

Newt Gingrich Testimony
House Financial Services Committee
December 16, 2015

Good morning, and thank you for having me today. It's an honor to be with you.

The subject of today's hearing is important in a narrow sense--in that we have an agency that is collecting more information about Americans' private lives than any bureaucracy deserves for reasons unrelated to national security -- but it is also important in a broader sense.

Today the Consumer Financial Protection Bureau is so far outside the historic American model of constitutionally limited government and the rule of law, that it is the perfect case study of the pathologies that infect our bureaucracies at the federal level.

It is dictatorial.

It is unaccountable.

It is practically unrestrained in expanding on its already expansive mandate from Congress.

And it is contemptuous of the rights, values, and preferences of ordinary Americans.

The CFPB is all of these things, as are many of our large, destructive bureaucracies in this city -- a huge problem in its own right.

But the CFPB is an especially good symbol of these pathologies because of its unique structure among regulatory agencies. In the Dodd-Frank Wall Street Reform and Consumer Protection Act that created the Bureau, Congress--very unwisely, in my opinion, gave up two of its core Constitutional powers for reining in executive branch agencies.

First, the CFPB is not subject to the annual Congressional appropriations process, and instead is funded out of a fixed portion of the Federal Reserve's budget.

And second, its director can be fired only by the president--and then only under limited circumstances--because Dodd-Frank made him unable to be removed by Congress.

For all practical purposes, this means the Bureau is free to do whatever it wants within the broadest imaginable interpretation of its authority, without fear of losing its funding or its leadership.

This is a very dangerous recipe for petty dictatorship, and is completely foreign to the American model.

We *know* this formula is dangerous because we have watched the Bureau's behavior over the past four years. We have seen the contempt with which it treats Congress and the American people.

The CFPB is prohibited from regulating car dealers, but it has done so anyway, using absurdly inaccurate techniques to accuse them of racial discrimination and extract fines from car companies and auto finance companies.

The topic of this hearing is another good example of the CFPB's overreach—one I also discussed in my own piece in the *Wall Street Journal* last summer.¹

The CFPB is prohibited in Section 1022 of Dodd-Frank from collecting personally identifiable information on Americans, but the Bureau is doing so anyway. And it is doing so at a massive scale that rivals the NSA's most controversial collection programs, but for much less compelling reasons.

The CFPB has said it aims to monitor at least 95 percent of all credit card transactions in the U.S. by 2016. Toward that end, the Bureau is already collecting

¹ <http://www.wsj.com/articles/SB10907564710791284872504581070502004499610>

and analyzing data from at least 600 million credit card accounts each month. That's 7 billion records in the last year alone.

And it's not just credit card data. The CFPB is gathering data on 22 million private-label mortgages every month, 5.5 million student loans, 2 million bank accounts with overdraft fees, and on hundreds of thousands of auto sales, credit scores, and deposit advance loans.

These secretive and intrusive data-gathering operations are taking place without consumers' knowledge and without the ability for consumers to opt-out. Unless they have been tuned into occasional Congressional oversight hearings like this one, consumers are entirely unaware that government bureaucrats are pouring over their credit card transactions every month, looking for new products to regulate.

The CFPB is scooping up more information about law-abiding Americans than any government agency should be permitted to collect for reasons unrelated to national security or law enforcement. In fact, in a recent poll conducted by Zogby for the U.S. Consumer Coalition (which I happen to advise), just one in five Americans said they believed the CFPB should be allowed to gather credit card statements without consumers' knowledge.

For those of you who are concerned about the intelligence community's data collection efforts, I don't see how you can be worried about the potential for abuse and about the (in fact justified) lack of transparency in those agencies and not be concerned about the same dangers in this large and unaccountable bureaucracy armed with similar kinds of information.

Certainly, if the NSA and the FBI need a warrant to collect such data on U.S. citizens for the purposes of preventing terrorism, the CFPB should need to get a warrant, too.

In closing, what we have in the CFPB is an agency that is not accountable to Congress or to the American people, an agency that is stretching the bounds of its

authority as far as it can, and a bureaucracy which for all practical purposes is out of control.

As the American people's elected representatives in Congress, this should bother you no matter which side of the aisle you're on, and whatever you think of the Bureau's preferred regulations.

It's imperative that we move toward abolishing the Consumer Financial Protection Bureau, and at the very least subject it to the annual budgeting and appropriations process, in addition to restructuring its leadership, to make sure it is accountable to Congress.

Thank you, and I look forward to your questions.