offer similar programs designed to facilitate consumer-beneficial innovation.

As a second step in improving its innovation policies, in December 2018, the Bureau proposed revisions to its existing Policy on No-Action Letters.³ The existing Policy, which was issued in 2016, provides for the issuance of No-Action Letters consisting of non-binding staff-level supervision and enforcement no-action recommendations. The Bureau has issued only one such No-Action Letter under the existing Policy.⁴ To increase the utilization of the Bureau's No-Action Letter program and to bring certain elements more in line with similar no-action letter programs offered by other agencies, the Bureau proposed revisions to the policy that would, among other things:

¹ 83 FR 45574 (proposed Disclosure Sandbox policy); 78 FR 64389 (existing policy).

² 12 U.S.C. 5532(e)(2).

³ 83 FR 64036 (proposed Policy); 81 FR 8686 (existing Policy).

⁴ <https://www.consumerfinance.gov/about-us/newsroom/cfpb-announces-first-no-action-letter-upstart-network/>.

- Streamline the No-Action Letter application process;
- Streamline the Bureau’s review of No-Action Letter applications, and focus the review on the potential benefits to consumers and the extent to which the applicant identifies and controls for potential risks to consumers;
- Revise data-sharing requirements and time-period limitations to more closely align the Bureau’s no-action letter program with no-action letter programs offered by other Federal agencies; and
- Replace staff-recommendations of no-action with Bureau commitments of no-action.

While the proposed Policy would not expect applicants to share data as a condition for receiving a No-Action Letter, and would not assume that No-Action Letters would be time-limited, it is important to note that elements similar to those of the 2016 No-Action Letter Policy would be imported into the Bureau’s proposed Product Sandbox (discussed below). Moreover, under the proposed No-Action Letter Policy, the Bureau would be adding requirements regarding notification of material changes to application information, which would enable it to monitor for risks to consumers. The proposed Policy also includes grounds for revocation similar to that in the proposed Disclosure Sandbox Policy.

At the same time it proposed revisions to the Bureau’s existing Policy on No-Action Letters, the Bureau proposed the creation of a Product Sandbox that would require participants to share data with the Bureau concerning the products or services offered or provided, including information about potential risks to consumers.⁵ In exchange for allowing Bureau monitoring that would otherwise not be required, the proposed Product Sandbox would include various forms of “safe harbor” protection from liability. The provision of these “safe harbors” would be for a limited time (two years in most cases) and would provide greater liability protection than that available through the No-Action Letter proposal. Like the proposed Disclosure Sandbox, the Bureau’s proposed Product Sandbox would specify procedures for applying for extensions. It also includes grounds for revocation similar to that in the proposed Disclosure Sandbox.

Finally, like the proposed No-Action Letter program, the Bureau’s proposed Product Sandbox would have a streamlined application and review process. It would also include a similar provision concerning Bureau coordination with other regulators that offer similar programs designed to facilitate innovation.

As I stated earlier, all three of these policies are still in the proposal stage and the Director has not yet decided whether to finalize them or in what form.

Collaborating with Other Regulators

In addition to the Bureau’s work on the proposed policies, the Bureau is also working to better collaborate with other regulators, which is an important part of the Bureau’s mission. Section 1015 of the Dodd-Frank Act instructs the Bureau to coordinate with Federal agencies and State regulators, as appropriate, to promote consistent regulatory treatment of consumer financial and investment products and services. Similarly, Section 1042(c) of the Dodd-Frank Act instructs

⁵ 83 FR 64041.

the Bureau to provide guidance in order to further coordinate actions with the State attorneys general and other regulators. Consistent with those statutory provisions, each of the three aforementioned proposed innovation policies includes a section stating the Bureau's interest in actively partnering and coordinating with State, Federal, or international regulators on their own innovation-related initiatives.

On the international front, in August 2018, the Bureau joined the Global Financial Innovation Network (GFIN), an organization of regulatory agencies worldwide working together to support financial innovation. In January 2019, the Bureau became a Coordinating Member of GFIN. GFIN currently has more than 30 members and helps the Bureau coordinate with international regulators to facilitate innovation and promote regulatory best practices in consumer financial services. The Bureau currently participates in a GFIN work stream related to regulatory and supervisory technology.

Stakeholder Engagement on Innovation

The Bureau also seeks to facilitate innovation by engaging directly and in a variety of forums with stakeholders representing a diverse range of experiences and perspectives, including companies developing or providing innovative products and services, consumer advocacy groups, civil rights organizations, Federal and State regulators, trade associations, think tanks, and academia. In this aspect of its mission, the Office of Innovation works closely with other Bureau Divisions and Offices, including the External Affairs Division, the Office of Fair Lending, and various Markets offices in the Division of Research, Markets and Regulations.

More specifically, since the Office of Innovation was established, I and other members of the Office have participated in over 100 innovation-related meetings and events, and have engaged with FinTechs, financial institutions, consumer advocacy groups, and Federal, State, and international regulators. As part of its outreach functions, the Office of Fair Lending also meets regularly with stakeholders to discuss potential ways that innovation can expand access to credit to underserved populations. Other members of the Bureau have likewise participated in such events and meetings, including Bureau leadership, senior officials, and staff. Through these engagements, the Bureau is building a significant knowledge base about innovation in the markets for financial products and services.

Conclusion

The Bureau looks forward to advancing its statutory purpose by facilitating innovation and access to financial products and services.

Thank you again for the opportunity to testify today at this important hearing. I look forward to answering your questions.