

United States House of Representatives  
Committee on Financial Services  
Washington, D.C. 20515

March 30, 2011

Ms. Elizabeth Warren  
U.S. Department of the Treasury  
1500 Pennsylvania Avenue, N.W.  
Washington, DC 20220

Dear Ms. Warren:

There is no dispute that documentation, internal controls and processing were seriously deficient at some of the nation's largest mortgage servicing firms, and that remedial steps to cure those deficiencies are necessary. But we continue to be concerned about the participation of political appointees at the Treasury Department in the regulatory enforcement process. The role of these appointees—including those affiliated with the Consumer Financial Protection Bureau (CFPB), an agency that does not yet have any regulatory or enforcement authority—raises questions about the process through which the terms of a possible settlement are being negotiated. When political appointees involve themselves in enforcement matters, they may pressure regulatory officials to take actions benefitting a particular political constituency or advancing a particular agenda at the expense of sound policy. As you have said, "We know what can happen when laws aren't fairly or consistently enforced because of political pressure, and it doesn't end well for American families, for honest businesses, or for the economy." We could not agree more.

On March 16, 2011, you appeared as a witness before the Subcommittee on Financial Institutions and Consumer Credit at a hearing titled "Oversight of the Consumer Financial Protection Bureau (CFPB)." At that hearing, several Members of the Subcommittee asked about the CFPB's involvement in ongoing settlement discussions between mortgage servicers and state and Federal authorities. You repeatedly declined to acknowledge that the CFPB, "a division of the Treasury," had participated in foreclosure settlement negotiations, responding only that the CFPB had provided "advice" and "expertise" to Federal and State officials involved in the negotiations.<sup>1</sup>

Since you testified, new information has come to light indicating that the CFPB has actually been deeply involved in the negotiations. This information comes from a document (*attached*) bearing the CFPB's name and entitled "Perspectives on Settlement Alternatives in Mortgage Servicing" ("the CFPB Settlement Presentation"). The CFPB Settlement Presentation is dated February 14, 2011, and marked "CONFIDENTIAL FOR AG MILLER," presumably a reference to Iowa Attorney General Tom Miller, who is coordinating the negotiations for the State Attorneys General.

At the March 16 hearing, when Chairman Bachus asked whether the CFPB had advised on the structure of the settlement, you said only that Secretary Geithner "asked for advice about the ongoing problems we have with mortgage servicers." But according to the CFPB Settlement Presentation, the CFPB did more than provide advice: it recommended

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<sup>1</sup> See Elizabeth Warren, Special Advisor to the Secretary of the Treasury for the Consumer Financial Protection Bureau, Testimony of March 16, 2011 before the House Financial Services, Financial Institutions and Consumer Credit Subcommittee.

Ms. Elizabeth Warren

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the goals and provided a detailed framework for the structure of the settlement. The CFPB Settlement Presentation advances the idea that a “global” settlement is a vehicle for “broad reform” of mortgage servicing practices. In short, the recently disclosed documents suggest that rather than merely dispensing advice to those involved in negotiating the settlement, the CFPB was actually its primary architect.

Additionally, Page 2 of the CFPB Settlement Presentation offers suggestions for monetary penalties. It says that “rough estimates suggest that the largest servicers may have saved more than \$20 billion through under-investment in proper servicing during the crisis. As a result, a notional penalty of roughly \$5 billion would seem too low.” Not coincidentally, it seems, it has been widely reported that the Department of Justice and state Attorneys General are now seeking at least \$20 billion in such penalties. Yet, when Rep. Scott Garrett asked whether you had made recommendations regarding monetary penalties for mortgage servicers, you replied only that “the Secretary of the Treasury has asked us – for the consumer agencies – to give advice.”


As further indication of the CFPB’s extensive involvement in the settlement process, your calendar discloses dozens of individual meetings and calls with State Attorneys General, the Department of Justice and other federal regulators regarding “mortgage servicing” or “foreclosure settlement.”<sup>2</sup> Iowa Attorney General Miller has himself confirmed that you have been a “very active participant” in talks about the servicing settlement.<sup>3</sup>

It is plain that the CFPB has done more than provide “advice” on the proposed servicing settlement. Accordingly, we respectfully request that you carefully review the attached transcript of your testimony at the March 16 hearing and advise the Subcommittee by April 1 if there are any aspects of that testimony relating to the CFPB’s role in the mortgage servicer settlement negotiations that you wish to clarify or correct.

Thank you for your attention to this request.

  
SPENCER BACHUS  
Chairman

Sincerely,

  
SHELLEY MOORE CAPITO  
Chairman  
Subcommittee on Financial Institutions  
and Consumer Credit

Enclosure

<sup>2</sup> See <http://www.consumerfinance.gov/professorwarrens-calendar/>

<sup>3</sup> Andrew Ross Sorkin, *Warren’s Calendars Show Limited role in Talks on Foreclosure Settlement*, N.Y. Times, 3/25/11.

CONSUMER FINANCIAL PROTECTION BUREAU



# Perspectives on Settlement Alternatives in Mortgage Servicing

Discussion document

February 14, 2011

DRAFT—CONFIDENTIAL FOR AG MILLER

The prospect of a "global" settlement provides the potential for broad reform.

## MORTGAGE SERVICING SETTLEMENT IN CONTEXT

### —Enabled by a Settlement—

• Mandate modifications

- Require that largest servicers modify a specific number of mortgages

Description

• Align servicer incentives

- Create a new trust structure outside existing RMBS deals, which "traps cash" to align servicer and investor incentives

- Deter wrongful servicer conduct
- Help clear shadow inventory
- Provide some borrower relief

Goals

• Promulgate new standards

- Use CFPB's eventual rule-making authority to "harmonize" various agencies' conduct standards

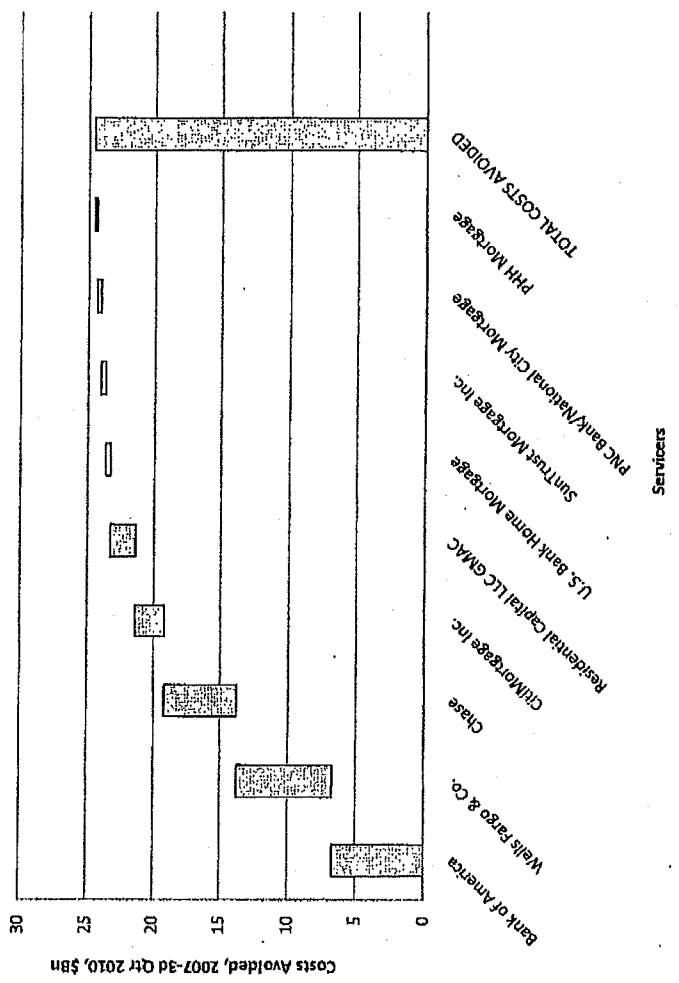
- Provide consistent rules for all market participants

Rough estimates suggest that the largest servicers may have saved more than \$20 billion through under-investment in proper servicing during the crisis. As a result, a notional penalty of roughly \$5 billion would seem too low.

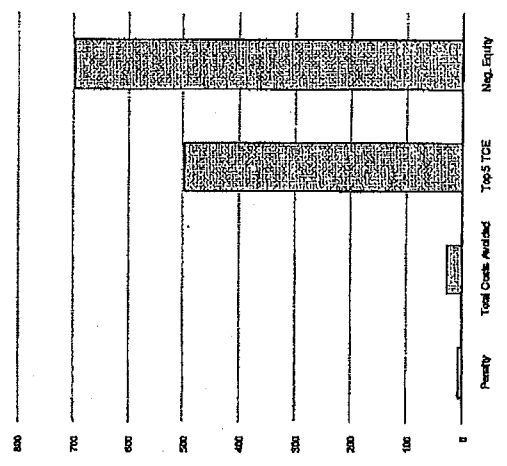
## CALIBRATING THE SIZE OF POTENTIAL PENALTIES

**Estimated Servicing Costs Avoided, 2007-3Q10**  
\$ Billions (Source: CFPB)

*Assumption:*  
 -- Effective special servicing of delinquent loans would have cost 75 bps/yr more than the actual costs incurred



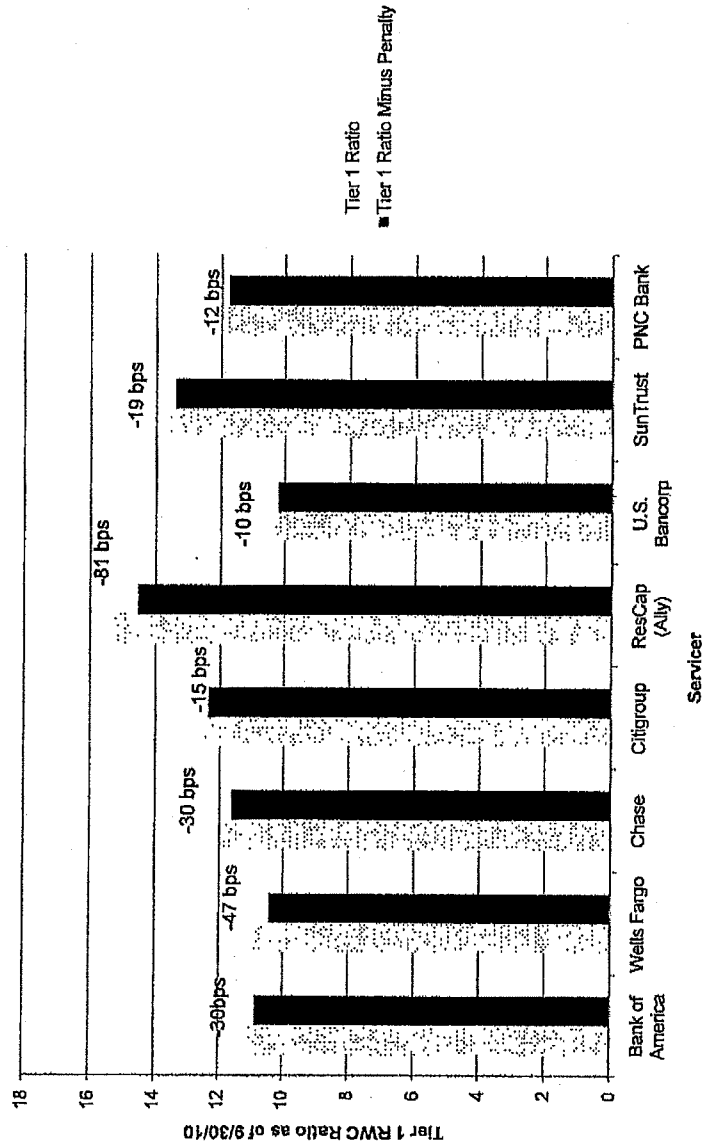
**Notional \$5 Billion in Context**  
\$ Billions



Source: CFPB

A penalty based on servicing costs avoided would have little effect on Tier 1 capital ratios.

## EFFECT OF PENALTY ON TIER 1 CAPITAL

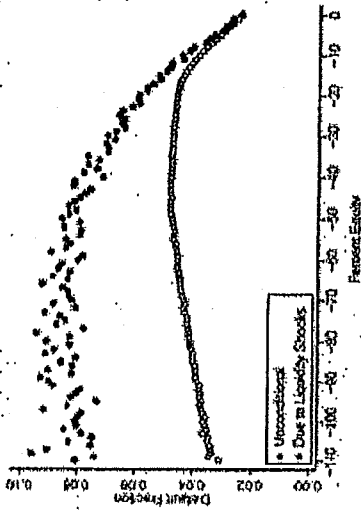


Source: CFPB

Given the magnitude of the "shadow inventory" problem, we have gravitated towards settlement solutions that enable asset liquidity and cast a wide net. In particular, we have focused on principal reduction-modifications and the short sales enabled by them. As borrowers become increasingly underwater, they are more likely to default. To date, though, principal reductions have been relatively under-utilized.

## NEGATIVE EQUITY, DELINQUENCY, AND PRINCIPAL REDUCTION

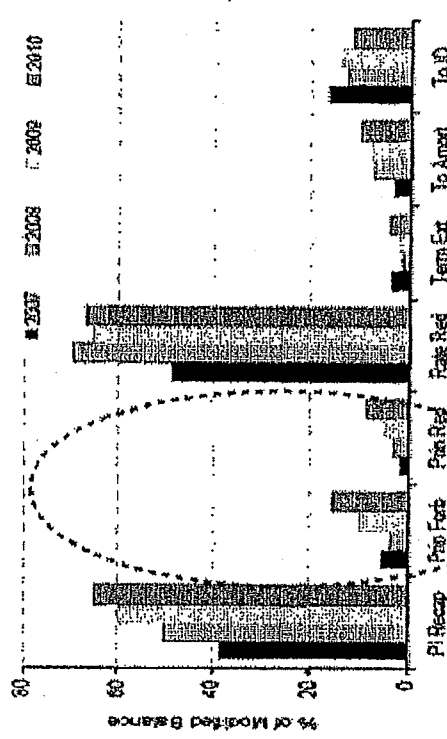
Figure 2: Decomposition of Default Probability by Percent Housing Equity



Note: Figure based on 1.3 million loan-month observations. Percent Equity is measured as a percent of current home value and is censored to the nearest percentage point. Solid circles represent the unconditional probability of default at a given equity level. Hollow circles represent the probability of default due to experiencing a liquidity shock at a given equity level.

Bhutta, Dokko & Shan (2009).

Figure 8: Distribution by Modification Type (All Sectors)



Source: Citi, Loan Performance

The scope of a settlement-driven loan modification requirement can be roughly calibrated to the likely cost to servicers from principal forgiveness. Principal reductions would (1) make payments somewhat more affordable; (2) free underwater borrowers to sell or refinance their homes; and (3) thereby help the housing market clear. Notably, some fraction of the cost of modifications (for NPV-positive modifications) might legitimately be pushed from servicers onto MBS investors.

## CALIBRATING BREADTH AND DEPTH

### Example

- Require [3.0] million principal-reduction mods over six months (principal forgiven)
  - Apportion by market share
  - With or without short sale
- Simple eligibility standards
  - Residential owner-occupied
  - Current CLTV > [100%]
  - Not FHA or VA loans
- Principal must be written down to [95%] CLTV
  - Reduction in second lien mortgages held by any party to settlement
- Monitor compliance
- Make penalty for failure to execute big enough to encourage loan mods
- Servicers fund write-down (makes investors whole)
  - But investors absorb write-down when NPV positive.

**Cost of Aggregate Principal Reduction**  
(Assuming servicers modify least underwater borrowers)  
\$ Billions

Depth: Reduce each Loan CLTV	Breadth: Millions of Loans Modified					
	0.5	1.0	1.5	2.0	2.5	3.0
> 100% to 95%	\$7.0	\$13.9	\$20.9	\$27.9	\$34.8	\$41.8
> 100% to 90%	\$10.6	\$21.1	\$31.7	\$42.3	\$52.9	\$63.4
> 105% to 95%	\$7.1	\$14.3	\$21.4	\$33.3	\$51.9	\$70.5
> 115% to 100%	\$13.4	\$28.1	\$51.5	\$74.9	\$103.9	\$135.2

Note: Assuming servicers modify least underwater borrowers; excludes FHA and VA loans

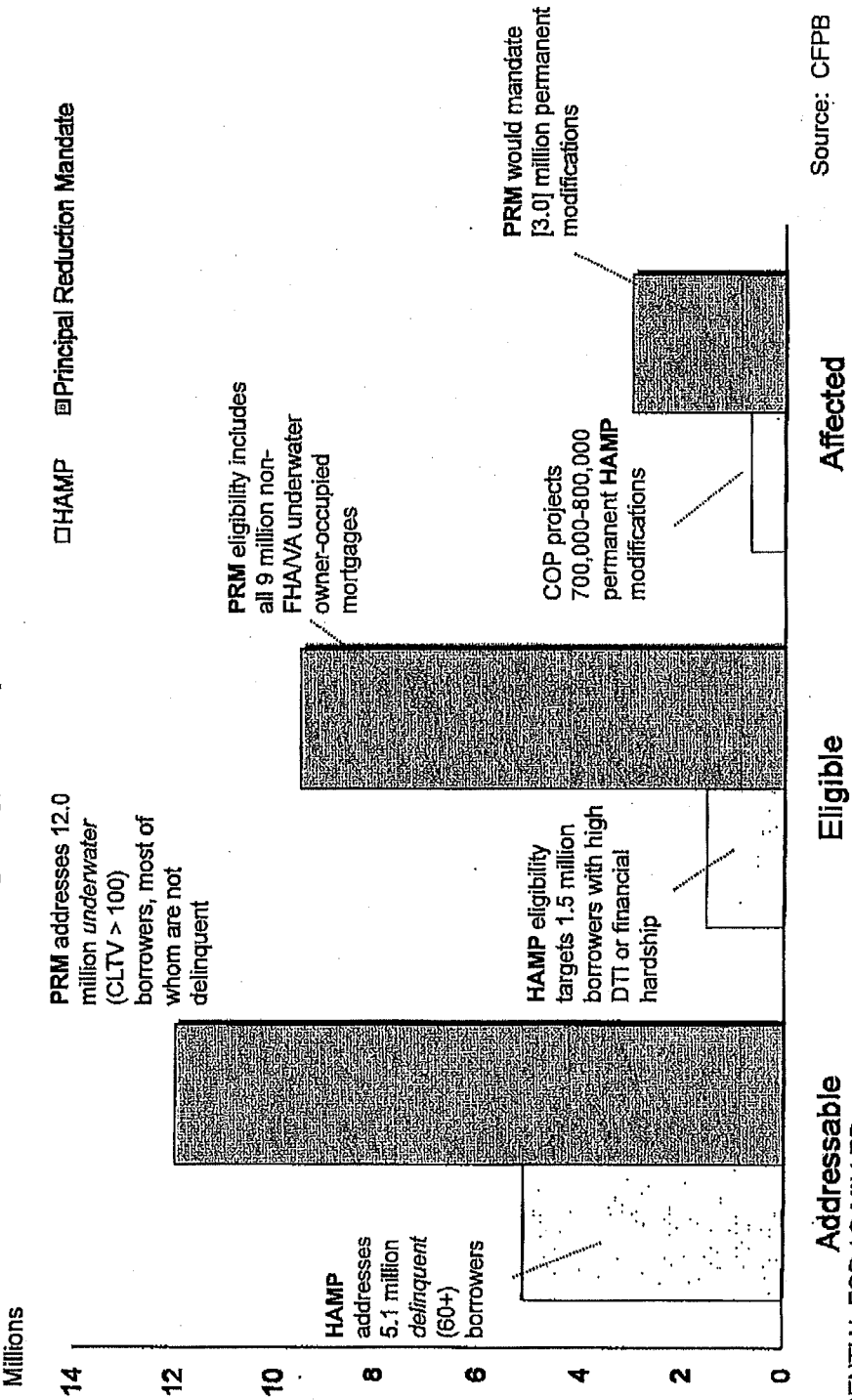
Source: CFPB analysis based on FRB staff research



A principal reduction mandate could be meaningfully additive to HAMP.

## PRINCIPAL REDUCTION MANDATE (PRM) VS. HAMP

Comparison of Borrower Universe, Eligibility, and Impact



Source: CFPB

1 | MORNINGSIDES PARTNERS, LLC  
2 | HBA075150  
  
3 | HEARING ON "OVERSIGHT OF THE CONSUMER  
4 | FINANCIAL PROTECTION BUREAU"  
5 | Wednesday, March 16, 2011  
6 | House of Representatives,  
7 | Subcommittee on Financial Institutions and  
8 | Consumer Credit,  
9 | Committee on Financial Services,  
10 | Washington, D.C.

11 |       The subcommittee met, pursuant to call, at 10:02 a.m.,  
12 | in Room 2128, Rayburn House Office Building, Hon. Shelley  
13 | Capito [chairwoman of the subcommittee] presiding.

14 |       Present: Representatives Capito, Bachus, Royce,  
15 | Manzullo, McHenry, McCotter, Pearce, Westmoreland,  
16 | Luetkemeyer, Huizenga, Duffy, Dold, Canseco, Maloney,  
17 | Gutierrez, Watt, Ackerman, Hinojosa, McCarthy of New York,  
18 | Baca, Miller, Scott, and Lynch.

19 |       Also present: Representatives Neugebauer, Garrett, and  
20 | Green.

21 | Chairwoman CAPITO. The committee is called to order. I  
22 | would like to welcome everyone to what I believe will be one  
23 | of the most important hearings that the subcommittee will  
24 | hold this Congress.

25 | We are joined this morning by Professor Elizabeth  
26 | Warren, Special Advisor to the Secretary of the Treasury for  
27 | the Consumer Financial Protection Bureau who will be  
28 | answering questions from the members of the subcommittee on  
29 | the creation of the Consumer Financial Protection Bureau  
30 | which we are going to call the CFPB because I can't get those  
31 | four words out in great succession very quickly.

32 | So I would like to welcome her and thank her for her  
33 | participation. She will be and has made a request because of  
34 | her scheduling issues; she will be in the hearing until  
35 | 12:30. So we want to respect that. And I think we will have  
36 | a good and vibrant hearing and plenty of time to do that.

37 | The debate over the creation of the CFPB was intense,  
38 | with many members having very different opinions on the best  
39 | way to modernize the financial regulatory system for consumer  
40 | protection. I think we can then all agree that there were  
41 | lapses in oversight and inherent problems with the--within  
42 | the regulatory structure.

43 | That said, many of my colleagues in the House of  
44 | Representatives have serious concerns about the creation of a  
45 | new bureaucracy with little congressional oversight. Many of

46 us would have preferred to truly cut to the red tape and  
47 create a modern regulatory structure that demands better  
48 communication between Federal regulators and provides  
49 consumers with the tools they need to report fraud in the  
50 system.

51 What consumers need is a regulatory structure that  
52 allows for them to obtain information on a variety of  
53 financial products and then make an informed decision about  
54 which products best suit their financial needs. And from  
55 reading the professor's statements she will be addressing  
56 those issues.

57 One of my concerns with the creation of the CFPB was  
58 little accountability to Congress is that consumers could  
59 start to lose the ability to choose from a wide variety of  
60 products. It would be better for all parties that a portion  
61 of the bureau's budget were a part of the annual  
62 appropriations process. Claiming that congressional  
63 oversight is present because Congress has the ability to  
64 overturn rules, I don't believe is the most effective way to  
65 conduct oversight.

66 Additionally, I have questions about the role of the  
67 staff of the bureau are playing--the role of the staff of the  
68 bureau is playing in ongoing rule-making. It has come to  
69 light that representatives from the bureau played it--have  
70 been playing an active role in settlement discussions between

71 | large mortgage servicers, regular regulators and state  
72 | attorneys general.

73 |       By statute, the bureau will not be operational until  
74 | July of this year. The involvement in bureau--of bureau  
75 | employees in these discussions I think raises some questions.

76 | I have many more questions for Professor Warren and realize  
77 | that time is limited. I would like to thank her again for  
78 | joining us today and for her willingness to meet the so many  
79 | members of the Congress. In her statement she mentions that  
80 | she has met with over 60 members and certainly as one of  
81 | those members, I appreciate that very much.

82 |       I would like to now recognize the Ranking Minority  
83 | Member, the gentle lady from New York, Mrs. Maloney for the  
84 | purpose of an opening statement, and I am going to scoot out  
85 | very quickly, but I will be back.

86 |       Mrs. MALONEY. But not before I thank you for calling  
87 | this hearing and for your friendship and for your leadership  
88 | on so many important issues including this one.

89 |       And thank you and welcome to Elizabeth Warren, who has  
90 | been at the forefront of the effort to create a consumer  
91 | bureau for years. Thank you for your service and for your  
92 | commitment to all American families. You have a been a true  
93 | champion for the American consumer and for fair and you--and  
94 | I am getting reports from all sectors, all stakeholders and  
95 | our financial community that you have reached out to them and

96 | you have been fair and balanced in your approach.

97 |       History has long shown us that our country is at its  
98 | most secure and most prosperous when the middle class is  
99 | economically vibrant and growing. Recent history has also  
100 | shown us that the reverse is true. Though it is hard to come  
101 | by an exact figure, in 2008, the worst year of the great  
102 | recession, household wealth in America fell by more than \$11  
103 | trillion. Let me repeat that stunning figure, \$11 trillion.

104 |       And the middle class by any reasonable measure has borne  
105 | the brunt of the economic damage. Millions lost their jobs,  
106 | lost their homes, lost the chance to go to college, lost the  
107 | hope of a better and brighter future. That hard and  
108 | inescapable fact was one of the most compelling reasons for  
109 | the enactment of the Dodd-Frank bill and the creation of the  
110 | Consumer Financial Protection Bureau.

111 |       We took a huge step forward toward creating a more level  
112 | playing field for the American consumer and the American  
113 | middle class. For far too long in our financial system,  
114 | regulatory concerns about consumer protection came in a  
115 | distant second or a third or was not considered at all.

116 |       But now for the first time, anyone who opens a checking  
117 | account or savings account, anyone who takes out a student  
118 | loan or a mortgage, anyone who opens a credit card or takes  
119 | out payday loan will have someone looking out for them and a  
120 | federal agency on their side to be fair and balanced and to

121 | protect them.

122 |         For the first time, consumer protection authority will  
123 | be held in one place, the CFPB, with an independent appointed  
124 | director, an independent budget and an autonomous rule-making  
125 | authority. For the first time a truly independent authority  
126 | will be able to write new rules for non-bank financial firms  
127 | including payday lenders, debt collectors, mortgage brokers  
128 | and other financial institutions.

129 |         And very importantly for the first time, consumers will  
130 | have a seat at the table at the financial stability oversight  
131 | council. And the council will have the authority to nullify  
132 | any rule it believes will harm an institution's safety and  
133 | soundness. This kind of evenhandedness and common sense  
134 | oversight of our financial system with strong consumer  
135 | protections will ensure the safety and soundness of the  
136 | system as a whole and is clearly in the best interests of the  
137 | American consumer and the driving force of the American  
138 | economy.

139 |         Elizabeth Warren has been at the helm since September,  
140 | 2010 as the agency gets off the ground. So I will be very  
141 | interested to hear how the process is going as well as what  
142 | the agency's initial priorities are going to be when  
143 | authority is officially transferred to the agency in July.

144 |         I thank the Chair again for calling this hearing, and I  
145 | welcome Ms. Warren. Thank you.

146 Mr. ROYCE. [Presiding.] Thank you very much.  
147 Welcome, Professor Warren. It is good to see you.  
148 I would just like to make a couple of observations here.  
149 And one is that a number of people in the regulatory  
150 community and a number of economists have raised concerns  
151 about some of the unintended consequences of the titles in  
152 Dodd-Frank, title one through nine, there are provisions  
153 throughout the legislation that wasn't really thought  
154 through.

155 But title 10 seems to be particularly problematic and I  
156 will explain some of the concerns. Beginning July 21st, the  
157 Federal Reserve has to transfer to the bureau whatever funds  
158 the bureau's director has requested despite the fact that  
159 neither the Fed nor Congress will have any say into the  
160 bureau's budget. Now, that is unique and that is one concern  
161 that is been raised.

162 The second is, well, the byproduct of that when you  
163 think it through, it really raises two problems. First, this  
164 agency will be able to act outside of the normal  
165 appropriations process in the way Dodd-Frank set it up, which  
166 means that it will not be held accountable for the actions  
167 taken. And the other problem comes from putting safety and  
168 soundness protection behind consumer protection in our  
169 regulatory structure.

170 This is something you and I have talked about but we



171 have tried this model with the GSEs and it did not work.  
172 Both the acting and former heads of the FHFA have said that  
173 that competing regulatory structure, OFHEO versus HUD,  
174 contributed to the failure of Fannie and Freddie. And here  
175 instead of abolishing that model, we have with Dodd-Frank  
176 replicated that regulatory model throughout the financial  
177 system. And that gives cause for all of us, I think, to  
178 ponder whether this was done correctly.

179       And the final concern I have with title 10 is the  
180 assault on preemption. Regardless of our political  
181 affiliation, I think we should all be able to agree that one  
182 uniform standard is much simpler, much more effective. We  
183 already have 97 percent of the lawsuits in the--in the world  
184 today that occur here encouraging more litigation and more  
185 uncertainty in this.

186       I just think Dodd-Frank takes a major step back; we now  
187 have every single state attorney general interpreting Federal  
188 laws and banks' subsidiaries will now have to comply with  
189 state consumer protection laws instead of one national  
190 uniform interpretation here. And I think that is going to be  
191 a boon for the trial lawyers but it will do little to protect  
192 consumers or make our capital markets more competitive.

193       So it is my hope this committee will take the next  
194 necessary steps to correct these failures in the Dodd-Frank  
195 legislation.

196 And we now go to Mr. Scott, of Georgia, for his 5  
197 minutes.

198 SCOTT. Thank you very much, Mr. Royce, I appreciate  
199 that.

200 Welcome, Ms. Warren. Ms. Warren, I think that you have  
201 sort of a delicate balance that you have to walk here. On  
202 the one hand, you have to make sure that the consumers have  
203 not only the proper information to educate them about some of  
204 the practices in our financial services industry but you also  
205 have the requirement to make sure that what you do will not  
206 thwart access to capital for our consumers, for the banking  
207 community, particularly for small businesses while at the  
208 same time give the confidence today that it will--you will  
209 also protect the American consumer, protect access to capital  
210 to them, protect the consumer.

211 I would also like for you to address just what impact my  
212 good friend on the other side of the aisle, Representative  
213 Neugebauer has a bill and that bill basically seeks to defund  
214 and keep you in treasury. I would like for you to address  
215 just what this means to you. How will this either make your  
216 duties better or make your duties worse with this bill?

217 And then finally, I would like for you to address the  
218 concerns of the banking industry. The banking industry is  
219 scared to death of this. They feel this is a threat, while  
220 at the same time; the banking industry is the heart--the

221 heart of our economic system. It pumps the money which  
222 basically sort of like the blood, the life source throughout  
223 our system.

224 And it might be good for you to address that, to ease  
225 some of the concerns within the banking committee that you  
226 are not the threat or the evil empire that perhaps some of  
227 them might think. And so, I think that this is a very timely  
228 hearing and you do have a delicate balance. And I hope that  
229 you will address some of these concerns. And that we all  
230 will leave this hearing far more wiser and more confident in  
231 your ability and the operations of this new bureau, that it  
232 is not a threat. But it is a much needed solution and  
233 approach in a very trying economic time.

234 Thank you and I yield back the balance of my time.

235 Mr. ROYCE. We are going to go to Chairman Bachus.  
236 Before we do that, I ask unanimous consent to allow  
237 Representative Al Green of Texas to participate in the  
238 hearing. And without objection, we go to Mr.  
239 Bachus--Chairman Bachus.

240 Chairman BACHUS. Thank you.

241 Director Warren, you are probably directing the most  
242 powerful agency that is ever been created in Washington. It  
243 is not a commission, it is one single person. And it will  
244 regulate all providers of credit, savings, payment and  
245 consumer financial products and services.

246 A covered person is defined as any person that engages  
247 in offering or providing a financial product or service. The  
248 definition of financial service--of financial product or  
249 service, you will define--or whoever at the agency--will  
250 define what that is. It is not defined in the statute.

251 And also, you will have the ability to identify and ban  
252 any financial product or services that is deemed unfair,  
253 deceptive, or abusive. But there is really no legal  
254 definition of abusive, so you will have basically--or whoever  
255 heads this agency--will have the right to make that  
256 determination.

257 And your budget, you have as much as \$500 million from  
258 the Federal Reserve available with--and you can seek  
259 appropriations of \$200 million more. That compares to the  
260 CFTC which has \$169, or the FTC which has \$300 million and  
261 the SEC which has \$900 million.

262 Now, I will start by saying that no one questions your  
263 commitment to consumer protection, and I want to acknowledge  
264 that. But you will basically make the decision as to when  
265 consumers are protected and when they are not and what  
266 products will be offered and which products won't.

267 And you will have quite a budget of--you have not been  
268 nominated by the President. I don't know when that will  
269 happen or whether you will be nominated. We asked Secretary  
270 Geithner in September and he said that nomination will be

271 | made soon. Six months later and I think you would like a  
272 | nomination to be made. Certainly, no one has been confirmed  
273 | by the Senate.

274 |         And yet you have a lot of discretion and a lot of power,  
275 | but I see very little accountability. We had almost rely on  
276 | just a good faith reliance on your abilities, integrities and  
277 | judgment. And that is quite a burden for you and quite a  
278 | burden for us and I think adds to a great deal of  
279 | uncertainty. So, I look forward to hearing your testimony.

280 |         But I will tell you that since last July when we passed  
281 | the Dodd-Frank, I have advocated for a commission all along.  
282 | And I believe that having a board is a much better approach  
283 | because I think it is asking one person to do too much.

284 | Thank you.

285 |         Chairwoman CAPITO. [Presiding.] Oh, thank you, Mr.  
286 | Chairman.

287 |         I would like to recognize Mr. McHenry from North  
288 | Carolina for 1 minute.

289 |         Mr. MCHENRY. I thank the Chairman.

290 |         And when the CFPB was debated, many of us were concerned  
291 | that your agency would have a great deal of power with very  
292 | little congressional oversight, after all, as the Chairman  
293 | mentioned, the appropriation process is one point of  
294 | congressional oversight which you will not have.

295 |         We were concerned that severe economic consequences

296 | would arise from the separation of consumer protection and  
297 | safety and soundness duties. While that question was before  
298 | us in theory, it is now in front of us in a very real way in  
299 | the form of the recently released mortgage servicer  
300 | settlement term sheet.

301 | Our economy is still very fragile and recovery in the  
302 | housing market will play a big part in getting our nation  
303 | back on its feet. A number of the provisions of the term  
304 | sheet could cause a crippling slowdown in that recovery.

305 | I look forward to speaking with you about this and other  
306 | matters.

307 | And I appreciate Chairman Capito, your holding this  
308 | hearing.

309 | Chairwoman CAPITO. Thank you.

310 | I would like to recognize Mr. Pearce from New Mexico for  
311 | 1 minute.

312 | Mr. PEARCE. Thank you, Madam Chair.

313 | And thank you, Ms. Warren, for being here today. We  
314 | appreciate that the--as everyone is saying here--that your  
315 | new agency is going to wield a lot of power.

316 | The basic problem in the country is that we are spending  
317 | \$3.5 trillion a year and our revenues are \$2.2 trillion a  
318 | year. Our economy has frozen in place. The recovery is--out  
319 | by regulations which are causing uncertainty.

320 | The health care regulation and the whole health care

321 bill is causing people to lay off employees, to get below  
322 caps. It is freezing the medical, creation of jobs in the  
323 medical field.

324 We see the regulators freezing loans. Banks have money  
325 to lend and they are afraid to lend it because they are not  
326 faced with \$50,000 fines that used to be simply be simply  
327 write-ups.

328 So, I would be interested to see what you are doing to  
329 unfreeze the market to create certainty instead of the  
330 uncertainty that is coming out of the government right now.  
331 Without that, our economy is doomed to fail. It is doomed to  
332 fail if we continue on the path that we are on.

333 I look forward to talking with you on this briefing.

334 I yield back.

335 Chairwoman CAPITO. Recognize Mr. Luetkemeyer, from  
336 Missouri, for 1 minute.

337 Mr. LUETKEMEYER. Thank you, Madam Chairman.

338 And welcome, Ms. Warren.

339 I understand that the Consumer Financial Protection  
340 Bureau will be a self-regulated, unchecked body governed by  
341 one individual and funded outside the congressional  
342 appropriations process.

343 This bureau promises to promulgate rules to regulate  
344 every financial product available. All American financial  
345 firms, not just the ones who played a role in the financial

346 crisis, will be subject to its regulatory authority in some  
347 way and all these powers given with little or no mechanism  
348 for overseeing.

349 As a former bank regulator, I am concerned this agency  
350 puts consumer protection ahead of the safety and soundness of  
351 our financial institutions. In a time when we are just now  
352 seeing signs of recovery, the last thing our lenders need now  
353 is for an intrusive one-size-fits-all government regulatory  
354 agency submitting more regulation to them.

355 I thank our witness for attending. I look forward to  
356 the hearing.

357 Thank you, Madam Chair. I yield back.

358 Chairwoman CAPITO. Thank you.

359 I would like to recognize Mr. Dold, from Illinois, for  
360 the purpose--for 1 minute for the purpose of giving an  
361 opening statement.

362 Mr. DOLD. Thank you, Madam Chairman.

363 And I want to thank you, Professor Warren, for your time  
364 today.

365 And I think all of us on the panel are certainly  
366 concerned about consumer protection. However, we can't let  
367 theoretical consumer protection become the vehicle for  
368 categorically eliminating consumer choices or for effectively  
369 prohibiting new customized or sophisticated financial  
370 products.



371           Doing so, I believe, would not protect consumers or  
372 jobs. Ultimately, the question comes down to, who makes the  
373 best decisions about financial products for consumers?  
374 Unelected or unaccountable bureaucrats in Washington or the  
375 consumers themselves? At both the state and federal levels,  
376 we already have countless relevant laws, regulation and  
377 regulators not to mention great incentives for class action  
378 lawyers to privately enforce these preexisting legal  
379 standards.

380           Do we really need to superimpose another multibillion  
381 dollar bureaucracy on top of preexisting legal  
382 infrastructure? If so, shouldn't that new Federal  
383 bureaucracy at least be accountable to the American people  
384 through their elected representatives?

385           And shouldn't Congress give the new bureaucracy more  
386 guidance than relying on abstract concepts like whether a  
387 product is unfair, whether it is deceptive or risky? And  
388 should we also ensure that this new bureaucracy never  
389 jeopardizes bank safety and soundness in the name of consumer  
390 protection?

391           Our economy is already struggling with enough  
392 uncertainty and dislocation. I hope that we will all  
393 carefully reflect on whether any theoretical bureaucratic  
394 benefits justify the risk that this new bureaucracy itself  
395 poses to consumers, to jobs and to our economic growth.

396 Thank you. I yield back.

397 Chairwoman CAPITO. Thank you.

398 And I would like to recognize Mr. Canseco, from Texas,  
399 for 1 minute for the purpose of giving an opening statement.

400 Mr. CANSECO. Thank you, Madam Chairman.

401 And thank you, Ms. Warren, for being here today.

402 Now, on its face, the Consumer Financial Protection  
403 Bureau seems like a good idea, an agency whose mission is to  
404 protect the consumers. Unfortunately, like so much else  
405 within the Dodd-Frank bill, the unintended consequences of  
406 the CFPB continues to come to light.

407 It turns out that consumer protection really means  
408 consumer restriction, consumer control. Having the Federal  
409 government restrict the choices available to consumers in the  
410 name of protection sets a terrible precedent.

411 Professor Warren has styled herself as an advocate for  
412 families. If there is no greater advocate for families than  
413 a husband and a wife sitting down at the table pen and pen  
414 paper in hand planning their family's finances without  
415 government interference or oversight; there is no room for a  
416 third seat at that table. One occupied by a faceless  
417 bureaucrat who does not even know their names much less what  
418 is in their best interest.

419 American families deserve the dignity of being able to  
420 make their financial decisions by themselves. Decisions

421 | about credit cards and mortgages belong to the family at the  
422 | family table, not a Washington bureaucracy.

423 |       Thank you, and I look forward to your comments.

424 |       Chairwoman CAPITO. Thank you.

425 |       That concludes our opening statements. So, I welcome the  
426 | professor back. Look forward to hearing her testimony.

427 | Thank you.

428 STATEMENT OF MS. ELIZABETH WARREN, SPECIAL ADVISER TO THE  
429 SECRETARY OF THE TREASURY FOR THE CONSUMER FINANCIAL  
430 PROTECTION BUREAU, DEPARTMENT OF THE TREASURY

431 Ms. WARREN. Thank you, Chairwoman Capito, Ranking  
432 Member Maloney and members of the subcommittee for inviting  
433 me to testify about the work of the Consumer Financial  
434 Protection Bureau.

435 This is the first oversight hearing for the new consumer  
436 agency, and I welcome it. I hope you will permit me to begin  
437 with a personal note. I didn't come to Washington because I  
438 yearned to be a government official. I came to Washington  
439 because Congress asked me here.

440 My first job started 2 1/2 years ago when I was  
441 appointed to the Congressional Oversight Panel where I served  
442 as Chair. At the Oversight Panel, we worked to produce  
443 detailed reports for you about TARP every single month.

444 During that time, I came to Capitol Hill on many  
445 occasions to testify about our oversight of TARP and to  
446 answer your questions. You schooled me early on the  
447 importance of oversight and I believe in it.

448 Since taking the job of putting together the new bureau,  
449 I have had more than 60 one-on-one conversations with members  
450 of Congress. I have sought your good council on many issues.

451 I have--for today's hearing, I have prepared 34 pages of

452 detailed written testimony to document our startup effort.  
453 The testimony describes our vision for the new consumer  
454 bureau and the progress we have made so far. I hope it is  
455 helpful in guiding your oversight efforts.

456 The consumer bureau's mission is straightforward--make  
457 prices clear, make risks clear so consumers can compare one  
458 product to two or three others. Fine print is great for  
459 those who want to hide something, but not good for families  
460 who want to know what they are getting into. Mortgages,  
461 credit cards, checking accounts, America's families have a  
462 right to see the deal right upfront.

463 There is another issue that I know many of you are  
464 concerned about, and I like to address it head on, reports of  
465 serious deficiencies at mortgage servicers. The Department  
466 of Justice through the Financial Fraud Enforcement Task  
467 Force, has been coordinating with other Federal agencies and  
468 50 state attorneys general to review and address these  
469 deficiencies.

470 Last month, this country's chief banking regulator came  
471 to Congress and said these deficiencies have resulted in  
472 violations of state and local foreclosure laws. And they  
473 have damaged mortgage markets and the U.S. economy at large.

474 As you know, this new consumer agency is still getting  
475 started and doesn't yet have any enforcement authority.  
476 Therefore, we will not be a party to any formal settlement

477 with mortgage servicers.

478       However, later this year, the bureau will receive  
479 authority to set standards for the mortgage servicing  
480 industry. For this reason, Secretary Geithner, the Justice  
481 department and other agencies have requested the consumer  
482 agency to provide advice on this matter.

483       We have provided our comment, and let me tell you why.  
484 ~~If there had been a cop on the beat with the authority to~~  
485 hold mortgage servicers accountable a half dozen years ago,  
486 if there had been a consumer agency in place, the problems in  
487 mortgage servicing would have been exposed early and fixed  
488 while they were still small, long before they became a  
489 national scandal.

490       The mortgage servicing problem illustrates the  
491 importance of fair, consistent enforcement. We need a cop on  
492 the beat that American families can count on. It is critical  
493 that we get this right, a real cop on the beat.

494       Right now, our government is trying to work out a  
495 settlement to end this scandal. This is a law enforcement  
496 matter. It includes a bipartisan or non-partisan roster of  
497 law enforcement official at Federal agencies, at the  
498 Department of Justice and 50 state attorneys general.

499       While it would be inappropriate for me or for anyone  
500 else in government disclose the substance of the discussions  
501 regarding an ongoing enforcement matter. I do want to say

502 | that I am glad that the consumer agency has been able to  
503 | provide assistance in this important matter.

504 |       I thank Congress for creating this agency to help  
505 | provide a voice for American families; that is why we are  
506 | here and that is what we are doing.

507 |       Thank you, Congresswoman.

508 |       [The statement of Ms. Warren follows:]

509 | \*\*\*\*\* INSERT \*\*\*\*\*

510 Chairwoman CAPITO. Thank you, Professor Warren.

511 I will start the questioning and then we will go through  
512 the various members.

513 In reading your statement and looking at the goals for  
514 the bureau that have been lined out in your statement, you  
515 have mentioned repeatedly going back in and looking at old  
516 regulations, removing old regulations and determining which  
517 of those are obsolete instead of piling more and more on top.

518 But as I was reading, I couldn't really see where you  
519 would actually--actually that is an effort that is moving  
520 forward in terms of weeding out and regulatory reform with  
521 the existing regulations.

522 Can you give me just a brief update on where you are on  
523 that particular issue?

524 Ms. WARREN. Yes, ma'am.

525 I really am glad that you asked this question because  
526 what it permits us to talk about is not just our overall, but  
527 we really are trying to look through regulations and find  
528 places where they can be more efficient and I should mention  
529 this, our process for doing that.

530 We have reached out particularly to community banks, to  
531 credit unions, to financial industry, people across the  
532 spectrum to try to learn from them where the regulations are  
533 most problematic.

534 And we have settled on our first priorities for this



535 agency, and that is to take two forms. One is called the  
536 PEEL form and the other is called the RESPA form. These are  
537 forms, you may remember the last time you bought a home or  
538 did a mortgage refinancing, somewhere in those stack of  
539 documents that you dealt with.

540       These are two forms that community bankers tell me, have  
541 roughly about an 80 percent overlap in terms of the content.  
542 But they are written differently. They are organized  
543 differently. They have different pieces to them.

544       And as a result, they are expensive to fill out. They  
545 have regulatory compliance cost, that is they have got to  
546 show that they comply with the regulations. And there are  
547 real regulatory consequences if they get something wrong, if  
548 they leave something blank.

549       In fact in several meetings, I have had community  
550 bankers and credit unions come to me and show me these forms  
551 and show me what it is like, and how much time they have to  
552 spend it, and how much training to fill these out.

553       So, what we have proposed to do at the consumer agency,  
554 and we are very much doing this in concert with the banking  
555 industry and with the mortgage industry is to bring those two  
556 forms together.

557       And I want to pause here to say, you know, you think  
558 that wouldn't be a hard thing to do if there is that much  
559 overlap. Because financial regulation has been scattered,

560 | the consumer issues have been scattered among seven different  
561 | agencies, this particular one has been held by two different  
562 | agencies. And there have been negotiations for more than 15  
563 | years to try to merge those two forms into one.

564 |       Well now, they are both coming to the new Consumer  
565 | Financial Protection Bureau. We are now able to work with  
566 | the community banks and the credit unions with others in the  
567 | industry. And we are going to put those together. What we  
568 | are looking for is a one-page mortgage shopping sheet that is  
569 | simpler, easier, shorter, more value to the consumer. So,  
570 | lower regulatory cost, higher value to the consumer.

571 |       We regard that as the sweet spot for this agency.

572 |       Chairwoman CAPITO. All right. Thank you.

573 |       I am interested in your response. You mentioned more  
574 | than a few times community banks and credit unions. I am  
575 | sure that is by no accident. But in creating this bureau,  
576 | those entities were led to believe that they were going to be  
577 | exempted from the purview of the CFPB which, in your comment  
578 | pretty much nullify that impression.

579 |       You are going to them for ideas. Your creating for--a  
580 | form. And I applaud that effort, having bought homes before.

581 |       It is very confusing. And nobody can read through those  
582 | forms. We all know that.

583 |       But, I think, you are backing up what my banker,  
584 | community banker, Charles Natty when he testified before

585 | this committee said, that, you know, he has already had a  
586 | thousand pages of new proposed rules. There will be  
587 | thousands more. He has already had to hire one person in a  
588 | community bank to meet these challenges.

589 |         And I think this is a question that goes to the heart of  
590 | the over reach or implicitly exempting these community banks  
591 | who don't have the \$10 billion level. And actually they are  
592 | a part of this.

593 |         And I will say just--because I am running out of time, I  
594 | only have 24 seconds, in terms of the servicer issue, I am  
595 | glad. Obviously we addressed that a lot in our opening  
596 | statements. You kept saying, cop on the beat, cop on the  
597 | beat.

598 |         The real question is, this agency doesn't really go into  
599 | effect until July and are you really a cop on the beat? Can  
600 | you perform at the cop on the beat when you really haven't  
601 | had your, I don't know, your training yet or you haven't been  
602 | equipped yet.

603 |         And I think that the properness of that is what is come  
604 | into question.

605 |         So with that, I will ask Mrs. Maloney--

606 |         Mrs. MALONEY. Thank you.

607 |         Thank you very much. First of all I would like to ask a  
608 | unanimous consent to place into record an article that was in  
609 | the Wall Street Journal yesterday on the CFPBs efforts to

610 reach to the community, to the financial institutions across  
611 our nation and outlying some of their efforts to get input  
612 and to respond to concerns of the public.

613 [The information follows:]

614 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

615 Chairwoman CAPITO. Without objection.

616 Mrs. MALONEY. Thank you so much.

617 The Dodd-Frank Act has a slew of checks and balances  
618 that are imposed on the CFPB so that it is accountable to the  
619 American people and Congress.

620 And could you identify some of those and go through some  
621 of those checks and balances?

622 Ms. WARREN. Yes. Thank you, Congresswoman.

623 I would just like to start by making the point about  
624 accountability. As I said, I came here originally because  
625 Congress asked me to be part of the effort to oversee TARP  
626 through the Congressional oversight panel.

627 But I hope that every time we talk about accountability  
628 that we are also talking about the accountability of  
629 financial institutions, that there will be someone, that  
630 there will be a cop on the beat to make sure that they follow  
631 the law.

632 So, in terms of accountability, accountability for the  
633 financial services industry, accountability for this new  
634 bureau, let me remind everyone of the structure of this new  
635 bureau.

636 It is the only agency in all of government--let me  
637 underline that--the only agency whose rules can be overruled,  
638 obliterated, wiped out, negated by other agencies. The  
639 structure of Dodd-Frank is quite frankly to make this the one

640 | agency that other agencies can come in and say under the  
641 | Financial Stability Oversight Council, "We don't like that  
642 | rule. And so, we are not going to permit that rule to become  
643 | law."

644 |       That is not true for any other agency.

645 |       The second thing is to focus on banking regulators. In  
646 | case of banking regulators throughout American history, it  
647 | has been the case that banking regulators--banking regulators  
648 | are funded outside the political process. They have always  
649 | had independent funding.

650 |       And the consumer agency, the one voice for American  
651 | families, should have that same independence. So, I think  
652 | the reasons for making banking regulators independent is  
653 | pretty obvious given the way that the process works.

654 |       But I will say again, here in terms of the budget that  
655 | unlike any of the other banking regulators, the consumer  
656 | banking regulator will not be able to set his own budget if  
657 | the budget is capped. It is capped by statute in the  
658 | Dodd-Frank.

659 |       If the consumer agency thinks that it doesn't have  
660 | enough money to put enough cops on the beat in order to  
661 | supervise the lending industry or to supervise mortgage  
662 | servicers, the consumer agency has to come back to Congress  
663 | and ask Congress for more money.

664 |       That means in these two critical respects, the consumer

665 | agency is not the strongest agency in government. It is the  
666 | most constrained and the most accountable agency in  
667 | government.

668 | I should also note in the overall structure of  
669 | Dodd-Frank because I think it is important is that there are  
670 | about 18 federal statutes that have bits and pieces and  
671 | chunks of consumer financial protection.

672 | Currently those 18 statutes are scattered among seven  
673 | different federal agencies. Seven different agencies who  
674 | have responsibility for rule writing and responsibility for  
675 | enforcement in different bits and pieces. But most  
676 | critically, for no agency is it of first importance.

677 | What the Consumer Financial Protection Bureau, what  
678 | Dodd-Frank provided in its first point was to say, we are  
679 | going to take existing law, not changing existing law, we are  
680 | going to take existing law and we are going to gather it up.

681 | And instead of having the duplication, the conflict, the  
682 | inability of the Chairman and I were talking about to be able  
683 | to negotiate and get a single form, we are going to sweep  
684 | that inefficiency out. We are going to sweep that  
685 | inattention out. And we are going to concentrate on exactly  
686 | one agency that will be accountable on consumer issues.

687 | Now, there are many more cases, I have referred to them  
688 | in my testimony, Congresswoman. I apologize for going on so  
689 | long. But I think the issue of accountability is really

690 | important. And I just wanted to hit the three highlights.

691 | Thank you.

692 | Chairwoman CAPITO. Thank you.

693 | I would like to recognize the Chairman of the full  
694 | committee, Mr. Bachus for questioning.

695 | Chairman BACHUS. Thank you.

696 | Professor Warren, you have participated in the  
697 | foreclosure settlement discussions with the banks. And you  
698 | have acknowledged that earlier?

699 | Ms. WARREN. Actually, Congressman, let me put this more  
700 | clearly. We have been asked for advice by the Department of  
701 | Justice, by the Secretary of the Treasury, and by other  
702 | federal agencies. And when asked for advice, we have given  
703 | our advice.

704 | Chairman BACHUS. Sure. And did you that as the--as  
705 | advice from the Consumer Financial Protection Board? Was it  
706 | given--were they consulting you in that role? Or what role  
707 | were they ask you when you say we were asked for advised, who  
708 | is the we?

709 | Ms. WARREN. Well, right now as you know, Congressman,  
710 | we are a part of Treasury. We are just a division.

711 | Chairman BACHUS. The CFPB when you say we are.

712 | Ms. WARREN. That is right. The consumer, the standing  
713 | up of the consumer agency.

714 | Chairman BACHUS. So, you were asked as, in your role as



715 the CFPB?

716 Ms. WARREN. As part of Treasury, sir.

717 Chairman BACHUS. Right, as part of Treasury.

718 Ms. WARREN. That is right. We are part of Treasury.

719 And in fact I think the first request was specifically from  
720 Secretary Geithner.

721 Chairman BACHUS. Okay. And Secretary Geithner asked  
722 you for advice on what to do or how to structure this  
723 settlement?

724 Ms. WARREN. Well, as I said he asked for advice about  
725 the ongoing problem we have with the mortgage servicers who,  
726 the OCC said have violated both state and federal law.

727 Chairman BACHUS. Okay. And these are criminal and not  
728 civil enforcement procedures?

729 Ms. WARREN. It is my understanding that what the  
730 Department of Justice is dealing with. I don't know whether  
731 there are criminal proceedings involved or not.

732 Chairman BACHUS. Have you sat down and talked to the  
733 Justice Department about these enforcement actions?

734 Ms. WARREN. The Justice Department asked for our  
735 advice. And--

736 Chairman BACHUS. Yes. And again, our, being the CFPB?

737 Ms. WARREN. Well, our, being a section of Treasury.

738 Chairman BACHUS. A section of Treasury, okay.

739 Ms. WARREN. That is right.

740 Chairman BACHUS. Now you--do you under--or do you  
741 envision yourself as the acting director of this, to be  
742 agency?

743 Ms. WARREN. No, Congressman. There is no acting  
744 director.

745 Chairman BACHUS. Okay. That is right. So, you  
746 envision yourself as just a political advisor to the  
747 President?

748 Ms. WARREN. Well, I actually have two jobs.

749 Chairman BACHUS. Okay.

750 Ms. WARREN. One is that I have a job as an assistant to  
751 the President. And then the job that is the 14 hour day job  
752 and that is the special advisor to the--special assistant I  
753 believe it is--to the Secretary of the Treasury for the  
754 purpose of starting the Consumer Financial Protection Bureau.

755 Chairman BACHUS. Okay. Have you discussed with  
756 Secretary Geithner or with the President a nomination, who  
757 should be nominated to head this agency?

758 Ms. WARREN. Well, in the course of my work in trying to  
759 get this agency going, I have had many conversations with the  
760 Secretary, with the White House, and with others about  
761 those--the qualities of what might be needed, the qualities  
762 of the person who would run the consumer agency. And--

763 Chairman BACHUS. What advice did--have they told you  
764 when they will make a nomination? Have you urged them to

765 | make a nomination, to nominate someone?

766 | Ms. WARREN. Congressman, I tried to make it clear that  
767 | it is important that we have a nomination.

768 | Chairman BACHUS. And have they done almost immediately  
769 | would you say?

770 | Ms. WARREN. I would not want to describe any  
771 | conversation in detail. But I am aware of the need for--

772 | Chairman BACHUS. Urgency?

773 | Ms. WARREN. Urgency.

774 | Chairman BACHUS. All right. Have they given you any  
775 | indication? What if they made a recess appointment and then  
776 | that recess appointment was--would you accept that or would  
777 | you say, "I would rather not have a recess appointment"  
778 | knowing that type of blow back from that"

779 | Ms. WARREN. Well, Congressman, there is a process in  
780 | place. That much I can say for certain. And I have tried to  
781 | contribute what I can. And I understand that there will be a  
782 | nomination soon.

783 | Chairman BACHUS. Okay.

784 | Ms. WARREN. But that is all I know, sir.

785 | Chairman BACHUS. Let me ask you this, the mortgage--the  
786 | setting mortgage servicing standards.

787 | Ms. WARREN. Yes, sir.

788 | Chairman BACHUS. You have engaged in--you have given  
789 | input and advice into those. Is that correct?

790 Ms. WARREN. When we have been asked by the Secretary,  
791 by the Department of Justice and others, we have given advice  
792 about mortgage servicing. Yes, sir.

793 Chairman BACHUS. Okay..

794 Thank you very much.

795 Ms. WARREN. Thank you.

796 Mr. ROYCE. [Presiding.] We will go now to Mr.  
797 Gutierrez, of Illinois.

798 Mr. GUTIERREZ. Thank you so much, professor for coming  
799 before the committee this morning. And I wish you Godspeed  
800 in your endeavors.

801 I find it interesting that we are worried about how it  
802 is that it is going to become a permanent nomination to head  
803 the agency and what is going on within the servicers and the  
804 different departments.

805 And I think we are going to find that that is the theme  
806 that would probably be carried out most of the morning and  
807 continued out during the next couple of years.

808 I am really concerned about consumers and not the  
809 financial institutions because I have a funny feeling that if  
810 we--not that I would do this--if we kind of carded everybody  
811 that is sitting behind you, the banks, and the investment  
812 bankers, and the pay-day lenders, and the rent-to-own.

813 And they are out there. And they are very well  
814 represented. I don't know how many budget makers are very

815 | well represented out there. So, I am not to worry because as  
816 | a member of the Congress I can assure everybody here that  
817 | those from financial institutions are ready, willing, and  
818 | able, and always them and have had a strong voice here,  
819 | sometimes an overwhelming voice. And how it is the  
820 | legislative process works.

821 |         So, I would like to ask you, when we did Dodd-Frank--and  
822 | I just want to make this clear--are you able to supervise,  
823 | regulate car dealerships?

824 |         Ms. WARREN. Congressman, no. We are not. We will not  
825 | be able to do that.

826 |         Mr. GUTIERREZ. And that is expressly prohibited in  
827 | Dodd-Frank.

828 |         Ms. WARREN. Yes, sir. It is.

829 |         Mr. GUTIERREZ. Okay. I just wanted to make clear that  
830 | as for of us that were here while we created your agency, the  
831 | financial institutions including the car dealers got their  
832 | take. And they got to be taken out.

833 |         Now, I just want to say that as I sit around my family  
834 | table, I assure you they were here. The banks were here.  
835 | Goldman Sachs was here. The car dealers were here. The  
836 | pay-day lenders were here. The rent-to-own were here. They  
837 | were all here.

838 |         And let me tell you, they were extremely, to my chagrin,  
839 | too successful in terms of crafting. So, let's not all be

840 | kind of crying and feeling all sorry and sympathetic about  
841 | the poor corporations out there.

842 |       I am concerned about that man and woman at the dining  
843 | room table. And it does seem incredible to me that--let me  
844 | see, before I bought my house, the greatest financial  
845 | investment or decision I have to make was buying a car. And  
846 | I think for a large portion of the American public, it will  
847 | be the one instance.

848 |       And I think for all of us unless there is something  
849 | different about you all and, you know, that sit in this  
850 | committee, it is a scary proposition buying that car. And it  
851 | is rife with lots of danger especially financial exposure if  
852 | not done correctly.

853 |       So, I am sorry that I don't--I am not too worried about  
854 | them being here.

855 |       We created the Consumer Financial Protection agency last  
856 | year to protect consumers from unfair, deceptive, and abusive  
857 | practices and also to improve transparency, effectiveness,  
858 | and fairness for consumer financial products and services.

859 |       Some people would argue that we already have federal  
860 | agencies that serve as regulating body. Can you, Professor  
861 | Elizabeth Warren, describe how is it that the Consumer  
862 | Financial Protection Bureau is different from regulators like  
863 | the Federal Reserve and the Office of the Controller of the  
864 | Currency?

865 Ms. WARREN. Thank you, Congressman.

866 You know, I think the big difference is about what  
867 people want to do. The Fed is a terrific agency. It does a  
868 lot of things. But the people who go to the Fed go to the  
869 Fed because they want to do monetary policy. And that is how  
870 they are evaluated by Congress. They come back. They make  
871 regular reports.

872 I think that it was Chairman Frank 2 years ago, who made  
873 the point that in 20 years of reports from the Fed back to  
874 Congress, the question of consumer protection never came up.

875 And so, what this is really about is saying those powers  
876 that had been with the Fed will now move to a new consumer  
877 agency. And there will be someone who will act as a cop on  
878 the beat. Who will be out there to look at how mortgage  
879 servicers--just to pick an example out of the headlines--are  
880 executing on their obligations, whether or not they are  
881 following the law.

882 Someone there to watch and someone to make sure and be  
883 able to say to the American people no matter how big you are,  
884 you have to follow the rules. The laws are the laws and you  
885 have got to follow them.

886 The Office of the Controller of the Currency has done a  
887 lot of different kind of work. But principally, they are in  
888 the work of credential regulation. They have watched out for  
889 how they can protect the financial institutions.

890           The difficulty has been that in extension to consumer  
891 issues, to consumer products like the kinds of mortgages that  
892 made it into the system over the last 10 years, turned out  
893 now only to be ruinous for American families, but also  
894 ruinous for American banks.

895           So, again, the idea the Congress had was to say, "Let's  
896 take those functions and move them to the new Consumer  
897 Financial Protection Bureau where we got to cop on the beat  
898 to make sure that there is someone who is going to enforce  
899 the law.

900           If we had had this agency, 6 years ago, 8 years ago, we  
901 would not be in the mess we are in today.

902           Mr. ROYCE. If I could interject here, it is also  
903 government intervention. If perhaps, if we restructure  
904 things with the agency, but if we also did not have the  
905 temerity to believe that Congress should go in and muscle the  
906 market and get down payments down to zero, if we hadn't had  
907 the temerity to pass the GSE Act and allow a  
908 government-sponsored enterprise to go into business of  
909 arbitrage and over-leverage at 101, what I am sharing with  
910 you is that there are a number of factors.

911           Ms. WARREN. Sure.

912           Mr. ROYCE. A number of factors. And some of it is  
913 because of Congressional, you know, intervention in the  
914 market. And also because Congress tied the hands of the



915 regulators, and I am talking now about the prudential  
916 regulators, the safety and soundness regulators to actually  
917 go in and de-leverage the portfolios for example for systemic  
918 risk with Freddie Mae and Freddie Mac.

919 I witnessed all of that.

920 I think that there is an additional consideration here.  
921 And part of it--and we have talked about this--part of it is  
922 the idea that Washington can better understand what the  
923 consumer demands of the consumer.

924 And I will just give you one example. It was with  
925 overdraft--draft protection. The presumption here is  
926 Americans don't want overdraft protection. They don't want  
927 to be paying for that. We are going to have--they are all  
928 going to have to opt in to get that.

929 And what did we find when the government did that?  
930 Well, they all opted in. I mean, overwhelmingly, yes.  
931 People wanted that service. But the presumption here was  
932 that, that was a waste of, you know.

933 So I just think those--the idea that those in government  
934 will dictate what products are allowed in the market and  
935 which are not regardless of the willing buyer and seller, I  
936 mean, it is a consideration in all of these as is the  
937 consideration of the fact that your agency is going to be  
938 able to act outside of the normal appropriations process.  
939 That is unique. That is new. I mean, the idea that it won't

940 | be held accountable for the actions it takes in terms of the  
941 | budget.

942 |       But my main concern is an additional concern and this I  
943 | have shared with you. It comes from putting safety and  
944 | soundness protection behind consumer protection in our  
945 | regulatory structure.

946 |       And as I have said, we have tried that with the GSEs.  
947 | We have tried that where we have this goal--everybody has the  
948 | right to own a home, right? And Congress interprets that  
949 | right--to me, well, if you don't have any down payment you  
950 | should have a right to own a home, right at the down payment  
951 | zero.

952 |       If nobody will buy the sub-prime loan because you don't  
953 | any credit and you don't have a down payment and nobody will  
954 | buy this junk called Countrywide, why not mandate with the  
955 | goals, through HUD, through HUD, that this has to happen?

956 |       So, we do that and we set up bifurcated regulation where  
957 | HUD is in your side of the equation here, the consumer  
958 | protection, HUD is driving the goals. And on the other side,  
959 | you had a OFHEO, a weak regulator--the prudential regulator  
960 | that was supposed to be regulating for safety and soundness.  
961 | But guess what? They couldn't step in and deleverage the  
962 | portfolios, because the first consideration was not safety  
963 | and soundness.

964 |       We have set this up so that the first consideration is

965 not safety and soundness. And having gone through this and  
966 watched this--this is my issue--we have tried bifurcated  
967 regulation, OFH--we have had the regulators, current and  
968 past, who had this particular responsibility both tell us,  
969 this helped to create the collapse in the housing market and  
970 the wider systemic risk. Yes, it did. And had we had a  
971 single regulator, it would have been better, okay?

972 So, all of us have heard this debate and I just wanted  
973 your take on that--

974 Ms. WARREN. Thank you, Congressman. I think this is a  
975 really important issue that you have raised. The point about  
976 safety and soundness I think also goes to the point about  
977 dictating products. I want to be really clear about the  
978 vision of this agency.

979 What we are about is making the price clear to  
980 consumers, making the risks clear to consumers, making it so  
981 that the family really has a chance to compare two or three  
982 credit cards or a couple mortgages, to figure out two  
983 things--can I really afford this thing? And, secondly, have  
984 I gotten the one that is best? Have I gotten the cheapest  
985 one or the best service or the one with the new cool iPhone  
986 app?

987 I think Congress was very cautious on your point when it  
988 set up the new consumer agency.

989 Mr. ROYCE. If I could interrupt you for just a second--

990 Ms. WARREN. Of course.

991 Mr. ROYCE. I had an amendment that would make safety  
992 and soundness the first priority. It would have the  
993 prudential regulators sign off on that and the majority  
994 opposed that amendment. So, we weren't that cautious because  
995 the amendment wasn't accepted. So--

996 Ms. WARREN. Although, you do remember Congressman that  
997 the way it was ultimately set up is that the other banking  
998 regulators, the safety and soundness banking regulators can  
999 overrule when they--

1000 Mr. ROYCE. With a high, very high threshold as suppose  
1001 to--

1002 Ms. WARREN. No.

1003 Mr. ROYCE. I have given you the example of what really  
1004 happened in the world. It happened once. It could happen  
1005 again and it is likely to I think.

1006 Ms. WARREN. And I think this is why the consumer agency  
1007 was set up, so that its rule--whatever it promulgates can be  
1008 overruled by a combination of the safety and soundness  
1009 regulators, something that exists literally nowhere in  
1010 government.

1011 You know I should say because I think this is important.  
1012 For families to know the price--for families to know the--

1013 Mr. ROYCE. We have no--on that.

1014 Ms. WARREN. And that is what--

1015 Mr. ROYCE. The other implications of it.

1016 Ms. WARREN. --the safety and soundness and I appreciate  
1017 that, Congressman.

1018 Mr. ROYCE. Right. Right.

1019 Ms. WARREN. I know we have had good conversations on  
1020 that. I appreciate it.

1021 Mr. ROYCE. Thank you, Professor Warren. We are going  
1022 to go Mr. Watt, of North Carolina. Thank you.

1023 Ms. WARREN. Thank you.

1024 Mr. WATT. Thank you, Mr. Chairman, and I yield 30  
1025 seconds to the Ranking Member to clarify this point. I will  
1026 clarify it myself.

1027 Mrs. MALONEY. I think we should all continue to clarify  
1028 that the CSPB any action can be overruled by the Financial  
1029 Stability Oversight Committee which includes the OCC, the  
1030 FDIC, the Federal Reserve, and safety and soundness is their  
1031 top priority. Any action that the CSPB has written into  
1032 statute can be overruled on safety and soundness by the  
1033 Financial Stability Oversight Committee. So, I wanted to  
1034 clarify that and I yield back to the gentleman.

1035 Mr. WATT. I thank the--

1036 Mr. ROYCE. Will the gentleman yield?

1037 Mr. WATT. Yes. For a second. If you are going to  
1038 yield me some more time now.

1039 Mr. ROYCE. I will yield you more time. If I could--I

1040 just want to continue the--

1041 Mr. WATT. I am happy to yield to the gentleman if he--

1042 Mr. LYNCH. Point of order.

1043 Mr. ROYCE. I appreciate that.

1044 Mr. LYNCH. Point of order, Mr. Chairman.

1045 Mr. ROYCE. Yes.

1046 Mr. LYNCH. As one of the junior members of this, I am  
1047 just concerned about the allocation of time. You just made a  
1048 5-minute interjection.

1049 Mr. ROYCE. You are making a good point. I go to Mr.  
1050 Watt.

1051 Mr. WATT. Well, I think he identified himself on his  
1052 own time for that 5-minute interjection. I don't think he  
1053 was out of order. He never identified--he never yielded  
1054 himself time. But I assume that you--

1055 Mr. MCHENRY. --consent that the gentleman may have 30  
1056 additional seconds.

1057 Ms. WARREN. Okay. Thank you.

1058 Mr. ROYCE. We are going to go to Mr. Watt. Go ahead  
1059 with your--

1060 Mr. WATT. That doesn't compensate me for the time that  
1061 is already running.

1062 Mr. ROYCE. You have the 30 seconds, Mr. Watt.

1063 Mr. WATT. That doesn't compensate me 30 seconds--

1064 Mr. ROYCE. Mr. Watt, go ahead. I am going to give you

1065 | your time--

1066 |       Mr. WATT. I appreciate that. Let me welcome Ms. Warren  
1067 | here and thank you for being here. And I once thought--and I  
1068 | am getting a copy of the speech that you delivered to the  
1069 | financial services round table. I am going to put it in the  
1070 | record.

1071 |       I was there. I thought it was one of the most  
1072 | thoughtful speeches I have ever heard given to a group that  
1073 | came into the room with an adversarial nature I will describe  
1074 | it, and walked out of the room I think feeling a lot more  
1075 | confident that none of the horror stories or horror  
1076 | possibilities that have been postulated and tossed around  
1077 | rhetorically in the political context were about to happen as  
1078 | a result of the passage of Dodd-Frank and the creation and  
1079 | expanding up of the Consumer Financial Protection Bureau.

1080 |       I want to compliment you--I came to you that very night  
1081 | and complimented you on the speech and asked you to send me a  
1082 | copy of it and I have circulated it to a number of the  
1083 | financial services people in my congressional district when  
1084 | they have raised concerns, many of the same rhetorical  
1085 | concerns that have been raised.

1086 |       I wanted to compliment you again today on your  
1087 | presentation, the 30 some pages that you have given to us  
1088 | that outlines how this agency is being stood up and I want to  
1089 | recommend to my colleagues, particularly in light of the

1090 debate that we had yesterday and the day before about how the  
1091 Consumer Financial Protection Bureau has no oversight.

1092 I want to particularly recommend to them pages 18, 19  
1093 and 20 of Ms. Warren's testimony, that outlines in detail the  
1094 amount of oversight that this agency has been given that far,  
1095 far, far exceeds any oversight than any other financial  
1096 regulator has, including the point that the Ranking Member  
1097 just made that any rule that this agency promulgates can  
1098 first of all like any other rule be reversed by Congress.  
1099 And second of all--or maybe I should put it in the  
1100 reverse--or the first of all, it can be reversed by this  
1101 oversight board. And then, second of all, if we are not  
1102 happy with them, we can reverse them ourselves as we can do  
1103 with any other financial services or any other regulation  
1104 that is promulgated by a federal government agency.

1105 And with that, my time is waning. I don't know how much  
1106 time I have got.

1107 Mr. ROYCE. No. You have more time.

1108 Mr. WATT. And I do want to ask unanimous consent to put  
1109 into the record the speech that was delivered to the  
1110 financial services round table leadership dinner by Elizabeth  
1111 Warren on Wednesday, September 29, 2010, even with her  
1112 personal note to me saying, "With thanks, Ms. Warren."

1113 [The information follows:]



1114 | \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

1115 Mr. ROYCE. Without objection, it is included including  
1116 the personal note.

1117 Mr. WATT. And I want to commend that to my colleagues,  
1118 if that does not set them at ease--in fact, I kind of gone--I  
1119 am probably undermining your credibility with the consumer  
1120 groups out there--but I am speculating that at the end of  
1121 this stand up period, it may be the financial services  
1122 industry that is the biggest advocate for Ms. Warren to be  
1123 the head of the Consumer Financial Protection Bureau, because  
1124 of her approach to these very tough issues, streamlining  
1125 regulation, getting down to simple forms, the kinds of things  
1126 that both sides of this committee have advocated and  
1127 certainly have been the primary focus of the advocacy of my  
1128 Republican colleagues on this committee.

1129 This is not an ogre stand up person, Ms. Warren, nor is  
1130 it an ogre Consumer Financial Protection Bureau. This is an  
1131 important ingredient for consumers in this country and I  
1132 regret I didn't have a chance to ask to ask you any  
1133 questions. I am just advocating for it.

1134 Mr. ROYCE. It wasn't for a lack of time. We go now to  
1135 Mr. McHenry for his questions.

1136 Mr. MCHENRY. Thank you, Ms. Warren for being here.  
1137 Now, I understand your protocol point you--

1138 Mr. WATT. Will the gentleman yield for just a second?  
1139 Just so I can be clear that this is on the record. Did I get

1140 the unanimous--

1141 Mr. ROYCE. You got the unanimous--

1142 Mr. WATT. Okay. I am sorry. I ask unanimous consent  
1143 for the gentleman to have 30 additional seconds.

1144 Mr. MCHENRY. Are you going to yield me 30 seconds?

1145 Thanks. So, you are a political appointee of the White House  
1146 and a political appointee in Treasury.

1147 Now, I want to go through a scenario with you just to  
1148 get context for folks on your position. And so, walk with me  
1149 here. I mean, this is more of a mind exercise. So, I want  
1150 your judgment on the merits of this.

1151 It is shortly after the Enron scandal. Okay? So, let's  
1152 rewind. And the Justice Department has a special task force  
1153 to go after Ken Lay and Enron. In your opinion, would it be  
1154 an appropriate thing for the White House Assistant to the  
1155 President for Energy Policy, who is rumored to be a potential  
1156 nominee to head up (FIRC) to call up the Attorney General and  
1157 give advice on how to deal with the Enron matter on what  
1158 terms to potentially settle?

1159 Ms. WARREN. Congressman, as best I remember, following  
1160 the Enron scandal, the Justice Department asked for advice  
1161 from a number of specialists.

1162 Mr. MCHENRY. Right. Did they ask Karl Rove?

1163 Ms. WARREN. --outside the government. I am not sure if  
1164 they asked for his advice.

1165 Mr. MCHENRY. Okay, but I am--

1166 Ms. WARREN. But I do know they called my teaching  
1167 institution and--

1168 Mr. MCHENRY. Right, but that is different. Look, we  
1169 are talking about a political appointee in the White House.  
1170 So I am just trying to see if you understand why the position  
1171 you are currently in is controversial. Do you have an  
1172 understanding that you are in a unique position. The fact  
1173 that you are a political appointee, you have not have been  
1174 confirmed by the Senate to head this institution that you are  
1175 in all terms directing, you have no statutory authority to  
1176 engage in these matters that you are engaging in.

1177 Do you understand why it is controversial? It is  
1178 similar to, you know, Karl Rove had a similar position in  
1179 the White House of the last President and if he injected  
1180 himself on settlement matters like this, there would be a hue  
1181 and cry. Do you understand that this is a bit controversial  
1182 for folks?

1183 Ms. WARREN. Congressman--

1184 Mr. MCHENRY. Yes would be a good answer.

1185 Ms. WARREN. I work for the Secretary of the Treasury.  
1186 And in my work for the Secretary of the Treasury, I have  
1187 begun to help put this new consumer agency together. And we  
1188 have tried to build already a lot of expertise on a lot of  
1189 different market facing issues, on credit cards, on

1190 mortgages, on installment loans, on payment systems, and on  
1191 credit reporting.

1192 When the Secretary of the Treasury came to me and said  
1193 we would like your advice, I was glad to--

1194 Mr. MCHENRY. Don't you answer directly to the President  
1195 as well?

1196 Ms. WARREN. When the President asks for my advice, I--

1197 Mr. MCHENRY. Yes or no, do you answer directly to the  
1198 President, Ms. Warren?

1199 Ms. WARREN. I answer when the President asks for my  
1200 advice.

1201 Mr. MCHENRY. Okay. So you--it is in your title--I am  
1202 just trying to make sure you have an understanding of the  
1203 magnitude of the challenge faced on your unique position  
1204 here. And under what statutory authority are you currently  
1205 acting?

1206 Ms. WARREN. I am an employee of the Treasury of the  
1207 United States.

1208 Mr. MCHENRY. Okay, sounds eminently reasonable.

1209 Ms. WARREN. And the Secretary--

1210 Mr. MCHENRY. I want to get in to the settlement  
1211 question because media reports are saying that there is a \$20  
1212 billion--some are saying \$30 billion--settlement. It is my  
1213 understanding that if the U.S. government reaches monetary  
1214 settlements with banks, the funds would go to the U.S.

1215 Treasury. That is how--a very standard process over the  
1216 course of our nation's history.

1217 Therefore, it wouldn't be legally permissible for the  
1218 HUD or even CFPB or any other regulator to resolve these  
1219 matters by having these funds directed to any other place  
1220 than back to the taxpayers, back to the Treasury. To  
1221 allocate these settlement funds, would you need to come back  
1222 to Congress for authorization to spend them?

1223 Ms. WARREN. Congressman, we are not involved, we are  
1224 not negotiating with anyone at the consumer agency. This is  
1225 a law enforcement matter that is headed by the Department of  
1226 Justice--

1227 Mr. MCHENRY. So you are not engaged in these  
1228 discussions?

1229 Ms. WARREN. --in their financial fraud enforcement  
1230 taskforce. And so the negotiations--

1231 Mr. MCHENRY. So you are not engaged in these  
1232 discussions?

1233 Ms. WARREN. The negotiations--

1234 Mr. MCHENRY. I am reclaiming my time. Are you engaged  
1235 in these discussions on the settlement?

1236 Ms. WARREN. The negotiations with private parties are  
1237 entirely directed by the Department of Justice, by the State  
1238 of Attorneys General, by other Federal agencies.

1239 Mr. MCHENRY. So you are not engaged in these

1240 discussions?

1241 Ms. WARREN. We do not negotiate with private parties.  
1242 We have been asked for advice, Congressman. And wherever we  
1243 can be helpful, we are not only glad to be helpful, we are  
1244 proud to be helpful.

1245 Chairwoman CAPITO. [Presiding.] Thank you.

1246 Mr. Hinojosa, for 5 minutes.

1247 Mr. HINOJOSA. Thank you, Madam Chair.

1248 Professor Elizabeth Warren, thank you for your valuable  
1249 advice to the U.S. Treasury and to our President. I have had  
1250 lots of meetings with representatives of the financial  
1251 services, community banks, regional banks, and others. And I  
1252 want to say that Texas bankers argue that the Consumers  
1253 Financial Protection Bureau will put many of them out of  
1254 business.

1255 Bankers argue that the bureau will force banks to comply  
1256 with consumer laws and regulations that could eliminate one  
1257 key source of bank revenue--that is the overdraft fees.  
1258 Banks also, both small and medium size regional banks, are  
1259 concerned that they might lose another key source of  
1260 revenue--interchange fees.

1261 Having seen how consumers are struggling with the  
1262 increase in cost of groceries, the increase in cost of  
1263 gasoline, many having lost their jobs, many having lost their  
1264 homes, I can't help but want to root for your work and say

1265 | that consumers need some protection. They don't have the  
1266 | lobbyists that we have seen here in Congress working to  
1267 | protect the representatives of all the financial services.

1268 |       Tell us, what we can do in the Congress to ensure that  
1269 | this law is implemented and that will help our consumers get  
1270 | jobs and, hopefully, put our country back into the prosperity  
1271 | that we experienced during the 1990s?

1272 |       Ms. WARREN. Thank you, Congressman. That is an  
1273 | enormously thoughtful and heartfelt question. And I wrestle  
1274 | with the issues you describe every single day. America's  
1275 | working families have really been on the ropes for a long  
1276 | time. Flat wages, rising core expenses have caused many  
1277 | families to turn to debt only to find that what they thought  
1278 | would be a temporary help was far more dangerous and far more  
1279 | costly than they had anticipated. This consumer agency is  
1280 | here for American families. And I want to say it is also  
1281 | here for America's banks.

1282 |       I met with community bankers. I was down in San  
1283 | Antonio, Texas, when Holly Petraeus, who heads up our Office  
1284 | of Service Member Affairs and I went down to Lackland Air  
1285 | Force Base where my brothers had taken basic training. And  
1286 | when we had the chance to meet with community bankers to  
1287 | listen to their concerns, it really has become clear to me  
1288 | that what we can do as a consumer agency to cut regulatory  
1289 | burdens, to try to make prices clear and risks clear so that



1290 competition is straight upfront in the marketplace.

1291 That will be good for families. It will also be good  
1292 for community banks. It will be good for credit union. It  
1293 will be good for the financial institutions who really want  
1294 to serve American families.

1295 Right now, we have got a world in which financial  
1296 institutions that are willing to engage in pretty slick  
1297 practices who are willing to put out a product pretending  
1298 that it is at one price knowing they are going to make their  
1299 money back on the backend with fees and revenues and  
1300 re-pricing. Those competitors take families away from a  
1301 safer, sounder banking system.

1302 So, what I see this consumer agency as doing is speaking  
1303 up for stronger families. And stronger family means stronger  
1304 bank. Stronger family, stronger bank means stronger economy.  
1305 That is what we are here to do. Thank you.

1306 Mr. HINOJOSA. Thank you for that response. I heard  
1307 Gutierrez, my friend Congressman Gutierrez talked about all  
1308 that were exempted in the final bill. And yet, it seems like  
1309 they are the voice for medium-size banks and the large banks  
1310 even though they are exempted. Explain to why they are so  
1311 concerned.

1312 Ms. WARREN. You know, Congressman, there are a lot of  
1313 people who built business models around the way that the  
1314 world is who have figured out how to return incredible

1315 | profits and revenue.

1316 |       Literally, in the tens of billions into the hundreds of  
1317 | billions of dollars, selling products, mortgages, credit  
1318 | cards, payday loans, car title loans, we could go on and on,  
1319 | remittances, to consumers without making the prices clear  
1320 | upfront, without making the risks clear upfront, making it  
1321 | impossible through the fine print ever to compare one product  
1322 | as two or three others....

1323 |       And they are very--some of them very concerned.

1324 |       Mr. HINOJOSA. We needed to hear that answer. Thank you  
1325 | very much, Professor.

1326 |       Ms. WARREN. Thank you.

1327 |       Chairwoman CAPITO. Thank you.

1328 |       Mr. Huizenga, from Michigan, for 5 minutes.

1329 |       Mr. HUIZENGA. Thank you, Madam Chair. I appreciate the  
1330 | opportunity.

1331 |       And, Professor Warren, I appreciate your time coming  
1332 | here. And I want to actually--along that vein--want to  
1333 | explore that a little bit and find out, probe your views on  
1334 | some of these organizations and where they fit and whether  
1335 | you believe that they should fit.

1336 |       I have a background real estate and developing. And the  
1337 | first home I ever listed was a two family on 17th Street in  
1338 | Holland, Michigan, which is a very rough neighborhood, and it  
1339 | listed for \$49,000.

1340           The families that were living there and the families  
1341 that were looking at trying to--trying to make an opportunity  
1342 for themselves really, in many ways, weren't going to be able  
1343 to fit into those conventional boxes.

1344           And we were talking about big banks and medium-size  
1345 banks. But I think a number of people acknowledge that maybe  
1346 somewhere those problems were in some of these more offline,  
1347 smaller, non-FDIC type of entities that have been able to  
1348 service people.

1349           And whether it is people holding land contracts--I know  
1350 many people who have been involved in real estate, they will  
1351 literally hold millions of dollars in personal funds in land  
1352 contracts, for example, and some of these other  
1353 non-conforming loans.

1354           And you hit on a phrase just in this last answer of  
1355 serving America's families. I think there is a number of  
1356 people that are willing to do that, but they are quite afraid  
1357 of some of the regulations and the discussions and the  
1358 direction that this appears to be going that they may not be  
1359 able to function.

1360           I am hoping to hear from you exactly what are some of  
1361 your views of those less than conventional institutions and  
1362 organizations that serve those families because whether they  
1363 are vets, or whether they may be disabled, or whether they  
1364 may be low and moderate income, there is a marketplace that

1365 needs to be served. How do you envision that being served?

1366 Ms. WARREN. Thank you, Congressman. I think that is a  
1367 very important question, a very, very thoughtful question,  
1368 and I will say along the same line. The first house I ever  
1369 bought was for \$23,300 and we were not conventional buyers,  
1370 first time out.

1371 I understand the importance of being able to serve  
1372 American families across a wide variety of circumstances. In  
1373 fact, I should say I think it has been one of the important  
1374 themes that community banks and credit unions in particular  
1375 were also non-bank lenders when they have come to visit have  
1376 talked about with me how it is that they build a business  
1377 model around adjusting to the different needs of different  
1378 customers, that they acknowledge the importance of what they  
1379 call relationship banking, that they know their customers and  
1380 they know how to customize products.

1381 And I think the best way I can say this is that we are  
1382 working with those in the industry who serve families. We  
1383 are committed that prices should always be clear. There  
1384 should never be a family ready to take out a mortgage who  
1385 isn't clear what the price is on that mortgage. There should  
1386 never be a family, considering taking out a mortgage, who  
1387 doesn't get what the basic risk is, whether, for example,  
1388 this is a fixed rate mortgage or a mortgage that could  
1389 adjust.

1390           There should never be the case that a family gets  
1391 information in a way that they can't make some kind of  
1392 straightforward comparison of one mortgage to two or three  
1393 others.

1394           That is the direction we are driving this agency. That  
1395 is the direction we have been driving it since the first day  
1396 I have been there. And I have really tried to build those  
1397 structurally into the agency and into its entire attitude  
1398 because, ultimately, that is what we want to be able to do.  
1399 We want to make sure that there is a robust and diversified  
1400 financial services industry there to serve the American  
1401 people. That is our job.

1402           Mr. HUIZENGA. My concern is that--you know, I  
1403 appreciate that. I believe that people, I have sat through  
1404 countless closing myself and there is--trust me, if anybody  
1405 has either refinanced their home lately or if they have ever  
1406 been buying anything--I see a few people, heads nodding in  
1407 the background--there is plenty of paperwork that you are  
1408 signing to the point of writer's cramp at this point.

1409           One, I am concerned a little bit about the redundancy  
1410 and whether some of these things are necessary. But, two,  
1411 more importantly not just the notice to the consumer, how  
1412 will this work for the lenders, conventional or  
1413 non-conventional? How will this work for the broker? I  
1414 mean, there is--oftentimes, there is mortgage brokers that

1415 | may be in there or even individuals and let's call them an  
1416 | implementer of that particular deal.

1417 |       Because I will tell you that there is a number and I  
1418 | have got this man and I will call him Mike who takes his  
1419 | family's money, has about \$1.25 million in land contracts.  
1420 | He looks at this and says, "I am not going to be able to  
1421 | function. I am not going to be able to serve those people  
1422 | who couldn't go get a conventional loan because of  
1423 | potentially the paperwork and the layering of that." Now, I  
1424 | would like to hear how that would be taken care of?

1425 |       Thank you, Madam Chair.

1426 |       Chairwoman CAPITO. Thank you.

1427 |       Mr. Miller, for 5 minutes.

1428 |       Mr. MILLER. Thank you.

1429 |       Professor Warren, first I want to commend you for your  
1430 | work to merge the--forms and do it in plain English,  
1431 | something that can actually be understood. I have heard both  
1432 | from consumers that they are very frustrated. They are given  
1433 | a big sack of stuff that is useless to them because it is  
1434 | unreadable legalese. But I have also heard from credit  
1435 | unions and community banks.

1436 |       And it is easy to forget with all the cheating that went  
1437 | on the last decade, most people really, in the financial  
1438 | sector really were trying to make an honest living and  
1439 | provide a needed service and do right by--do right by people.

1440 That they felt like they had to simply regurgitate the  
1441 language of a regulation or a statute which is legalese and  
1442 set it out in full. And they knew that nobody could read it.

1443 But that is all--they felt that was the safest thing, so  
1444 if you were developing the forms that they feel safe to use,  
1445 that people can understand is they servers to consumers and  
1446 it is a service to those industries who are trying to make an  
1447 honest living, so do that and do more of it.

1448 Second, I do remember with respect to CFPB and the first  
1449 proposal there was a requirement that financial institutions  
1450 all for a plain vanilla product, and that got dropped fairly  
1451 quickly. And in fact, to make the point very clear,  
1452 Republicans offered in the amendment that said that CFPB  
1453 cannot require any financial institution to offer any  
1454 product.

1455 So, when there are complaints that their solvency--their  
1456 safety and soundness maybe threatened by a consumer  
1457 protection, it will not be that they are required to do  
1458 something that would be unprofitable for them. It is that  
1459 they have to do things that CFPB determines are abusive to  
1460 consumers to stay in business. Is that correct?

1461 Ms. WARREN. That is correct, Congressman. Yes, Sir.

1462 Mr. MILLER. Okay. The argument about safety and about,  
1463 excuse me, about consumer choice reminds me of the argument a  
1464 century ago with respect to that, that meat packers made

1465 about proposed food drug laws, pure food laws that it would  
1466 impinge upon consumers' God-given right to buy spoiled beef.

1467       And it turned out that consumers did not really want to  
1468 buy spoiled beef. They did not want that right. They wanted  
1469 the assurance that they were buying pure beef. If they  
1470 really wanted rotted beef, they could buy it pure and let it  
1471 rot. But they did not particularly value the right to buy  
1472 spoiled beef.

1473       I have yet to talk to anybody who wanted--who actually  
1474 chose some of the products made and offered in the last  
1475 decade, that suppose at one size fits all, I can't think of  
1476 any size if some of those products fit. And I have asked  
1477 before, I asked the President of the American Bankers  
1478 Association, if he could identify for me someone who qualify  
1479 for prime loans, but instead wanted a 228 with increase in  
1480 monthly payment of 30 percent to 50 percent and then a 3  
1481 percent prepayment penalty and all the rest.

1482       And I have asked if he could identify for me someone who  
1483 actually chose that knowingly. Or someone mentioned  
1484 overdraft fees. I want an overdraft. I mean, excuse me, an  
1485 overdraft protection. I want that, but I do not want the  
1486 bank to be able to process overdrafts not in the order in  
1487 which they come in but in the order that would maximize  
1488 overdraft fees, or that the ATM machine, when I ask my  
1489 balance, tell me funds available, which means how much could



1490 I take out in addition even though every transaction would  
1491 have an overdraft fee.

1492 Do you know people who wanted that?

1493 Ms. WARREN. No, Congressman, I do not.

1494 Mr. MILLER. Okay. Finally with respect, and I made  
1495 that offer on the House floor, that request on the House  
1496 floor and this committee that please if anyone knows of  
1497 someone who really wanted those products, whose got a  
1498 sub-prime loan and qualified for prime loan, let me talk to  
1499 the--give me their names and contact information so I can  
1500 talk to them and understand why they would have chosen that.  
1501 And I still have not had any name provided to me.

1502 With respect and I know that you are not playing the  
1503 lead or you are only being consulted in the reported  
1504 settlement talks that one of the criticisms of it is it  
1505 doesn't say what is it that the banks supposedly did, the  
1506 servicer supposedly did. Usually when there is a settlement  
1507 of an enforcement action, the party being subject to the  
1508 action does not want that in the settlement because it is bad  
1509 press, and particularly when there are pending private claims  
1510 that can be used against them particularly if it is couched  
1511 as a finding and they don't want that, that is part of the  
1512 negotiation is that there is no specificity, there is no  
1513 detail about what the supposed violations are.

1514 Do you know if the banks or the servicers have asked

1515 | that there be some detail of what they have done or  
1516 | supposedly done as part of any settlement agreement?

1517 |       Ms. WARREN.   Congressman, I have no knowledge one way or  
1518 | the other about that.

1519 |       Mr. MILLER.   Okay, what I said about how settlement  
1520 | actions usually work, that settlement agreements usually  
1521 | work, is that consistent with your own experience and  
1522 | knowledge?

1523 |       Ms. WARREN.   That is what I understand from those who do  
1524 | settlement negotiations.

1525 |       Mr. MILLER.   Okay, thank you.

1526 |       Chairwoman CAPITO.   Thank you, Mr. Miller.

1527 |       Now Mr. Duffy, for 5 minutes

1528 |       Mr. DUFFY.   Thank you, Madam Chairman.

1529 |       Good morning, Ms. Warren.

1530 |       Ms. WARREN.   Good morning.

1531 |       Mr. DUFFY.   I would echo your point that I think all of  
1532 | us here want to see clear prices in regard to lending and  
1533 | want to make sure that borrowers know the risk of the loan  
1534 | they are taking. I think we would all agree with you on that  
1535 | point. I think there is other issues that are flaring up  
1536 | here. And I don't want to beat a dead horse but I want to go  
1537 | back over, again what your role is here with the CFPB. Would  
1538 | you--I mean, you said you are a political appointee but would  
1539 | you also agree that you are kind of the acting director of

1540 | this organization?

1541 |       Ms. WARREN. There are truly two jobs contemplated by  
1542 | the Dodd-Frank Bill. One is it there will be a director and  
1543 | that process is the President will nominate someone, the  
1544 | Senate will confirm. The other is that it is perfectly clear  
1545 | in the Dodd-Frank Bill that someone has to get this agency up  
1546 | and running, that is charged by the secretary of the Treasury  
1547 | and--

1548 |       Mr. DUFFY. And that is why I am asking the question  
1549 | because as the acting director because it is one of these  
1550 | situations where if it walks like a duck and it quacks like a  
1551 | duck and it looks like a duck, it is a duck. And you are  
1552 | hiring the staff, you have a welcome video on the website,  
1553 | your schedule is on the website. I know you might say that  
1554 | you work for the treasury secretary, I think anyone who looks  
1555 | at what is happening here they ought to agree that you are  
1556 | behaving as if you are the acting secretary and I think that  
1557 | is a concern here.

1558 |       And I think that we come back to this point of we want  
1559 | to see confirmation from the Senate of an acting director and  
1560 | back to one of the original points you said you know what,  
1561 | this agency provides the voice for the American people. I  
1562 | look at this Congress, we are the voice of the American  
1563 | people and when we don't have any oversight of what you are  
1564 | doing, I see that as incredibly problematic.

1565 I guess I would ask for your comment on that.

1566 Ms. WARREN. Alright. Thank you.

1567 You know, I appreciate your interest in what is  
1568 happening during this period between the time that the  
1569 President signed the bill into law and the time that this  
1570 agency receives its transferred authority under the statute.  
1571 And it says, "The Secretary of the Treasury shall set the  
1572 agency up." And that is hiring and signing contracts and  
1573 building the mechanism--

1574 Mr. DUFFY. But the Treasury secretary is not on the Web  
1575 site. His schedule is not on the website, it is you.

1576 Ms. WARREN. And the secretary of the Treasury who is  
1577 responsible for many things delegates to other people. And  
1578 he has delegated to me, he has asked me to come in and spend  
1579 my time doing this and I will say, Congressman, it has been a  
1580 14-hours a day, 7-days a week job.

1581 Mr. DUFFY. I agree about the 14-hour days, I know  
1582 exactly what you are talking about, but I was talking about  
1583 are you acting as the director, now are you--the director has  
1584 been confirmed.

1585 Ms. WARREN. I am acting as the delegate of the  
1586 Secretary of the Treasury as the statute--

1587 Mr. DUFFY. And let me move on because I just--my  
1588 concern is my duck analogy. It appears that you are the  
1589 acting director by everything that we are reviewing in and

1590 | you are aware that the FTC, SEC and the FDIC all have five  
1591 | member boards but the CFPB, we are going to have one  
1592 | director, possibly you, possibly someone else. I guess that  
1593 | gives me some concern that we are consolidating power in one  
1594 | person and instead of a Board.

1595 | Does that give you any pause or concern?

1596 | Ms. WARREN. Well, there are two models in government,  
1597 | the office of the Controller of the Currency and the Office  
1598 | of Thrift Supervision, the primary prudential regulators, the  
1599 | safety and soundness regulators that we were talking about  
1600 | earlier have a single director. And I think the reason for  
1601 | that is the belief that, Congressman, that having the single  
1602 | director when you have got someone who is doing banking  
1603 | regulation makes for a more efficient operation.

1604 | Mr. DUFFY. I mean, the FDIC, the SEC and the FTC are  
1605 | involved in some very important area and they are a  
1606 | five-member boards and they work well, right?

1607 | Ms. WARREN. They certainly are involved in many things,  
1608 | they are not banking examiners--

1609 | Mr. DUFFY. Would you be opposed to a five-member board?

1610 | Ms. WARREN. And they do not run a banking staff, you  
1611 | know, all I can say--

1612 | Mr. DUFFY. Would you be opposed to a five-member board?

1613 | Ms. WARREN. What I will say is that this was fully  
1614 | deliberated.

1615 Mr. DUFFY. Let me ask you this, are you opposed to a  
1616 five-member board?

1617 Ms. WARREN. Congress made the decision to--

1618 Mr. DUFFY. Are you--I am not asking about Congress, I  
1619 am asking are you opposed to a five-member board?

1620 Ms. WARREN. I think when Congress made that decision it  
1621 was the right decision.

1622 Mr. DUFFY. So you would say yes you are opposed to a  
1623 five-member board, you think a one person director--

1624 Ms. WARREN. When Congress made the decision to have one  
1625 regulator they get the point.

1626 Mr. DUFFY. That leads me to my next point. I think you  
1627 have seen a concern here with my colleagues that there is  
1628 a--with what you are doing in regard to consumer protection  
1629 could trump safety and soundness. And we look at ABSOC and  
1630 it is a 10-member board where we need a super majority of  
1631 two-thirds to overrule your decisions. And you have a seat  
1632 and the President has a seat, all you need is one more and we  
1633 can't overrule the decisions that you--I yield back, I  
1634 apologize, my time is up.

1635 Mr. DOLD. [Presiding.] Thank you. Next we are going  
1636 to have Mr. Lynch, 5 minutes.

1637 Mr. LYNCH. Thank you, Mr. Chairman.

1638 First of all I want to start off by saying thank you  
1639 Professor Warren for your great work. I, for one, have, you

1640 know, being on the oversight committee I have followed your  
1641 work very, very closely. I have seen you in action and I  
1642 think you do a wonderful job and I just want to--in spite of  
1643 all the criticism we see here I hope you understand that for  
1644 those of us whose primary concern is for the consumer and  
1645 those of use who really understand what happened in this  
1646 financial crisis, you are the champion for working people and  
1647 for consumers.

1648 I, for one, hope that you are nominated and I pray that  
1649 you are confirmed because I think you would be perfect for  
1650 this job. I think you have shown a lot of courage to stand  
1651 up against the folks that you stand up against. There are a  
1652 lot of people who stand up and fight for the big banks.  
1653 There are a lot of folks who stand up and fight for financial  
1654 institutions and there are a lot of constituencies in the  
1655 financial sector, obviously very heavily financed and a lot  
1656 of lobbyists and you are right into the teeth of that. And I  
1657 just on a personal level, I just ask you to keep at it.

1658 You know, I think you are fighting the good fight. You  
1659 are on the side of the angels and I think that you know,  
1660 hopefully you will be nominated and you will be confirmed, I  
1661 honestly hope for that.

1662 And I understand this is change and, you know, sometimes  
1663 there is great investment in the status quo and we certainly  
1664 see that in the financial services industry and people are

1665 nervous, but I do think that Dodd-Frank in allowing, you  
1666 know, the CFPB to be overruled, you know, by the safety and  
1667 soundness regulators, does put a short circuit in place where  
1668 if there was something that was unwise, not that you would do  
1669 anything that is unwise but in the event that that might  
1670 happen there is a fail safe and I think that that review is  
1671 certainly warranted and I think it is already included in the  
1672 bill so I am encouraged by that.

1673       Look, the damage done to American families and the  
1674 American taxpayers by this recent financial crisis cannot be  
1675 overstated, but one of the things that I worry about greatly  
1676 is the integrity of our financial markets. There has been  
1677 such damage to the integrity of the U.S. financial markets  
1678 and reputational damage done to our markets that investors,  
1679 consumers I think feel that the current arrangement is  
1680 rigged. That the banks run the show and with insider trading  
1681 and, you know, these super fast computers that really they  
1682 don't believe that the system is honest, they think it has  
1683 been compromised greatly.

1684       And they are hoping that you might be part of that  
1685 solution in rebalancing of the scales, I certainly hope that.

1686       You know the complexity of the markets is just growing  
1687 exponentially with derivatives and, you know, structured  
1688 products and it is beyond the basic understanding of, you  
1689 know, the average investor or the average consumer.



1690           And what I am asking is for you to try to explain to  
1691 consumers that are out there about your role as someone who,  
1692 if confirmed, might help rebalance the power there between  
1693 consumers and financial institutions.

1694           Ms. WARREN. I appreciate that, Congressman, I think you  
1695 have put it exactly the right way when you talk about  
1696 balance, that the banks will be heard from and Washington and  
1697 the political process. The question is whether ordinary  
1698 families will be heard from and quite honestly whether or not  
1699 those who actually want to serve those families will be heard  
1700 from. Community banks, credit unions, servicers who want to  
1701 provide good products.

1702           What I see this about is that this is about this agency,  
1703 it is about a real belief in markets so long as they are  
1704 honest. So long as you got a cop on the beat who says, you  
1705 know, there is that law down here, everybody. I don't care  
1706 how big you are, I don't care how powerful you are, I don't  
1707 care who your friends, everybody follows the law. That is  
1708 just the deal.

1709           And the laws are directed toward you folks so you can  
1710 actually have a real chance in this financial marketplace, at  
1711 least in the personal part of this, the borrowing and your  
1712 own personal financial management because the costs ought to  
1713 be clear, the risks ought to be clear. It ought to be that  
1714 you can compare one product to two or three others. That is

1715 really all this agency is about.

1716 Mr. LYNCH. Thank you very much. Mr. Chairman, my time  
1717 has expired. I yield back.

1718 Ms. WARREN. Thank you.

1719 Mr. DOLD. Thank you.

1720 Next, we will hear from the gentleman from Texas, Mr.  
1721 Canseco, for 5 minutes.

1722 Mr. CANSECO. Thank you, Mr. Chairman. And I am going  
1723 to yield some of my time to the gentleman from Georgia, Mr.  
1724 Westmoreland.

1725 Mr. WESTMORELAND. And I will only take 30 seconds. And  
1726 I want to tell the gentleman from North Carolina, today is  
1727 your lucky day. And I would like to present this evidence to  
1728 Ms. Warren and ask her if it would prevent this from  
1729 happening, I sought out a loan, a second mortgage to go into  
1730 business. It was a 5-year prepayment bounty, I paid six  
1731 points up front. I probably paid 4 percent or 5 percent more  
1732 than the going rate to be able to get a second mortgage on my  
1733 home to go into business. And I am proud to tell you that I  
1734 was able to repay that. I was able to fulfill my dream of  
1735 being in business for myself and I have been in business for  
1736 myself for 30 years.

1737 And what you are talking about today and what Mr. Miller  
1738 is talking about today is preventing people from being able  
1739 to fulfill the American dream when they know their self that

1740 | they can do it. They can meet the challenge but yet the  
1741 | government is going to tell them it is a bad deal, they can't  
1742 | do it and not allow businesses to make those kind of loans.

1743 | That is wrong..

1744 | Thank you. And I will yield back.

1745 | Mr. CANSECO. Thank you, sir.

1746 | Professor, I appreciate your being here today and I also  
1747 | appreciated your visit in my office some time ago and we had  
1748 | a very nice friendly discussion about San Antonio and our  
1749 | home. And I thank you for being here today.

1750 | But in regards to San Antonio, you know, I spoke with a  
1751 | group from San Antonio that represents a lot of  
1752 | entrepreneurs, lot of young businesses that are just getting  
1753 | started. And one of the things about it is that they used a  
1754 | lot of their own personal credit in order to finance these  
1755 | things. The U.S. Chamber of Commerce estimates that more  
1756 | than 47 percent of small business owners use personal credit  
1757 | cards as opposed to business credit cards. That is just the  
1758 | nature of start-up companies and the beauty of the American  
1759 | dream.

1760 | How will the CFPD distinguish between an individual  
1761 | using credit cards to buy fancy clothing and a small business  
1762 | owner obtaining credit to expand his business?

1763 | Ms. WARREN. So, Congressman, again, and thank you for  
1764 | your hospitality. It was good to be able to visit with you

1765 and to be able to visit about San Antonio.

1766 I want to be clear about what we are trying to do with  
1767 the Consumer Agency. We are trying to make the cost clear up  
1768 front. We are trying to make the risk clear. We are trying  
1769 to make it easy for anyone to be able to compare one product  
1770 to another. You know, I believe in small businesses. I have  
1771 not only studied small businesses for a long time, one of my  
1772 three brothers has been a small business owner all his life  
1773 and supported his family from his efforts. And I know how  
1774 small businesses struggle and I know how they struggle.

1775 Mr. CANSECO. But pardon me for interrupting your answer  
1776 but how are you going to distinguish that individual who is  
1777 using his personal credit for business from someone who is  
1778 using it for personal use?

1779 Ms. WARREN. Congressman, perhaps the distinction you  
1780 want to make and quite rightly is that business loans are  
1781 excluded from any oversight by the Consumer Agency. But let  
1782 me make the point, that we are here to make credit clear in  
1783 terms of its price, not to ask what you bought with it. It  
1784 is not our question about whether you bought good-looking  
1785 clothes or ugly clothes. That is just not--

1786 Mr. CANSECO. But what is it going to mean to more than  
1787 47 percent, almost 50 percent of business startups and  
1788 business people that use that personal credit for their  
1789 business that they are putting skin in the game. If your

1790 agency comes in there and regulates their activities, what  
1791 does it mean to that private sector that is growing and it is  
1792 going to be contributing so much to job creation, innovation  
1793 and growth and opportunity in our community?

1794 Ms. WARREN. Congressman, you know, I heard I think it  
1795 was 2 weeks ago from a group representing small businesses,  
1796 and small businesses are very concerned because when they  
1797 finance their business activities, as you rightly point out  
1798 with credit, wherever they can get it, the prices are not  
1799 made clear, the risks are not made clear.

1800 What this agency is about is about making those prices  
1801 and risks clear. That is good for American families, but  
1802 believe me, it is even better for small businesses. They  
1803 need to know how much money they are spending.

1804 Now, business loans will be segregated, Congress made  
1805 that choice. But in personal credit, it is about costs and  
1806 risks and making them clear.

1807 Mr. CANSECO. Well, let me ask you another question  
1808 because I am running out of time here. If I run a bank that  
1809 has over \$10 billion in assets or we originate mortgages,  
1810 exactly what part of my business practices would your agency  
1811 not regulate?

1812 Ms. WARREN. Well, our--we are not the safety and  
1813 soundness regulators, the consumer agency does not regulate  
1814 the ordinary banking activities. Those are regulated by the

1815 Office of the Comptroller of the Currency. What we do is we  
1816 do what was clearly sorely missing over the past few years.  
1817 That is, for example, in an area like servicing home  
1818 mortgages, we make sure that the servicers are following the  
1819 law.

1820 We make sure that when someone is putting out a new  
1821 mortgage, originating a new mortgage, what are the  
1822 obligations to comply with--and RESPA... That is why we talked  
1823 about how, with the help of the banks--sorry--we are figuring  
1824 out how to combine those two forms, make those forms smaller  
1825 and come earlier in the process when they will be helpful to  
1826 consumers. So we are focused on the consumer credit product  
1827 and whether or not those who are using them to lend money are  
1828 actually following the law.

1829 Mr. CANSECO. Thank you very much.

1830 Ms. WARREN. Thank you.

1831 Chairwoman CAPITO. [Presiding.] Thank you.

1832 I would like to--before I recognize Mr. Green, I would  
1833 like to ask unanimous consent to insert the comments letter  
1834 on the CFPB from the National Association of Federal Credit  
1835 Union.

1836 Mr. Green, for questioning for 5 minutes.

1837 Mr. GREEN. Thank you, Madam Chair. And I thank you and  
1838 the Ranking Member for allowing me to have the unanimous  
1839 consent to be a part of this most important hearing.

1840 I would also like to thank Ms. Warren for her service to  
1841 her country.

1842 Ms. Warren, I believe that you are doing a very  
1843 difficult job and I trust that you will continue to serve  
1844 your country as well as you have.

1845 I would like to, if I may, Madam Chair, with unanimous  
1846 consent place in the record a report from the Americans For  
1847 Financial Reforms, it is a progress report, it is dated  
1848 January 21st, 2011. And I would note that on page four of  
1849 the report, make that page five of the report, there is an  
1850 indication that there is a need for a permanent director.

1851 I mentioned this only because it is apparent that these  
1852 250 organizations and individuals do not see Ms. Warren as a  
1853 permanent director, they see here as a transitional person  
1854 helping us to establish an organization.

1855 So if there are no objections, may it be submitted to  
1856 the record--in the record, Madam Chair?

1857 [The information follows:]

1858 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

1859 Chairwoman CAPITO. Without objection.

1860 Mr. GREEN. Thank you.

1861 I would like to now move to Ms. Warren's report, page 30  
1862 of her report that she has submitted to us, reads and I will  
1863 not read it in its entirety but it reads community bankers  
1864 and credit unions have also made it clear that they face  
1865 regulatory crisis, a regulatory crisis. And you go on to  
1866 indicate that this is because they can't afford to hire an  
1867 army of lawyers to investigate the complex rules and navigate  
1868 them.

1869 You indicate that the importance of small banks and  
1870 credit unions cannot be overstated, they are  
1871 disproportionately the providers of credit to small business.  
1872 And they are therefore part of the chain toward higher  
1873 employment and economic recovery.

1874 I concur with your comments. I think the community  
1875 bankers are exceedingly important because of the  
1876 relationships that they have to small businesses and the  
1877 credit unions as well.

1878 I had a good many of them to visit with me and they have  
1879 made it very clear to me that there is a crisis that they  
1880 perceive. There are many who fear that they may be regulated  
1881 out of business. I see this as something that impacts both  
1882 consumers as well as small banks because without the small  
1883 banks, the consumers don't benefit from what the small banks



1884 | can provide.

1885 |       My question is, first, is it possible within the bounds  
1886 | of ethics for us to work together to help these small banks  
1887 | continue to provide a good service for consumers within the  
1888 | bounds of ethics? And I don't want to do anything that is  
1889 | unethical.

1890 |       And also, how are you immediately embracing this crisis  
1891 | that they perceive as one that may cause them to cease to be  
1892 | able to function as they function currently because of the  
1893 | additional cost?

1894 |       Ms. WARREN. Yes. Congressman Green, thank you. Thank  
1895 | you for the thoughtful comments and the thoughtful question.

1896 |       I see this very much the same way. I worry about our  
1897 | community banks. I worry about our credit unions. I worry  
1898 | about our smallest financial services providers because many  
1899 | of them are good partners to their customers. And they want  
1900 | good long-term relationships. They are clear about their  
1901 | product. They are willing to make prices clear up front, to  
1902 | make risks clear up front. They can't thrive by pretending  
1903 | to sell at one price and then mugging people after they get  
1904 | them in the door.

1905 |       But they are worried about a challenging regulatory  
1906 | environment. We are doing what we can on the consumer side,  
1907 | in the consumer agency, on the consumer product.

1908 |       Mr. GREEN. Let me suggest this because I have one

1909 additional thing that I must do. Would you agree that within  
1910 the constraints of ethics, that we will work to try to make  
1911 sure that the consumers and the banks or credit unions are  
1912 protected?

1913 Ms. WARREN. Absolutely, Congressman, I should have  
1914 given a shorter answer.

1915 Mr. GREEN. Okay. Let me quickly state this. In your  
1916 report, on page 18, you indicate in addition to the  
1917 fundamental constraints that Congress has imposed and you  
1918 have talked about Dodd-Frank, you indicate that specifically  
1919 you are required to submit--the agency is required to submit  
1920 annual financial reports to Congress. You have to report to  
1921 Congress twice a year to justify your budget. The director,  
1922 whomever that happens to be, has to testify before and  
1923 reports twice each year regarding the activities of the  
1924 agency, you indicate that the GAO has to conduct an audit  
1925 each year of the agency. You indicate that you have to  
1926 submit financial operating plans and forecasts and quarterly  
1927 financial reports to the Office of Budget and Management.  
1928 And you indicate that oversight is also available through the  
1929 Financial Stability Oversight Council.

1930 Madam Chair, I just mentioned these things because I  
1931 want to allay some of the concerns with reference to the  
1932 oversight of the organization, clearly you have more  
1933 oversight than most federal agencies.

1934 And I thank you for the time.

1935 Chairwoman CAPITO. Thank you, Mr. Green.

1936 I would like to recognize Mr. Pearce, from New Mexico,  
1937 for 5 minutes for questions.

1938 Mr. PEARCE. Thank you, Madam Chair.

1939 I have got a lot questions, so I recommend a second  
1940 round if we get the opportunity. A couple of observations in  
1941 that--I read the report here and I see the word straight up,  
1942 too complicated, clear, concise. And two, I don't have much  
1943 interest in what our colleagues up behind me were asking  
1944 about the confirmation process, but you are demanding  
1945 something from the people you enforce things over that you  
1946 are not willing to give yourself and that is straightforward,  
1947 clear, concise answers. And that has created lot of the  
1948 repetitive questions. That is just an observation.

1949 The second thing is that I hear you testify, I know you  
1950 are talking about the protection of consumers and you build  
1951 this process in, as if the government agency is going to  
1952 solve the problem. And I would like to believe in it but  
1953 frankly I am going to think about the SEC and Mr. Madoff and  
1954 I am going to believe that in 2 years your agency is going to  
1955 be operating exactly the same. That is simply out there  
1956 grinding wheels away and that it might also itself fall short  
1957 of being this angel. I have heard a lot, it was really  
1958 champion and these words that we have heard.

1959           So with--maybe you are going to be the government agency  
1960 that actually does this work. The idea that you propose on  
1961 page four that few of us seriously believe that we have the  
1962 marketplace that American families deserve.

1963           Now, when I go to the bank and ask for a loan, the first  
1964 thing I go to actually has fairly clear APRs and everything.  
1965 It is clear, it is concise. And so what you are trying to  
1966 enforce is to an extent consumers who don't like the answer  
1967 they get from institutions that have paperwork that is clear  
1968 and concise.

1969           And so you are going to enforce the standard on the  
1970 lending institutions and those institutions who are only  
1971 answering the demands of people to come and get products,  
1972 that is because they can't get the products somewhere else  
1973 and they are demanding these and you are going to stop those.

1974           I remember a day when I was in the state legislature  
1975 where we wanted to regulate payday lenders. Those people who  
1976 charge \$20 for loaning you \$100 for a month. And I too felt  
1977 like that was too exorbitant, it was thousands of percent. I  
1978 got back to my hometown and one of the guys that worked in  
1979 the oil field came on, what damn business are those of yours.

1980           If I borrow \$100 today, and I want to pay back \$120.

1981           And that still rings clear and I think maybe at some  
1982 point you should ask that to your agency. So the question  
1983 that I have, it is my understanding of what you are saying

1984 | that we would not be here payday, we would not be here, we  
1985 | would--if the rules, the basic rules of the road in place for  
1986 | mortgages were consistently enforced, protecting consumers,  
1987 | we would not be here.

1988 |         So I get from that you believe that there was no  
1989 | enforcement in the--that there were no rules for mortgages.  
1990 | Is that right?

1991 |         Ms. WARREN.    Congressman, I think it is fair to say that  
1992 | this economic crisis started--

1993 |         Mr. PEARCE.    No, that I am asking--you say that if rules  
1994 | had been enforced, that we would not be here.    So you are  
1995 | saying the FDIC and the OIC didn't do their jobs at the Feds?  
1996 | That the Real Estate Settlement Protection Act did not do  
1997 | their jobs?    You are telling me that nobody in the  
1998 | enforcement of mortgages did their jobs?

1999 |         Ms. WARREN.    I think the evidence is fairly clear that  
2000 | they did not do their jobs.    Yes, sir.

2001 |         Mr. PEARCE.    Is that in regard to the superficial  
2002 | instruments, the bonds?

2003 |         Ms. WARREN.    No.

2004 |         Mr. PEARCE.    Or was it maybe that the government asked  
2005 | banks to give loans to people who could not afford it, which  
2006 | they did, the government insisted that banks give loans to  
2007 | people who could not afford it.    No loan, no payments were  
2008 | ever made on those.    Those loans without the ability to ever

2009 | be repaid, without one payment ever being made were then  
2010 | lumped into bond and then the exotic instruments, the CDOs  
2011 | and the MBSs were created out of that, that is what was not  
2012 | regulated.

2013 |         But the banker down in Main Street of Hobbs, New Mexico,  
2014 | I will guarantee you still risks losing its bank today if he  
2015 | gives a product that is not in compliance.

2016 |         Ms. WARREN. Congressman, I think we can agree that the  
2017 | crisis in home mortgages and the rest of this economy was not  
2018 | caused by community bankers, it was not caused by credit  
2019 | unions, it was caused one mortgage at a time with mortgage  
2020 | brokers and who put out products that were extraordinarily  
2021 | dangerous and often deceptive to those who took them.

2022 |         I think there is ample evidence of what went wrong on  
2023 | the front end of this crisis.

2024 |         Mr. PEARCE. And there is ample evidence that the rating  
2025 | agencies rated those as triple AAA and I don't see that  
2026 | anywhere in your scope of work. And I do have a second  
2027 | round, if we get there, Madam Chair.

2028 |         Chairwoman CAPITO. Thank you. Thank you.

2029 |         I would like to recognize Mr. Luetkemeyer, for 5  
2030 | minutes, for questioning.

2031 |         Mr. LUETKEMEYER. Thank you, Madam Chair.

2032 |         Ms. Warren, in your testimony, in your written  
2033 | testimony, you indicate that many of the rules make it very

2034 non-competitive for community banks, credit unions and others  
2035 to compete, and your words are put them at a competitive  
2036 disadvantage.

2037 If we can choose a better way, can you tell me what that  
2038 better way is?

2039 Ms. WARREN. I think that the example of the first  
2040 priority, the New Consumer Financial Protection Bureau is an  
2041 example of the better way. We are going to take two fairly  
2042 long, fairly complicated forms that have substantial overlap  
2043 that two government agencies have negotiated or been at war,  
2044 depending on your metaphor here, for more than 15 years about  
2045 combining those forms. And because it comes to one agency,  
2046 we are going to combine the forms. And we are using the help  
2047 of the community banks and the credit unions and the mortgage  
2048 brokers, the people on the frontline who originate these  
2049 mortgages to find the most effective, the most efficient way  
2050 to do that and give us a smaller one-page mortgage shopping  
2051 sheet that might actually produce some value for the family.

2052 Mr. LUETKEMEYER. Okay. Whenever you do this, are you  
2053 going to look at the cost-benefit of that rule, that new form  
2054 that you are going to put out, of what it is going to cost  
2055 the institution to comply with?

2056 Ms. WARREN. Congressman, we will certainly look at the  
2057 cost-benefit.

2058 Mr. LUETKEMEYER. Okay. If you are going to look at it,

2059 | can you explain to me on what basis you would throw a rule  
2060 | out or not make a rule? Can you give me the numbers? Is  
2061 | it--because I can give you numbers all day long. I had a  
2062 | community banker drop in front of me about 2 weeks a sheet  
2063 | paper, as he said, "Blaine, this is what it costs me to  
2064 | comply with one rule--\$16,500 per year. And it is a small  
2065 | institution. Another one told me it cost over \$100,000 a  
2066 | year to comply on one rule..

2067 | Ms. WARREN. Yes.

2068 | Mr. LUETKEMEYER. Now, you multiply that by all the  
2069 | banks in the country. At one point are you going to say this  
2070 | rule, the cost-benefit of it is not worth implementing?

2071 | Ms. WARREN. Congressman, I am glad you raised the  
2072 | problem of regulatory burdens for our community banks. And I  
2073 | remind you of course that the community banks are struggling  
2074 | because of the regulations they face elsewhere in the system,  
2075 | not because of regulations from the Consumer Financial  
2076 | Protection Bureau.

2077 | Indeed, we have worked with the community banks, we have  
2078 | worked with--

2079 | Mr. LUETKEMEYER. Ma'am, you have spent 30 seconds of my  
2080 | time not answering my question. I am sorry to interrupt  
2081 | here, but I want a specific answer to a specific questions.  
2082 | At what point are you going to say this rule is too costly to  
2083 | implement, it doesn't yield any benefits, it costs too much



2084 to implement?

2085 Ms. WARREN. Congressman, we are required by law to do a  
2086 cost-benefit analysis.

2087 Mr. LUETKEMEYER. I know you are. I read in the  
2088 testimony. I understand it.

2089 Ms. WARREN. I am sorry.

2090 Mr. LUETKEMEYER. At what point are you going to say,  
2091 no, this rule is going to be thrown out?...

2092 Ms. WARREN. When the cost outweigh the benefits,  
2093 Congressman.

2094 Mr. LUETKEMEYER. Okay. When it cost \$100,000, when it  
2095 cost \$1 million, when it costs \$1 billion for the industry,  
2096 at what point are you going to say no, we can't do this.

2097 Ms. WARREN. Congressman, that is what a cost-benefit  
2098 analysis is. When the cost outweigh the benefits--

2099 Mr. LUETKEMEYER. Okay.

2100 Ms. WARREN. --then we will not engage.

2101 Mr. LUETKEMEYER. But you don't know at what point that  
2102 is yet?

2103 Ms. WARREN. You know, Congressman, I think your  
2104 question about the point is an important one. We are  
2105 communicating right now with the community banks, with the  
2106 credit unions about the changes they want to see because they  
2107 think there are cost savings for them that also benefit  
2108 consumers by starting earlier on the problem, not when we

2109 have a--

2110 Mr. LUETKEMEYER. Absolutely. I agree with you 100  
2111 percent. And my concern is that we are going to say, well,  
2112 we are going to put a new form in place here but instead of  
2113 combining two forms, now you have the front and the back that  
2114 you have to work on. And we haven't done a thing to improve  
2115 our situation, it still remains more costly.

2116 Let me move on to another question before my time  
2117 expires on me here.

2118 You are going to be the new examiners on the block. Are  
2119 you taking over all of the Consumer Financial Protection  
2120 examinations, from all other agencies across the board? Are  
2121 you going to be just another form that the institution that  
2122 the institutions are going to have to deal with?

2123 Ms. WARREN. For all--

2124 Mr. LUETKEMEYER. Okay, in other words, for FDIC, are  
2125 you taking away all their consumer complaint stuff?

2126 Ms. WARREN. No. For the--

2127 Mr. LUETKEMEYER. So this is going to be a second exam  
2128 that is coming forth?

2129 Ms. WARREN. For all financial institutions with more  
2130 than \$10 billion in assets, the new consumer agency will be  
2131 the primary regulator and supervisor.

2132 Mr. LUETKEMEYER. Okay. But the other ones are still  
2133 going to be in place and they are still going to come in with

2134 | the compliance exams as well?

2135 |       Ms. WARREN. No. There will be something called the  
2136 | transfer date. And the transfer date is July 21st of this  
2137 | year, and that is when the other seven agencies stand down in  
2138 | terms of their responsibilities for enforcement and  
2139 | rule-writing.

2140 |       Mr. LUETKEMEYER. Okay. In terms of--

2141 |       Ms. WARREN. On the 18 existing federal statutes and the  
2142 | new consumer agency stands up. This is like a relay race.

2143 |       Mr. LUETKEMEYER. But in terms of enforcement, are you  
2144 | going to be doing the same thing that the other agencies are  
2145 | doing or are you going to be doing something different?

2146 |       Ms. WARREN. No, we will be doing something different.  
2147 | We will be enforcing. They will no longer be enforcing the  
2148 | laws that we will be enforcing.

2149 |       Mr. LUETKEMEYER. So you are going to come in and  
2150 | enforce them? Are you going to be coming in to help the  
2151 | institutions understand them or are you going to be slapping  
2152 | more fines?

2153 |       Chairwoman CAPITO. Gentleman, your time has expired.  
2154 | Thank you, Congressman.

2155 |       Mr. Dold, for 5 minutes of questioning.

2156 |       Mr. DOLD. Thank you, Madam Chairman.

2157 |       And I want to thank you, Professor Warren, for taking  
2158 | the time to be with us today.

2159 I would like to just continue down the vein and in terms  
2160 of how you think this is going to impact, you know, small  
2161 businesses. And so if I can for, you know, for consumers  
2162 that are out there, if a consumer voluntarily enters into a  
2163 consumer transaction with full disclosures and full  
2164 information, are there any reasons on which you or the agency  
2165 could possibly prohibit, penalize, or invalidate the  
2166 transaction, and if so, what are those possible reasons?

2167 Ms. WARREN. Congressman, I have tried to make it clear.  
2168 What this agency is about is about making the prices clear,  
2169 the risks clear, making it east to compare one product to  
2170 another. We would have to go through all 18 statutes to see  
2171 if there are already certain prohibitions.

2172 But the point is to get an informed consumer because I  
2173 believe that American families are good at making decisions  
2174 when they have information up front.

2175 Mr. DOLD. And I couldn't agree with you more. And this  
2176 is about protecting consumers. But I guess my question is,  
2177 is that the way the statute is written and the law, that  
2178 there is going to be one person in charge. And that person,  
2179 according to the way it is written, anything that is risky or  
2180 potentially uncertain isn't going to necessarily be--or could  
2181 be subject to be invalidated. And so I am trying to get a  
2182 better handle on what will you determine is going to be a  
2183 risky proposition.

2184           Again, for someone that is informed, an informed  
2185 consumer that may choose to enter into a financial  
2186 transaction or a purchase of a financial product, that for  
2187 some reason the Consumer Protection Bureau determines is  
2188 risky, is that going to be invalidated?

2189           Well, I think perhaps it might be that you are referring  
2190 to the authority that is currently with the Federal Reserve,  
2191 often referred to as UDAP, unfair and deceptive practices.  
2192 So the authority is currently there in the statute, it is  
2193 there. In fact--I don't know if it is in all 50 states, but  
2194 in most state laws the capacity to say certain practices are  
2195 deemed unfair and deceptive, there is a long case law on this  
2196 and a long history on it. That will come to the Consumer  
2197 Agency, it will be part of our responsibility to enforce  
2198 those laws, Congressman.

2199           Mr. DOLD. Can you give me any sort of an idea in terms  
2200 of how do you plan to reduce the regulatory burden on small  
2201 institutions by adding yet another regulator into the mix?  
2202 Right now, you know, when I talk to people back in my  
2203 district all the time, it is the uncertainty that is out  
2204 there. Uncertainty is preventing people from investing, they  
2205 are unsure about what tomorrow will bring and so therefore  
2206 they don't.

2207           And what I see this doing is, again, creating another  
2208 level of uncertainty. And especially with the amount of

2209 power that is being put into the bureau, they are just going  
2210 to--my take is that they are going wait and we are not going  
2211 to have investment. And this could be potentially  
2212 problematic. So I would just be interested in your take on  
2213 that.

2214 Ms. WARREN. No, I appreciate it. And I appreciate the  
2215 concern that this question expresses. We will take transfer  
2216 of the authorities that are currently there in seven other  
2217 agencies. We will put them in one agency and we will hold  
2218 that agency accountable, accountable ultimately to the  
2219 American people.

2220 And what we will do in this process and what we are  
2221 trying to do in this process is reach out to all potential  
2222 stakeholders. We have talked with community banks. We have  
2223 talked with credit unions. We have talked with very large  
2224 financial institutions. We have talked with some non-bank  
2225 lenders.

2226 In fact, Congressman, we have even gone out and had  
2227 extensive conversations with the investment community, those  
2228 who invest in financial institutions because they have had  
2229 questions about how this new agency would be setup. And it  
2230 has been very interesting to find where there are a lot of  
2231 allies for this agency, the investors for example who have  
2232 said, "If you are going to make these consumer products a  
2233 little more obvious for consumers to understand, that dialed

2234 risks out of the system overall. And we think long-term good  
2235 for banks and long-term goof for our investors.

2236 Mr. DOLD. And I appreciate that. And certainly we want  
2237 more transparency. But I want to get to accountability if I  
2238 can.

2239 Ms. WARREN. Sure.

2240 Mr. DOLD. I anticipate that people makes mistakes. And  
2241 certainly with one individual, the chances of making mistakes  
2242 are probably greater than several people making mistakes.

2243 In terms of oversight, can you tell me, right now my  
2244 understanding is that FSCA has got a 10-person board, has the  
2245 ability to basically overrule decisions done by the bureau.  
2246 Is that correct?

2247 Ms. WARREN. Chairwoman, may I answer?

2248 Chairwoman CAPITO. Yes.

2249 Ms. WARREN. The answer is, yes, the FSCA can overrule  
2250 this agency and no other.

2251 Chairwoman CAPITO. But that would be with a two-thirds  
2252 majority, correct?

2253 Ms. WARREN. I believe some votes is with the two-thirds  
2254 majority. Of course that Consumer Agency doesn't vote.

2255 Chairwoman CAPITO. Right. We have Mr. McCotter, from  
2256 Michigan.

2257 Mr. MCCOTTER. Thank you, Madam Chair. I would like to  
2258 yield 2 minutes to my colleague from New Mexico, Mr. Pearce.

2259 Mr. PEARCE. Thank you.

2260 I thank the gentleman for yielding. My only question  
2261 really deals with the idea that we are protecting consumers  
2262 and that we are doing a thing that either way up their  
2263 ability to pay their mortgages. And the more else, is that  
2264 here, that we are here to protect the consumer from  
2265 fraudulent practices.

2266 Ms. WARREN. Yes, we are here to make the prices clear,  
2267 risks clear, make it easy for consumers to compare one  
2268 product with another.

2269 Mr. PEARCE. Okay. So as, again, going back to your  
2270 statement on page eight, the thing that have caused the  
2271 situation to get imminently worse, it is up in the middle,  
2272 there have been basic rules of the road and blah-blah-blah,  
2273 that statement.

2274 I wonder if you are going to be the angel, be the  
2275 champion of the consumer as it comes to inflation. As I look  
2276 at the Federal Reserve print \$2.6 trillion, as I look at the  
2277 price of vegetables go up, as I look at the price of gasoline  
2278 go up, I realize one of the most fraudulent practices right  
2279 now that is defrauding the consumers, that is taking  
2280 trillions away from their bank accounts is the fact that they  
2281 are printing money.

2282 So is your consumer protection going to log into the  
2283 heavy duty fight or you are going to fight--are you going to



2284 | take on the Fed for printing money or is that something that  
2285 | you don't see your role in?

2286 |       Ms. WARREN. I am sorry, Congressman, but our job is not  
2287 | in monetary policy.

2288 |       Mr. PEARCE. That is to protect the consumer. And  
2289 | anyone who defrauds the consumer, I thought we are going to  
2290 | protect. I was just wondering.

2291 |       Thank you very much. I appreciate. I yield back to the  
2292 | gentleman.

2293 |       Mr. MCCOTTER. And I thank the gentleman.

2294 |       And I thank you, Ms. Warren, for being here today.

2295 |       Just a couple of quick notes. We have earlier heard  
2296 | about how anyone who lended money that was considered morally  
2297 | reprehensible in many ways have been carved out of the  
2298 | Dodd-Frank Bill. And in the spirit of St. Patrick's Day, I  
2299 | would like to think that if that was the case, there was no  
2300 | nefarious motives on the part of the Democratic majority and  
2301 | the Democratic President that allowed it to happen.

2302 |       Secondly, we had heard from another one of our  
2303 | colleagues about how spoiled beef was once opposed by people  
2304 | who wanted to eat it. And as a fair point, no one wanted to  
2305 | eat it. But what happened so often is that where there is  
2306 | legitimate concern for governmental action to prevent this  
2307 | social harm, we wind up going from the inspection to prevent  
2308 | spoiled beef at the federal level to the elimination of happy

2309 meals at municipal levels decades later.

2310 In your eyes, with the fact that we as Congressman, that  
2311 the statute do not annually appropriate to your entity, what  
2312 do you believe is our--it is a two-point question--what are  
2313 the appropriate limits in your mind or the agency that it  
2314 will never do and what is the appropriate role of  
2315 congressional oversight and how would we make our voices  
2316 heard, absent the controller of the--

2317 Ms. WARREN. Thank you, Congressman. I appreciate your  
2318 concern about oversight and appropriations. As you know,  
2319 none of the banking regulators are part of the appropriations  
2320 process and they have have been as a matter of history.  
2321 Congress has repeatedly made a very wise decision that  
2322 pulling a banking regulator, somebody who is going to have to  
2323 stand up to the richest and most powerful and say sometimes  
2324 no is not a good idea. And Congress has never done that.

2325 As it stands right now, the other banking regulators  
2326 stay outside the process, the Consumer Agency is the only one  
2327 of the banking regulators who actually does not have full  
2328 control over its own budget. Its budget is effectively set  
2329 by the Fed unlike the Federal Reserve's ability to set its  
2330 own budget, the FDIC's ability to set its own budget, the  
2331 OTC's ability to set its own budget and the OTS's ability to  
2332 set its own budget.

2333 So the Consumer Agency is more constrained on the

2334 | financial side and it is subject to being overruled by FSCA  
2335 | unlike any agency anywhere else in government. I am  
2336 | convinced that this Consumer Agency will be a voice on behalf  
2337 | of American consumers. But Congress quite reasonably, in  
2338 | setting this agency up, made it the most constrained of the  
2339 | federal agencies.

2340 |       Mr. MCCOTTER. I appreciate that but not necessarily by  
2341 | us.

2342 |       Ms. WARREN. Well--

2343 |       Mr. MCCOTTER. You happen to be, and to the  
2344 | Constitution, that entity within the federal government that  
2345 | is most directly accountable to the people, the House of  
2346 | Representatives and in conjunction with the United States  
2347 | Senate. So I would think maybe the richest and most powerful  
2348 | people, but we can differ on that.

2349 |       Thank you.

2350 |       Chairwoman CAPITO. Mr. Manzullo, for 5 minutes.

2351 |       Mr. MANZULLO. Thank you, Madam Chair.

2352 |       If someone calls the CFPB about a complaint about a  
2353 | mutual fund, will that person be directed to the SEC or would  
2354 | the CFPB investigate this complaint instead?

2355 |       Ms. WARREN. Congressman, I believe that the boundaries  
2356 | on our jurisdiction are pretty clear. And that the Consumer  
2357 | Agency does not do--

2358 |       Mr. MANZULLO. You don't get involved in it?

2359 Ms. WARREN. --investment funds or other similar--

2360 Mr. MANZULLO. They don't get involved with investors?

2361 Ms. WARREN. I think that investment issues are left to  
2362 the SEC?

2363 Mr. MANZULLO. Okay. In your letter to Congressman  
2364 Randy Neugebauer dated January 31st of this year, your  
2365 concluding paragraph says, "I sincerely appreciate your  
2366 thoughts and good counsel regarding the task ahead of us.  
2367 Building this new bureau is exciting and challenging. I hope  
2368 we could work together on behalf of the millions of  
2369 Americans, large banks, community banks, credit unions, and  
2370 investors who are counting on us to build a strong,  
2371 independent, effective and fair bureau that makes the  
2372 consumer credit markets work for everyone.

2373 The word--you used the word investors.

2374 Ms. WARREN. I did, Congressman. And I have been  
2375 reaching out to investors since the first--

2376 Mr. MANZULLO. But you just said that investment would  
2377 be left to the SEC.

2378 Ms. WARREN. No. You asked me if there were consumer  
2379 complaints about an investment.

2380 Mr. MANZULLO. Right.

2381 Ms. WARREN. Would it be part of the Consumer Financial  
2382 Protection Bureau?

2383 Mr. MANZULLO. Right. And you said no.

2384 Ms. WARREN. And the answer is no. The investors I have  
2385 been speaking with are those who invest in financial stocks.  
2386 I have been meeting with them because I actually believe they  
2387 are stakeholders.

2388 Mr. MANZULLO. Invest in financial stocks where they  
2389 would also be covered by the SEC. Isn't that correct?

2390 Ms. WARREN. If you will permit me to explain, investors  
2391 in financial stocks want to understand about what space--

2392 Mr. MANZULLO. I understand that, but the issue is the  
2393 jurisdiction of the CFPB and the SEC. Now, who has  
2394 jurisdiction over this, you or the SEC?

2395 Ms. WARREN. Congressman, it is clear that the SEC has  
2396 jurisdiction if the consumer has a complaint about an  
2397 investment--

2398 Mr. MANZULLO. So then you will stay--you will  
2399 completely stay out of that whole area? Would you--

2400 Ms. WARREN. Of course, Congressman, because Congress  
2401 has made it clear what that boundary is. Those who are  
2402 investing in bank stocks, the same way that they are to  
2403 invest in airplane stocks.

2404 Mr. MANZULLO. But that is--but that is not your  
2405 jurisdiction. Isn't that correct?

2406 Ms. WARREN. My jurisdiction is consumer financial  
2407 products and among the people who are interested  
2408 in--products.

2409 Mr. MANZULLO. I understand that. I thought you  
2410 answered the question clearly, and, now, you are backtracking  
2411 on it.

2412 Ms. WARREN. No, Congressman. I am not backtracking at  
2413 all. I--

2414 Mr. MANZULLO. Does the SEC has--have jurisdiction and  
2415 the ability to protect people who buy stock?

2416 Ms. WARREN. It is the jurisdiction of the SEC to deal  
2417 with consumer complaints about investments, absolutely, Sir.

2418 Mr. MANZULLO. Okay. So then, therefore, there would be  
2419 no room for CFPB to be involved in that issue. Isn't that  
2420 correct?

2421 Ms. WARREN. Well, in the issue of consumer complaints  
2422 about stocks, there is no reason for the consumer agency to  
2423 be involved, yes, Sir.

2424 Mr. MANZULLO. Alright, so you are going to stay away  
2425 from that area?

2426 Ms. WARREN. We will not go beyond our jurisdiction.

2427 Mr. MANZULLO. Okay. The other question I have is, in  
2428 going through your testimony, I just--it is this, on page  
2429 six, at the bottom, pages of fine printed long passages of  
2430 legalese, and they serve some lender, but they can make it  
2431 impossible for the customer to know what is really going on.  
2432 This is wrong. The average consumer who takes out credit  
2433 should not have to struggle to understand the basic

2434 agreement.

2435           Wouldn't you agree that the legalese that the banks and  
2436 credit unions are using is there because of legal  
2437 requirements or regulations?

2438           Ms. WARREN. Sometimes, Congressman, the fine print is  
2439 there because of regulations and that is--

2440           Mr. MANZULLO. --when I practiced law, I closed a  
2441 thousand real estate transactions or more, we had one page.  
2442 I could close it in 20 minutes. Now, Regulation Z in HUD-1,  
2443 multiple pages, it takes 2 hours or more. So the consumer  
2444 knows less because he can't read through all this stuff. But  
2445 how are--they are going to go up against all these other  
2446 agencies that are in each of these rules and regulations and  
2447 just say this is unreasonable, let's go back to one page.

2448           Ms. WARREN. Congressman, when the transfer date comes  
2449 and we pick up from the other seven federal agencies--

2450           Chairwoman CAPITO. The gentleman's time has expired.

2451           Ms. WARREN. Sorry--

2452           Chairwoman CAPITO. --I want to get. Thank you to  
2453 everybody.

2454           Mr. Ackerman, for 5 minutes?

2455           Mr. ACKERMAN. Thank you very much.

2456           I am buoyed by the notion that anybody who could  
2457 withstand the kind of badgering in defending yourself and the  
2458 position and the agency it is going to be doing a very, very

2459 | incredible job in defending the consumers of this country  
2460 | against those who would exercise the amount of greed that we  
2461 | have seen exhibited.

2462 |       Let me yield a moment or two to my friend, Mr. Miller,  
2463 | from North Carolina, who has some answers and an explanation  
2464 | that he would like to--

2465 |       Mr. MILLER. Thank you.

2466 |       Just a quick question, at the beginning of the last  
2467 | decade or early in the last decade, I was careful to  
2468 | distinguish subprime lending and predatory lending, and not  
2469 | all subprime was predatory; and then predatory took over  
2470 | and--out all the others, all the wholesome, legitimate  
2471 | subprime.

2472 |       I earlier asked you if you knew of anyone who qualified  
2473 | for a prime mortgage and got a subprime mortgage, and I  
2474 | outlined some of the predatory terms, and you said you did  
2475 | not. The gentleman from Georgia, I think in the spirit of  
2476 | helpfulness, offered himself as an example. He then outlined  
2477 | the terms of mortgage that he had once gotten. It was hard  
2478 | to tell what his circumstances were at that time what term  
2479 | made me think it probably was predatory and that would have a  
2480 | 5-year prepayment penalty.

2481 |       So I am sure he thinks he is a smart businessman, but  
2482 | they probably snickered and gave themselves high-fives when  
2483 | he walked out of the room having signed that mortgage. But



2484 he also said that he could not otherwise get a loan.

2485       So even after you have now heard the example of the  
2486 gentleman from Georgia, do you know someone who qualified for  
2487 a prime loan, but consciously picked a subprime loan with the  
2488 kind of terms that became prevalent in the middle of the last  
2489 decade?

2490       Ms. WARREN. No, Congressman, I do not.

2491       Mr. MILLER. Thank you.

2492       Mr. ACKERMAN. You are one of the few witnesses I have  
2493 seen in my many years here that begins an answer with yes or  
2494 no. So I don't think there is a lot of beating around the  
2495 bush in listening to your explanations.

2496       One of the things that troubles me--and I don't know how  
2497 I wound up on everybody's sucker list, but I get an awful lot  
2498 of mail, a lot of it junk mail and a lot of it I don't open  
2499 and--as a lot of consumers do. But there is a whole group of  
2500 financial institutions in various sectors that send no--that  
2501 send you mails which are solicitations for programs and  
2502 offers and they don't identify themselves on the envelop.  
2503 There is no return address; and sometimes, the return  
2504 address, that is a post office box somewhere.

2505       What you can see through the usual window that they have  
2506 in these types of promotions besides your name and address  
2507 that it concerned your account at blank financial institution  
2508 which you have an account at. And you are anxious to open it

2509 up because this is coming from my bank or my credit union or  
2510 what have you. And you open it up and it talks all about  
2511 selling you an insurance product or life insurance because  
2512 you just refinanced your mortgage or opened a mortgage or an  
2513 account which becomes a matter of public record.

2514 And you think because of the presentation on the  
2515 envelope that this is from your financial institution. And  
2516 you can read three pages worth of information and sales pitch  
2517 before you realize it is from somebody you do not know or  
2518 have a relationship with.

2519 I don't want to interfere with anybody's right to free  
2520 speech or advertiser or a promoter to inhibit their business  
2521 in any way, but it is meant to be deliberately deceptive to  
2522 the potential consumer--or the consumer in making them think  
2523 that this is from their bank.

2524 Would you be amenable to exploring a method of requiring  
2525 some form of identification? And could I have somebody in  
2526 your staff meet with me and my staff so that at least you  
2527 know on the envelope who this is from rather than being  
2528 deceived into thinking it is from a legitimate, established  
2529 institution with which you have a relationship?

2530 Ms. WARREN. Congressman, we would be very pleased to  
2531 send someone over from the Consumer Financial Protection  
2532 Agency to work with you and see how we can do this.

2533 Mr. ACKERMAN. But it should be somebody who has an

2534 understanding of people's rights under our Constitution from  
2535 the promoter side and the business side also to be able to do  
2536 that while still protecting the interests of the consumer.

2537 Ms. WARREN. Congressman, we want to be as helpful as we  
2538 can. I only offer one small caveat--we are just getting  
2539 started and we are still small and trying to build out. So  
2540 you may have to be a little tolerant with us on timing, but  
2541 we really want--

2542 Mr. ACKERMAN. I am just getting started myself, so we  
2543 will work together.

2544 Ms. WARREN. Alright. Thank you.

2545 Mr. ACKERMAN. Thank you.

2546 Chairwoman CAPITO. Thank you.

2547 Mr. Garrett, from New Jersey, for 5 minutes.

2548 Mr. GARRETT. And I thank the Chair.

2549 I just want to start my statement or my questions--my  
2550 statement first. In your statement, you constantly--and I  
2551 have probably heard you say this before--compare the CFPB to  
2552 other banking regulators. But, as you said today, I believe  
2553 that is an inappropriate comparison.

2554 You stated specifically Congress has consistently  
2555 provided for independent funding for bank supervisors to  
2556 ensure that banks are examined regularly and thoroughly for  
2557 both safety and soundness in compliance with the law. But  
2558 your agency doesn't have a safety and soundness aspect or

2559 mission to it, does it? Yours is a consumer protection.

2560       And so the reason why other--that banking regulators  
2561 have independent funding is because of the safety and  
2562 soundness function. And that is authority. And you don't  
2563 want the members of the Congress or the political aspect to  
2564 get involved affecting anything dealing with safety and  
2565 soundness of financial institutions as opposed to what you  
2566 are involved with what you just told us, which is consumer  
2567 protection.

2568       You have a consumer protection function. Now, the other  
2569 consumer protection agencies on the federal level, what do  
2570 they have? They have a funding mechanism that goes through  
2571 the appropriation process, unlike yours... Yours is a consumer  
2572 protection agency. Just like the other ones, you should go  
2573 through the appropriation process.

2574       What also do they have? What is the other difference?  
2575 If you were like the other banking regulators that you  
2576 suggest that you are, well, then, wouldn't you have a board  
2577 as a sort of check and balance as opposed to just one lead  
2578 authority, which is where you are? All the other ones have  
2579 boards in their framework. Yours does not.

2580       So I don't think your comparison to bank regulators  
2581 or--is the appropriate one and, therefore, the appropriation  
2582 process should be, as we said before, that we have a check  
2583 and balance on what comes out of the agency that you may be

2584 | involved with.

2585 |       Let me go to the question. And I appreciate the fact  
2586 | that you are commended on giving yes or no answers. And so I  
2587 | have some easy questions for yes and no answers. Talking  
2588 | about the legal settlement and servicing issue that is out  
2589 | there right now in the news, let me ask you this. Is there a  
2590 | difference do you believe first of all there is a fundamental  
2591 | issue between penalties for criminal wrongdoings in a wrongly  
2592 | foreclosed on homeowners versus your paperwork violations?

2593 |       Is there a difference in how those should be treated?

2594 |       Ms. WARREN. Congressman, there is an ongoing legal  
2595 | enforcement action.

2596 |       Mr. GARRETT. Right. And that is why I am asking.

2597 |       Ms. WARREN. And it would not be appropriate for any  
2598 | member of the government, me or anyone else, to comment on  
2599 | what is involved in those negotiations. That would not be  
2600 | right.

2601 |       Mr. GARRETT. Well, let me ask you this. Well, have you  
2602 | pushed for or advocated a recommended dollar amount with  
2603 | regard to the other regulators involved in this situation?

2604 |       Ms. WARREN. Congressman, I know that given the level of  
2605 | problems that have been uncovered with mortgage servicing  
2606 | that the acting director of the Comptroller of the Currency  
2607 | has been here in Congress to talk about--

2608 |       Mr. GARRETT. Right. But what about--

2609 Ms. WARREN. --violations of state laws and local laws  
2610 that as--

2611 Mr. GARRETT. But what about you? You are here today,  
2612 so just tell us what you are doing. Are you making  
2613 recommendations to the other regulators as far as the dollar  
2614 amount of the penalties involved in this case?

2615 Ms. WARREN. As the government is trying to negotiate  
2616 with those servicers that the OCC found have violated the  
2617 law--

2618 Mr. GARRETT. Right. Okay.

2619 Ms. WARREN. --they have asked that no one speaks about  
2620 the content of those negotiations.

2621 Mr. GARRETT. So you cannot tell what your--can you tell  
2622 us what your role is in this?

2623 Ms. WARREN. I can certainly tell you what our role is.

2624 Mr. GARRETT. Okay, good. Have you made recommendations  
2625 to them with regard to what the penalties should be? That  
2626 would be part of your role.

2627 Ms. WARREN. What I can tell you about--

2628 Mr. GARRETT. Is that part of your role to make  
2629 recommendations to them with regard to penalties and the  
2630 dollar amounts in these cases?

2631 Ms. WARREN. The Secretary of the Treasury has asked us  
2632 for the consumer agencies to give advice. The Department of  
2633 Justice has asked us.

2634 Mr. GARRETT. So the answer is--the answer is yes?

2635 Ms. WARREN. Congressman, it is the case that the  
2636 government is trying to negotiate on behalf--

2637 Mr. GARRETT. I understand that, but I am just trying to  
2638 find out what you are doing.

2639 Ms. WARREN. --on behalf of the American people.

2640 Mr. GARRETT. I understand that. What are you doing?

2641 Ms. WARREN. And they have asked--

2642 Chairwoman CAPITO. Will the gentleman yield?

2643 Mr. GARRETT. I only have 30 seconds left so.

2644 Ms. WARREN. The Department of Justice has made it clear  
2645 that they don't want people who are part of the government--

2646 Mr. GARRETT. I understand that. Can you tell us,  
2647 because they have asked you to be involved in this--your  
2648 answer to that--what legal authority does a political  
2649 appointee have in a situation like this making  
2650 recommendations with regard to either civil or criminal  
2651 actions?

2652 Ms. WARREN. Congressman, I think we need cops on the  
2653 beat to enforce the law.

2654 Mr. GARRETT. Right, but we need to know what the law  
2655 is. Can you cite--

2656 Ms. WARREN. We need--

2657 Mr. GARRETT. Can you cite what the authority is to  
2658 enforce that law that you have?

2659 Ms. WARREN. We need to enforce the law.

2660 Mr. GARRETT. Can you tell me what that law is please?

2661 Ms. WARREN. The Office of the Comptroller of the  
2662 Currency has been here to make it clear that the mortgage  
2663 servicers--

2664 Mr. GARRETT. I am not talking about the OCC. I am  
2665 talking about you, not the OCC. Can you cite what--

2666 Ms. WARREN. --have violated the law.

2667 Mr. GARRETT. Can you cite what the legal authority is  
2668 for you to do these actions?

2669 Chairwoman CAPITO. The gentleman's time has expired.

2670 I want to, first of all, turn to Ranking Member Maloney  
2671 for a short statement.

2672 Mrs. MALONEY. I just want to thank you for your  
2673 remarkable public service and for serving so well in two jobs  
2674 now as a special assistant to the President of the United  
2675 States and as a special assistant to the Secretary of the  
2676 Treasury. I truly do hope that he appoints you to be the  
2677 first permanent director of this body.

2678 You have worked extremely, you are a champion really for  
2679 consumers and you have been balanced and fair. I compliment  
2680 you on your work and on your testimony today and on the fine  
2681 job that you are doing. Thank you.

2682 Chairwoman CAPITO. Thank you.

2683 And I would like to thank you also, Professor Warren. I



2684 | have another--I was hoping we could get in the time allotted  
2685 | to another question. But I would say the duplication and the  
2686 | financial education across the board, the GAO study, there  
2687 | was a great concern over the gap that is going to occur if  
2688 | this agency doesn't have a leader in July and regulations  
2689 | that are moving forward and what is going to happen there.  
2690 | And there are a lot of players at the table that are very  
2691 | concerned about that.

2692 |         So I appreciate your coming in and testifying. And I  
2693 | would say the Chair notes that some members may have  
2694 | additional questions for this panel which they may wish to  
2695 | submit in writing; without objection, the hearing record will  
2696 | remain open for 30 days for members to submit written  
2697 | questions to these witnesses, or to this witness, and to  
2698 | place their responses in the record.

2699 |         This hearing is adjourned.

2700 |         [Whereupon, at 12:32 p.m., the subcommittee was  
2701 | adjourned.]