

# HEARING

## “The Semi-Annual Report of the Bureau of Consumer Financial Protection”

- House Committee on Financial Services -

[Full Committee]

3.16.16

### Witnesses:

**The Honorable Richard Cordray**, Director, Consumer Financial Protection Bureau

### Members:

#### **Republicans**

Jeb Hensnarling (TX-5), **Chair**  
Randy Neugebauer (TX-19)  
Bill Huizenga (M- 2)  
Scott Garrett (NJ-5)  
Blaine Luetkemeyer (MO-3)  
Sean Duffy (WI-7)  
Ed Royce (CA-3)  
Steven Pearce (NM-2)  
Bill Posey (FL-8)  
Steve Stivers (OH-15)  
Mick Mulvaney (S- 5)  
Lynn Westmoreland (GA-3)  
Randy Hultgren (IL-14)  
Mike Fitzpatrick (PA-8)  
Robert Pittenger (NC -9)  
Ann Wagner (MO-2)  
Dennis Ross (FL-15)  
Andy Barr (KY-6)

#### **Democrats**

Maxine Waters (CA-43), **Ranking Member**  
Carolyn Maloney (NY-12)  
Nydia M. Velázquez (NY-7)  
Gregory Meeks (NY-5)  
Ruben Hinojosa (TX-15)  
William Lacy Clay (MO-1)  
David Scott (GA-13)  
Al Green (TX-9)  
Joyce Beatty (OH-3)  
Brad Sherman (CA-30)  
Ed Perlmutter (CO-7)  
Keith Ellison (MN-5)

**Hensarling OS:** Not that we need a reminder, but the American people are indeed angry. They have that right.

Americans are angry at having their lives increasingly ruled by Washington elites; Washington grows more intrusive, distant, and arrogant.

Today, the poster child for that lament is the CFPB. When it comes to consumer financial products, the CFPB is invested with the power of the Congress, even though Mr. Cordray, the director of the CFPB, will decide whether small dollar loans will be permitted, and whether contract disputes through arbitration will be allowable.

Mr. Cordray has decided who gets a mortgage under his qualified mortgage rule, and already, he has decided Americans should pay infinitely more for than they have been for auto dollar loans.

Now, the CFPB operates as a legislator, cop on the beat, judiciary, jury, and more without any accountability; they often cite their enforcement actions and their recovered funds, but those are not any indication that the CFPB is adequately serving the American people as a supposed protector of the people.

It is time to strip the CFPB of its rulemaking authority, and turn that back to the people of this country.

**Waters OS:** The CFPB's work is so important because it allows consumers to access the financial products and services they need to live productive lives; it provides recourses for lost finances, too.

These accomplishments are reflected in the over \$11 billion in returned to 25 million Americans, the 830,000 consumer-complaints, the increased share in mortgages to minorities, and expansion to access to credit cards.

I am encouraged by the CFPB's work on payday lending. We need rules to protect low income and minority communities from usury and unrealizable loan terms. So we must stop the debt traps, and stop any efforts to roll back the CFPB's upcoming rule on payday lending. And this logic applies to the auto loan space as well.

Furthermore, the Bureau has successfully won a case against for-profit colleges for deceiving students to take out expensive loans; recently, the DOE put out a proposal to ban arbitration disputes in college financing, and I have been working on this issue my whole life. We need the CFPB to keep up this work.

But despite the CFPB's successes, the Republicans of this Congress have turned the CFPB into a

punching-bag. The CFPB has testified 59 times before Congress, issued more than 40 reports last year, and has provided over 10,000 documents to Republican phishing expeditions.

**Neugebauer OS:** I want to reflect the chairman's comments, but I would add that the CFPB, overall, lacks a notice and public comment period for the majority of its rules.

And this is a problem because the CFPB is led by one individual, essentially. This strong-arm policy has affected auto lending markets, payday lending services, and other areas that consumers utilize every day to manage their finances.

But this speaks to a broader point: that the CFPB consistently engages in regulatory overreach. And continuing on, Mr. Cordray of the CFPB should expect more pushback from Republicans if his bureau's overreach continues.

**Cordray OS:** I appreciate our continued dialogue to support the consumers of our nation.

We have made considerable progress on our supervisory oversight and banks and non-bank companies in Congress, as authorized by Congress.

We had financial institutions provide over \$95 million in relief to consumers over the last reporting-period. But overall, we leveraged over \$5 billion to consumers from our services over the last reporting-period. And our major moment in time decisional tools includes planning for retirement, handling college, and we are holding roundtables on these topics.

However, we need to continue expanding our consumer complaint database, which is populated with over 500,000 complaints; we started reporting narratives from those complaints.

We focus our efforts on the mortgage market in particular, where consumers are not subject to abusive or deceptive acts. To support industry compliance with our rules, we have published guidance, and we seek to streamline financial regulations inherited from other agencies.

Recent data shows that sound, consumer protections are strengthening consumers AND providers of services. The credit card market has improved dramatically, and the auto lending market is supporting record sales of cars and trucks.

Moving forward, we will continue dialogue on these topics, but will also discuss any issues that this Committee may have, and we look forward to working with it.

# QUESTIONS AND ANSWERS

**Hensarling:** Mr. Cordray, I want to talk about your situation with Ally financial. It is now speculated that you and senior staff of your fair lending practice was seeking a pending application for a fair trial before your arbitration with Ally?

**Cordray:** We had pursued this investigation for more than a year before Ally brought that application to us.

**Hensarling:** Was senior staff of your fair lending practice in discussion with Ally and the FDIC about this application, then? So weren't you aware of this application before your decision to arbitrate your handling of Ally?

This could be a violation of EOCA.

I have documents here stating that these discussions could have been withheld from you too, or in consultation with you, withheld all together before the arbitration.

Did you initial this memorandum that I am referencing? You must have known you had an advantage over Ally, and you used it.

**Cordray:** You have this all backwards, Mr. Chairman, but I would be willing to --

**Hensarling:** You'll have time for that, but I want to move on.

In employing the racial characteristics of borrowers in auto lending contexts, you don't actually have those characteristics in fact, but you use GEO coding, correct?

**Cordray:** We use industry-wide standards for our characteristics; and we use the disparate impact analysis in conjunction with that.

**Hensarling:** I invite you to do your own analysis Mr. Cordray, in the CFPB, and I'd like to know how that would work out---using your GEO coding and disparate impact analyses.

**Waters:** Let's talk about payday lending.

Despite the fact that there is substantial support for this lending from Republicans, this industry targets lower income and minority communities disproportionately.

I have asked my staff though, to get more information on what areas these lenders are pinpointing. There are more payday loan operations than there are McDonald's restaurants.

And even after the reforms of Florida, for example, an average of 9 loans per year are taken-out with interest rates of 312%.

Tell me why you are issuing guidance on payday loans, Director?

**Cordray:** We have unearthed that about half of payday loans are made to borrowers trapped in debt webs that, on average, already contain 10 loans.

Now, there are plenty of payday borrowers that get in and get out with one or two loans, but the debt traps are pervasive.

**Waters:** Is this a profitable industry? What is keeping this industry going?

**Cordray:** There are not super normal profits being made in that area, but what keeps them going is rolling the customer into loan after loan, so that more they recover more in fees that was borrowed in principal in the first place.

**Neugebauer:** This Committee has done a lot of work studying the payday lending fields, and we have some questions about your rulemaking for payday lending.

After reviewing the current regulatory framework, have you found a state that doesn't have authority in this area to regulate small and short dollar payday lending?

**Cordray:** Both the states and the federal government have authority.

**Neugebauer:** What states have failed to do this regulatory work? How many have failed their consumers?

**Cordray:** That would be all of the states examined in the study. It would be all areas where payday lending is authorized in this country. We have looked at millions of transactions nationwide.

**Neugebauer:** You mentioned a floor in your proposal, so that does that mean below that floor, there is a void in any rulemaking you could apply, in terms of preemption of state law?

**Cordray:** We said our rules would be a floor for consumer protection, not a ceiling, and what we would do would interact with state law, not preempt it. That's the difference.

**Neugebauer:** So if one state has a five day cooling-off period, and you have a different cooling-period, wouldn't that cool-off the state law?

**Cordray:** Well, that would not be a violation of state law; this is a matter of federalism, or coexistence. You could say this about any matter of state and federal authority interaction.

**Neugebauer:** Have you discussed to attorneys general of states about this issue?

**Cordray:** Yes, and in fact, we have collaborated on payday lending enforcement actions.

**Maloney:** There have been two celebrate reviews on the CARD ACT, saying the ACT has saved consumers over \$20 billion a year, more-or-less. Have you done your own reviews of the CARD ACT? How has the CARD ACT interfaced with your regulatory scope?

**Cordray:** I would congratulate the Congress on passing the CARD ACT. It is important to recognize the CARD ACT has been consistently recovering funds for consumers. We have seen increasing customer satisfaction in the credit card markets as a result of the CARD ACT.

**Maloney:** In your recent report, you highlighted that deferred interest promotions have placed a significant burden on consumers. Do you mind discussing that highlight?

**Cordray:** We're highlighting the backhand terms on deferred interest promotions, and it is something we will look at closely moving forward. Those terms create backend pricing for consumers that were not immediately upfront.

**Huizenga:** Director Cordray, I am concerned with your ideology on federalism. It seems you want to confront state law, rather than allow it room operate independently before conflict with federal law.

But let me take a different direction: I want to talk about the arbitration agreements with Ally. In March of 2015, the CFPB issued a report on arbitration between consumers and financial services.

In June 2015, 80 members of Congress asked the CFPB to re-open the study of that report.

**Cordray:** So let me just say: our report has been cited as the most comprehensive report on this issue ever done. We have talked with our critics on this report, too.

We looked at how the judicial process compared to the arbitration process in terms of outcomes. Arbitration started off in business contexts, but is now being extended to consumers unfairly.

**Huizenga:** There is a number of people who called out the flaws of the data in your study, again. So you would have no problem opening up your report to the letter I referenced earlier?

My problem is that this report does not make a distinction between class-action suits and arbitration.

**Velázquez:** My primary concern these days is on online lending. What role does the CFPB have in the small business online lending marketplace?

**Cordray:** We are very interested in Fintech; we have heard from various industry stakeholders. We will continue to examine our role in online lending--the field is rapidly developing in technology, and that could pose greater risks as we move forward.

**Velázquez:** In May 2015, the CFPB issued a bulletin on helping lenders avoid discriminating against borrowers in the HUD Housing Voucher Programs. What has been the outcome of that bulletin?

**Cordray:** We have had several actions where we have seen lenders not taking account of those borrowers, of a low income in public housing, but many have corrected their practices.

**Garrett:** I want to follow-up on the issue of arbitration. Congress validated the use of arbitration through the Federal Arbitration Act of 1929.

**Cordray:** Well, in 2010, Congress outlined in Dodd-Frank changes to that Act in financial services. Congress has superseded the Act of 1929 in certain respects.

These changes occurred in services of residential mortgages in Dodd-Frank, specifically, in several cases. But now our job is to implement those arbitration-changes from Dodd-Frank.

**Garrett:** Have you disclosed all topics covered by the study? The bureau failed to provide the public input on the topics of the study of the report, too. Why did you withhold certain information?

**Cordray:** The obstacles there derive from Trade Secrets, and other areas of informational confidentiality, but nothing regarding our actual rulemaking scope.

**Garrett:** When you first came to this Committee, I asked you if Congress asks you not to do something, and if you would feel accountable to that, you basically said no.

**Cordray:** That is not what I am saying, and it is not a legitimate characterization of this. I enforce laws enacted by Congress, and that is my job as Director of the Bureau.

**Meeks:** Great to see you this morning Director.

If we have an agency like the CFPB that puts in rules and regulations for consumers, to make sure they're not getting ripped-off, that would seem to me to benefit everyone---both the providers and services, as markets would have more integrity.

I think that's the route the CFPB should continue to take: striking a balance in its regulatory jurisdictions, for that approach would benefit all involved.

**Cordray:** Yes, I would agree with everything you have said.

**Luetkemeyer:** Good Morning Director.

I want to talk about TRID, and its implementation. Have you had any enforcement actions arise at this point? And can you address the IT problems of the implementation?

**Cordray:** I think the ID problems have been unforeseen by many, and we recognize that. But we have been corrective and diagnostics, and not punitive; this process has been open-ended, and we have not taken any enforcement actions.

This is just a matter of getting the real estate forms settled properly.

**Luetkemeyer:** Will you issue additional guidance on this?

**Cordray:** We get guidance inquiries every day, and we will stay on top of that from different trade and industry associations, as well as Congress.

**Luetkemeyer:** With regard to UDAP authority, to shift gears, you have issued little guidance; and you it on a case-by-case-basis---is that not regulation by enforcement

And the last time you were here, just before we finished up, that you wound up settling a \$12 million enforcement on a proposed rule. Specifically, the debt collection proposal is what you regulated by enforcement.

**Cordray:** We found there were violations of various Congressional Acts in debt collection, such as the Federal Debt Collections Act, which led our enforcement beyond the proposal; and just generally, we do not regulate by enforcement.

Our approach specifies the issues of unique cases, and we enforce, when necessary, based-on those unique circumstances. We do not draw blanket enforcement of regulation.

**Hinojosa:** Mr. Cordray, I thank you for being here.

Many have expressed concerns about payday lending rulemaking that the CFPB is considering. What do you think your role should be in payday lending, and how will it change overtime?

**Cordray:** Our role is to address the debt traps payday lending has put consumers in. That issue is something directly statutorily related to our regulatory scope.

**Hinojosa:** Tell me about the 5% option in the proposal, and whether that will be included in the final rule

**Cordray:** Well, what I can say is, in approaching this rule; we want to strike a balance between providers and services. We don't want to completely do-away with payday lending, as it is a crucial service in general terms.

**Hinojosa:** What are your thoughts on the expansion of community banks and credit unions in mortgage lending? Do you agree that those entities' share has expanded?

**Cordray:** The share of the smaller markets of mortgage lending has grown since the financial crisis, at the expense of large banks in particular. The idea that community banks and credit unions haven't expanded their portfolios in mortgaging is just not true, and we need to address that expansion where necessary.

**Duffy:** As you are aware, a report was offered by this Committee on indirect auto lending, which came out on November 24 of last year.

With respect to the documents citable for the report, you did not send us the documents we have requested for the report, and we continue to ask for those documents.

**Cordray:** We will continue working with you on this, Congressman. We will sit down and talk further.

**Duffy:** Let's talk about the Ally arbitration. What is your degree of accuracy with proxy data for disparate impact analysis?

**Cordray:** We don't have specifics to give you now, but we believe we get as close as we can to being fully accurate.

**Duffy:** So, disparate impact checks will go to white borrowers potentially? That seems like a problem for your enforcement.

Is it your testimony that no one in the Ally case paid less than white average? Are those constituents also getting the checks in the mail?

**Cordray:** We set up a process here, that is in consolation with, and based on precedent of, the Department of Justice, and --

**Duffy:** Pardon Director, but I need to show you some numbers. 56% of African Americans paid more than the white average, and 44% who paid less than the white average in Ally case, and in sub-vented auto loans.

You don't show great disparity between African American and White rates.

**Cordray:** We did pursue these numbers with Toyota, and we had access to the same, underlying facts. And --

**Duffy:** Director, I don't think you took into credit scores, trade in values, length of finance terms, and other metrics auto lenders tried to get you to account for.

I want to pull-up another document; this was handed to us in response to our subpoena. This regards records of the final remuneration plan with regard to Ally. This is basically a computer printout, and the only document you gave us on the plan.

Can you read this document?

**Cordray:** If you ask for documents in an area, we give you the documents for that area.

**Waters:** At the beginning of this hearing, we talked about the CFPB's \$98 million settlement with Ally; the Bureau has captured dealers such as Honda, Toyota, and the banks like Third Firth Bank on this.

Can these entities defend themselves in some way in court?

**Cordray:** Yes and the courts have the ability to make determinations.

Ally, Toyota, and Honda did not take us to court on this case.

**Waters:** Thank you, now let's go further. The Republicans are stating that the CFPB's changes its status of Ally to reverse the processes of arbitration. Is that true?

**Cordray:** We opened an investigation into Ally more than a year and a half before the matter was resolved, and Ally may have dragged their feet; Ally did want to move more quickly to resolve the matter, and it explained to me why it wanted to proceed in that fashion.

We reached an agreement with Ally in arbitration, and that is not a decision we made. Our decision was to enforce the law, and we did so.

**Waters:** And the CFPB only consulted with FDIC and FED after Ally itself wanted to change their status?

**Cordray:** That is correct.

**Waters:** I want you to reiterate how you followed the law for this case.

**Cordray:** Disparate discrimination is against the law, and given that, our responsibility is to enforce the law. We approach investigations in similar ways, which can lead to enforcement investigations. We establish facts, come to legal conclusions, and try to resolve the matter with consent or litigation.

**Royce:** On the exemptive authority of CFPB, Mr. Cordray, as you know, Sec. 1022 of Dodd-Frank gave CFPB authority to adopt regulations to exempt any class of financial services industries from its regulations.

Do you believe Sec. 1022 give you the ability to tailor regulations for community financial institutions? Does that change your perception of Congressional intent?

**Cordray:** We have tailored our rules to so many different areas, and we will continue to do so where appropriate. And we respect the legislative role.

What I know here is that the major credit union associations sought a broad exemption from regulation of any kind when Dodd-Frank was debated, and that was rejected by Congress.

However, we have provided special provisions to credits of our rules, mostly those of \$2 billion or less in assets.

**Royce:** When will the CFPB's rule on prepaid cards be released? I hear it will be released this spring.

**Cordray:** Technically, yes, but spring starts next week, and will continue into June. And for the rule, I know you are concerned with overdraft regulation; we have taken an accepted approach that has been in place for years on that component of the rule. We will continue to consider how to approach that area of regulation.

Whether we will lighten regulation on overdraft fees is a matter of question right now. We will continue looking at how to strike a balance on that part of the rule.

**Clay:** It has recently come to my attention that some of my constituents are offered loans by lenders not authorized in Missouri. Instead, their information may be sold to a tribal or offshore lender.

The attorney general of Missouri has shut-down many of these operations, but can you share insight on this?

**Cordray:** I have heard horrific stories on these cases in Missouri. What I would say is that your attorney general is right here: anyone seeking to make loans without a license is violating state law. Missouri has certainly caught our attention.

**Clay:** As it relates to estimating the ethnic impact of auto lending. Are there any statistical approach that does out with all false positives and negatives?

If Republicans have concerns n using estimates, shouldn't Congress just tell auto lending companies to collect this data?

**Cordray:** It could, and that system has been in place in other contexts for decades.

**Pearce:** I would like to thank you Mr. Cordray, for streamlining your rules under Title 14 of Dodd-Frank in correspondence with my constituents.

But let me ask you a question: what is the purview of your payday lending rule?

**Cordray:** More than half of payday loans are rolled 10 or more times, and I think --

**Pearce:** Well I want to take a different direction. What figures do you have that indicate payday borrowers are in trouble?

**Cordray:** Well there are many perspectives on interpreting the figures, but the rolling of debt is a clear suggestion of abusive practice.

**Pearce:** At what level is exploitation a problem? Is 5% an exploitative fee? How do you determine if its exploitation?

**Cordray:** If you are offering a loan that is rolled over 10 times, owning more than fees than owed in the first place, that puts consumers in a bad spot obviously.

**Pearce:** If I would wrap the whole thing up, you established a QM rule, but it actually drove 95% of the loans into the GSEs, and you have no action you're taking on GSEs.

You're driving people into a government-controlled exploitation.

**Scott:** There are Democrats on this side of aisle that have concerns with how you are dealing with this racial situation at the CFPB.

But here is the most dramatic fact of the auto dealers: your methodology.

Fair is fair, but when you talk about giving people checks because they've been discriminated against, and you use a failed methodology, which is discriminatory itself.

Now, if an African American customers goes to a dealer, and tells the dealer Mr. Dealer, I can only afford a \$350 per/mo. Payment for a car, and the dealer decides to cut his own retail margin into the deal to lower the rate, your situation would deny that dealer.

This is an issue of soaring magnitude, and I hope we can discuss it in the future.

**Posey:** Do you think it's important to communicate with the companies you regulate? And do you think you have a role in helping it regulatees understand and comply with your regulations

**Cordray:** Yes, of course, and we have sat precedents in communication with our regulatees

**Posey:** Well that answer comes to my surprise, because I have stacks of regulations in my office. I have 7 stacks of rules over 7 feet in my office. And the bureau is taking in one to three requests per year for more regulations, and that's your policy to take in one to three requests per year, correct?

Wouldn't replacing those rules with no-action letters be more efficient?

**Cordray:** The purpose of having a no-action letter policy was to allow people to get their questions answered correctly --

**Posey:** If money wasn't an issue for the CFPB, would you have objections to making the no-action letters a policy? My issue is that the money you use is just so inefficiently allocated, and it ends up hurting the consumer.

**Green:** There are people who want to completely gut your bureau, Director. And I want to go on record to say that I support the CFPB's work.

Let's talk quickly about Ally. Ally settled that case for \$84 million. And it is true that Ally was prepared, to the extent it had its litigation prepared for court, correct?

**Cordray:** I assume so, yes.

Green: Financial institution wants to change the name of the game legally; they just want to come to Congress to have their way. People don't want to actually fight discrimination when they get the chance to. Then, there is disparate impact as a designed tool, but that tool doesn't actually work for the financial institutions apparently.

These institutions have said that if they ever get a President, they would eviscerate the CFPB.

**Stivers:** The General Accounting Office has found that payday lending institutions have had to discontinue their services due to the CFPB's regulations.

I analogize the CFPB's regulations to fitting lenders generally into small t-shirt sizes; you force them to lose weight to get into smaller t-shirt sizes.

Do you have any thoughts on that analogy?

**Cordray:** Well, let me talk about the facts here. Credit union membership is at an all-time-high, and does not jibe with this notion that the CFPB is killing-off lenders. And our data shows, also, that the number of mortgage lenders has increased and their markets have increased broadly.

**Stivers:** But the number of SMALLER credit unions is going down, particularly in my district, and --

Cordray: Sir, with-all-due-respect, that decrease has been persisting since the 1920s, and thus has nothing to do with the Dodd-Frank Act.

**Beatty:** Let's talk one of the most controversial votes for me. I think we have wasted a lot of time on our votes in here. On the house bill that came up with black dealers against it, and black dealers supportive of it, we need to think about fair credit compliance.

So we get this legislation that really doesn't solve the problem, because here's the issue: when I think about those African Americans that walk into auto lenders, I do think they're discriminated against. Nobody is talking about the real systemic issues of the problems.

We need to make sure we put practices in place beyond names and zip-codes. If we talk about financial literacy in this country, you Director have done more on financial literacy than anyone else in the United States government.

We are not even talking about a program in this Committee that could address financial literacy. But Dodd-Frank does, and you are enforcing provisions of Dodd-Frank that related to auto lending evaluations of credit products.

**Mulvaney:** Members today have asked you about states' role in payday lending. Earlier, you said about 37 states have 'failed' consumers in payday lending.

Which states are those?

**Cordray:** My job is not to tell state officials what to do; my job is to intervene in certain, predatory practices of lenders.

**Mulvaney:** But would that job operate in the space of regulation that a state is already in?

Let's be clear, you intend to preempt state law. Back in February, you sent a letter to my office basically stating that while states have their own space in payday lending for regulation, it is the job of the CFPB to enforce rules on payday lending anywhere where applicable.

That seems like preemption.

Now, let's say you were an attorney general in a state, and you faced-down regulation from the CFPB; what would you do?

**Cordray:** That is entirely hypothetical, and the people of a state are also people of the United States.

**Sherman:** There's a difference between preemption and supplementation. If you take the position that state legislators are in the position to strictly provide financial protection, then Dodd-Frank should be repealed.

But when we passed Dodd-Frank, we guaranteed that state law would interact with federal law, and that interaction does not constitute preemption---it is a supplement.

That would be my basic point here. And I want to reiterate it.

--

I want to focus on TRID now; these are complicated regulations--particularly for smaller financial institutions. Institutions want more written guidance on how to apply those regulations, and remediation guidance where necessary.

I think you should maintain the hold-harmless period in the interim, until you develop more precise guidance on how to implement TRID, and deal with its remediation.

So, Cordray, I hope you will look at the stated price of the home the buyer will pay for, but the automatic disclosure reveals the same price. That is the important issue I am hearing about right now

**Westmoreland:** Director, what standards do you use to evaluate enforcement against neglecting of data and security protocols?

**Cordray:** There a number of procedures that have been put in place for making sure companies protect sensitive information, and we can get back to you about all of those procedures.

**Westmoreland:** You have placed an emphasis on sensitive information in consumer trust. But how do you ensure that, through enforcement, sensitive information on consumers is not compromised?

**Cordray:** The data we have typically is anonymized and it can't identify individuals like you or I. So, none of our enforcement actions would compromise individuals' information.

**Westmoreland:** Well, I have a long list here of data metrics that definitely display the level of personal information that could be comprised at the expense of individual consumers.

This is data in your system.

**Cordray:** Well, I am not sure what data you are referring to specifically, as a lot of that sounds too broad for the CFPB, but I would be happy to talk with you about it sometime.

**Hultgren:** You have now relied on disparate impact theory on multiple enforcement actions on auto loans, including the Equal Credit Opportunity Act, Director. But what is the specific legal basis the CFPB uses to leverage disparate impact theory from ECOA?

**Cordray:** ECOA affects the mortgage market, while our interpretations affect the consumer markets, and they work together in specific ways. That is not a tenuous extrapolation of legal theory.

**Hultgren:** Moving on, to bounce off Westmoreland's focus on data sensitivity, Sec. 1094 of Dodd-Frank, which made changes to HUMDA, require the bureau to modify information for the purposes of protection the information of mortgagers and mortgagees.

It is not clear that the Bureau is proceeding with caution in its enforcement and rules with respect to privacy.

HUMDA has identified people with a 95% accuracy of their individual identity, and that is wrong, and so is all of your rules to gather more data.

**Cordray:** Congressman, we will certainly proceed with caution when gathering data for our regulations.

**Perlmutter:** I would hope that the agency keeps dialogue open between the auto dealer industry and itself.

Maybe there wouldn't have to be a legislative approach. My basic advice is that the CFPB must continue talking with auto dealers on any rulemakings it makes related to their work.

I just want us to be able to avoid lawsuits and litigation generally.

And I do have lots of things to thank you about, particularly your work in the mortgage industries.

**Cordray:** There was a point made earlier that is inaccurate and misguide; this idea that our mortgage rules have pushed portfolios of lending into the GSEs, but that is just not consistent with the facts.

**Perlmutter:** In 2008, 9, 10, there was no secondary market, frankly.

I must remind everyone in this Committee that you have lot of power as a Bureau, but it can be used responsibility, as long as collaboration continues between the Bureau and those it oversees.

**Fitzpatrick:** I want to get an area of my concern in Pennsylvania. It has to do with overdraft fees and the data your using for regulating those fees.

These are sometimes customers who would otherwise seek-out riskier, nonbank alternatives because of these fees.

And I understand a rule is being formulated for this?

**Cordray:** The rule will be released this spring, but that is about small dollar loans, not overdraft fees. We have released white papers on overdraft fees.

**Fitzpatrick:** I want to put forth legislation that would require the CFPB to provide the data it uses to form rules to the targets of those rules.

Director, can you give us information in writing that you would be willing to provide the data it uses to form white papers on overdraft fees?

**Cordray:** I would be willing to discuss that, yes.

**Ellison:** There have been a number of ads released by Protect Consumers, an organization that has attacked the CFPB for its work. I want to reiterate my support the CFPB, and I condemn this organization for including me in its ads to indicate that I stand against the CFPB.

To be sure, it is fair to say that we don't agree on the role of the CFPB in this Committee. But turning back over \$11 billion to consumers seems pretty good to me.

That's my point for this hearing, and I yield back.

**Ross:** Mr. Cordray, would you not agree that Florida is the gold standard for payday lending regulation?

**Cordray:** No, I would disagree. There has been an analysis on the Florida data, and it shows that payday lenders in Florida, on average, offer interest rates well above 300% for the duration of loans.

**Ross:** I anticipate a report to come this spring about the CFPB's upcoming rule on payday lending. And are you familiar the Center for Responsible Lending? Are you familiar with their subsidiary?

Have you heard of self-help credit union? They are the subsidiary. Do you have any discussions with that union?

**Cordray:** I don't know whether I have or haven't. But I am sure I have.

**Ross:** Can you give me a little anticipation of the rule you will promulgate this spring?

**Cordray:** We will eliminate and limit predatory practices that embroil consumers in debt traps.

**Pittenger:** Mr. Cordray, you have admitted that you and twelve of your directors have used private emails for official business. Is that correct?

How does the public have any confidence in the records and information captured in private email?

Do you believe the public is getting all the info it deserves to have?

**Cordray:** Yes, I do.

**Pittenger:** Will you turn to the Committee all of these private emails?

**Cordray:** Well, I would be glad to follow-up.

**Pittenger:** Wouldn't it be more prudent to have a 5-member body in the CFPB? Couldn't you gain wisdom from individuals?

In Ohio at its General Assembly, you served there, and I don't think you would say that the Committee of that chair should work alone.

**Cordray:** My role was established by Congress, set by Congress, and -- so one of the things is that when I testify here, I am accounting to you.

I have always read and responded to your letters as-well. And we will continue to do that.

**Wagner:** Director, our Committee sent you a subpoena last December on a number of issues, and you never responded to that request.

You have all failed, once again, to respond to our subpoena, and also we sent a letter on your compliance to the subpoena.

Will you commit to providing info, and complying with the request of your subpoena?

**Cordray:** Of course we have responded, with over 20,000 pages of documents --

**Wagner:** Working to comply is called ducking and dodging. Now that applies to your response to me last year, when I asked about government expenditure of CFPB's leases last year.

We have had a year since then --- who authorized the renovation?

**Cordray:** This has been misstated and garbled. The "it" was not a -- as I said to you, I later reaffirmed that decision, and I will continue --

**Wagner:** Clearly, you're not going to answer that question. My question simply seeks the truth.

**Cordray:** The amount wasn't over \$200 million, and I was not in the position at the time --

**Wagner:** Director, you need to start answering questions that this Committee asks. At this point, you have failed in that respect, totally.

**Barr:** Director, what is your budget level for FY17?

**Cordray:** our FY17 budget is set at \$606 million.

**Barr:** The Fed does not approve your budget, but does it review the Bureau's transfer-requests?

**Cordray:** Yes, and we fulfill those requests.

**Barr:** Has the Fed denied a particular transfer-request?

**Cordray:** I don't know specifically, but that system was established by Congress, the --

**Barr:** The fact that the Bureau can move ahead with costs such as building leases, consulting services, and so forth, implies the Fed basically rubber stamps all of our transfer-requests.

But let's switch gears to the arbitration case. Did the study confirm that arbitration is faster than class-action lawsuit? Does it confirm that it protect consumers efficiently? And does it confirm that arbitration cases provide faster resolutions for consumers generally?

**Cordray:** Our study does not distinctly find those conclusions. I would say that -- we take input from our stakeholders, and -- \*time expired\*

**HEARING ADJOURNED**