March 8, 2021

The Honorable Rohit Chopra
Director Designate
Bureau of Consumer Financial Protection
1700 G St NW,
Washington, DC 20552

Dear Mr. Chopra:

Thank you for testifying before the United States Senate Committee on Banking, Housing, and Urban Affairs on March 2, 2021, at our hearing to consider nominations.

In order to complete the hearing record, please respond to the enclosed questions by Monday, March 8, 2021, at 12:00PM. When formatting your response, please repeat the question, then your answer, single spacing both question and answer. Please do not use all capitals.

Send your reply to Mr. Cameron Ricker, the Committee's Chief Clerk. He will transmit copies to the appropriate offices, including the Committee's publications office. Due to current procedures regarding Senate mail, it is recommended that you send replies via e-mail in a Microsoft Word or PDF attachment to Cameron_Ricker@banking.senate.gov.

If you have any questions about this letter, please contact Mr. Ricker at (202) 224-5587.

Sincerely,

Sherrod Brown
Chairman

SB/cr

Committee on Banking, Housing, and Urban Affairs
Nominations of The Honorable Gary Gensler and The Honorable Rohit Chopra
March 2, 2021

Questions for The Honorable Rohit Chopra, of the District of Columbia, to be Director, Bureau of Consumer Financial Protection, from Chairman Sherrod Brown:

1) Where have you excelled in past positions in hiring and promoting people of color? Where is there room for improvement?

RESPONSE:

Racial inequality is reinforced and exacerbated by workplace racism in both the public and private sectors. From black-box algorithms that fail to show employment ads to minority candidates to hiring practices that undervalue degrees from historically Black colleges and universities to promotion policies that give managers the discretion to discriminate, there is still much work to do to ensure everyone has equal access to opportunity.

While I have been fortunate to work with, hire, and advocate for many exceptional people of color, I believe that each of us must take more personal responsibility for transforming workplace cultures into ones that address discriminatory practices, particularly in hiring and promotion.

2) In August 2011, President Obama issued an Executive Order establishing a coordinated, government wide initiative to promote diversity and inclusion in the federal workforce. The executive order reads, in part, that "Attaining a diverse, qualified workforce is one of the cornerstones of the merit-based civil service . . . . To realize more fully the goal of using the talents of all segments of society, the Federal Government must continue to challenge itself to enhance its ability to recruit, hire, promote, and retain a more diverse workforce. Further, the Federal Government must create a culture that encourages collaboration, flexibility, and fairness to enable individuals to participate to their full potential." The order required each agency to establish an agency-specific diversity, equity, and inclusion strategic plan with specific objectives.

RESPONSE:

I am committed to the goals of Executive Order 13583 and, if confirmed, would work to further these goals.

3) Please describe your commitment to diverse hiring at the Consumer Financial Protection Bureau (CFPB). Will you review and update the CFPB's diversity, equity, and inclusion strategic plan to ensure it contains specific objectives?

RESPONSE:

The United States government should strive to be as diverse as the people we serve. If confirmed, I would work with CFPB staff to review this plan and make appropriate updates so that it is concrete and actionable.

4) Will you commit to establishing a system for reporting regularly on the CFPB's progress in implementing an agency-specific diversity, equity, and inclusion strategic plan and in meeting the objectives under the plan?

RESPONSE:

Yes.

5) Will you commit to transparency on workplace policies, salaries, and benefits? What is your plan for implementing these policies?

RESPONSE:

Yes. If confirmed, I would work with CFPB staff on this issue.

6) What are some short- and long-term strategies for addressing disparities in the consumer financial products and services markets and financial literacy?

RESPONSE:

It is critical that our financial system works for all Americans. In the short-term, particularly during the pandemic, it is critical that consumers can access credit and be free from unlawful discrimination. Over the long-term, it is critical that the CFPB and other regulators monitor markets carefully to get ahead of emerging threats, particularly those that harm the most vulnerable consumers.

7) Have you previously implemented and required diversity, equity, and inclusion training for all employees and implicit bias training for managers within your purview?

8) Will you commit to implementing and requiring diversity, equity, and inclusion training for all employees within your purview? What is your plan for implementing these trainings?

RESPONSE TO 7-8:

In many of my past employment experiences, I have participated in or implemented certain enterprise-wide training opportunities within my business unit. If confirmed, I would work with CFPB staff to assess any existing trainings and ensure any training opportunities are designed and implemented with the goal of promoting a safe work environment for all employees.

9) Will you commit to implementing and requiring implicit bias training for managers within your purview? What is your plan for implementing these trainings?

RESPONSE:

If confirmed, I would seek to understand any training for managers and gather information on its effectiveness. I am committed to making the appropriate changes to these programs and making them mandatory, consistent with law and regulation.

10) Please describe how you view the role of CFPB Director in appropriately serving BIPOC? How do you view the CFPB's role in furthering racial equity?

RESPONSE:

The CFPB Director must ensure the actions of the Bureau meaningfully promote the financial well-being of historically underserved and disadvantaged communities.

11) Please list at least 3 specific areas of focus/priorities for advancing racial equity, diversity, and inclusion at the CFPB. What specific measures will you use to evaluate success in these areas, and over what period of time?

RESPONSE:

If confirmed, I would work with CFPB staff to identify the ways to advance these goals. Three likely areas of focus include: (a) addressing homeowner distress in the mortgage market stemming from the pandemic that disproportionately impacts communities of color, (b) ensuring adequate oversight of institutional compliance with the Equal Credit Opportunity Act and other appropriate federal consumer financial laws, and (c) ensuring that the CFPB has appropriate systems and processes in place to better understand how business practices might disproportionately harm communities of color.

12) Please describe how you plan to work with and engage the consumer finance sector to serve BIPOC and dismantle systemic racism's impact in those sectors? How, specifically, will you hold the industry accountable on these issues? How will you accelerate private sector efforts to achieve more inclusive leadership?

RESPONSE:

The most important way that the CFPB can seek to address these issues in the consumer finance sector is to hold accountable any entities violating federal consumer financial laws. If confirmed, I would support efforts to carefully assess how the use of machine learning and algorithmic decision-making can reinforce biases, rather than reduce them. With respect to any private sector efforts to achieve more inclusive leadership, I would work

closely with the CFPB's Office of Minority and Women Inclusion on the standards developed pursuant to section 342(b)(2)(C) of the Dodd-Frank Act.

13) How do you plan on incorporating the views and work of the Office of Minority and Women Inclusion and the Office of Fair Lending across the CFPB?

RESPONSE:

If confirmed as CFPB Director, I expect that the Office of Minority and Women Inclusion and the Office of Fair Lending & Equal Opportunity will play significant roles in the work of the agency.

For example, I anticipate the Office of Fair Lending & Equal Opportunity will be involved in identifying how all of the CFPB's tools can advance the goal of equal opportunity, both including and beyond the Equal Credit Opportunity Act and the Home Mortgage Disclosure Act.

14) The CFPB has outside advisory councils and task forces comprised of industry leaders, academics, non-profits, and other stakeholders. They serve as volunteers but have significant influence being appointed by and working closely with you. Should your agency be judged by its success in populating these groups with more diverse advisors on these councils and task forces, and if so, over what period of time?

RESPONSE:

It is critical that the CFPB hear from a diverse set of stakeholders, and if confirmed I would work to ensure diverse representation.

15) What specific measures will you use to evaluate the CFPB's success in understanding and addressing the needs of BIPOC? Will you regularly report to Congress on the progress being made on these measures?

RESPONSE:

If confirmed, I am committed to rigorous market monitoring. For example, if the CFPB uncovers evidence that certain groups are being excluded from housing opportunities based on faulty tenant screening reports, it is critical we use every tool in our toolbox to halt unlawful conduct. I will commit to providing Congress information regarding our progress.

16) An agency's budget reflects its values and goals. How do you plan to allocate and sufficiently resource internal and external efforts to advance DEI as part of the agency's annual budget process? How will you ensure sufficient financial support for the agency-specific diversity, equity, and inclusion strategic plan to ensure you are able to meet the objectives established under that plan in a reasonable time period?

RESPONSE:

I am committed to doing everything in my power to ensure that the market for financial services is fair, accessible to all, and nondiscriminatory. If confirmed, I would work with CFPB staff in the budget process to ensure that the CFPB's Office of Fair Lending & Equal Opportunity, Office of Minority and Women Inclusion, and Office of Civil Rights each has sufficient resources to carry out their important missions.

Questions for The Honorable Rohit Chopra, of the District of Columbia, to be Director, Bureau of Consumer Financial Protection, from Ranking Member Patrick Toomey:

Access to Small Dollar Credit

1) Small dollar loans are not sold on a secondary market, and they pose no threat to financial stability. The regulation of small dollar loans essentially boils down to whether consumers can be trusted to make their own decisions about what credit they need and what they are willing to pay for it. Do you believe that consumers are more capable than regulators of understanding their own needs and deciding what is best for them?

RESPONSE:

It is not the job of regulators to make decisions for consumers. The Dodd-Frank Act requires that the agency monitor and oversee markets, so that consumers can make choices in a competitive environment.

2) In 2017, the CFPB under former Director Richard Cordray issued a rule on small dollar loans that would have virtually eliminated the small dollar loan industry. In 2019, the CFPB revoked this rule. It noted that the 2017 rule would have wiped out 89-93% of all covered loans. Many consumers have no other option when there is a sudden expense that must be paid. The demand for these products will not disappear, even if the products do. Do you acknowledge that the 2017 rule on small dollar lending would have the effect of eliminating the vast majority of small dollar loans?

RESPONSE:

Although I have not personally reviewed this data, I would work with CFPB staff on this important issue if confirmed. I am also aware that this rule is currently subject to active litigation.

3) Do you think that the CFPB should take choices away from consumers and make it harder to access options for small dollar credit, including payday, title, and installment loans? Do you agree that doing so would leave consumers worse off?

RESPONSE:

I believe consumers benefit from having a wide range of choices in a market free of unlawful practices.

4) Will you commit to leave the 2019 rule on small dollar lending in place? If not, what factors will affect your consideration?

RESPONSE:

I do not want to prejudge any specific agency actions, but, if confirmed, I will carefully consider the impact on consumers and access to credit with regards to any regulatory action by the CFPB. I am also aware that this rule is currently subject to active litigation.

Congressional Review Act (CRA)

5) The CFPB issued a rule under former CFPB Director Cordray that prohibited pre-dispute arbitration agreements. However, the CFPB's own study on the issue showed substantial evidence that such agreements benefit consumers. In the 158 arbitration cases analyzed, the average award was $5,400, compared to an average award of just $32 in class action cases.[1] In federal class action cases that settled, the CFPB found that trial lawyers received $424 million – or approximately 24% of the total cash payments companies made to settle the claims. Knowing this, Congress enacted into law a CRA resolution rescinding the rule. Absent new legislation, the issue of pre-dispute arbitration agreements is closed. I am concerned that the CFPB will try to ban a subset of pre-dispute arbitration clauses and evade the clear directive from Congress. Will you commit that the CFPB will not attempt to issue a rule that prohibits any type or form of pre-dispute arbitration agreements?

RESPONSE:

Under the Congressional Review Act, 5 U.S.C. § 801(b)(2), I understand that the CFPB cannot reissue the arbitration rule in "substantially the same form," and cannot issue a new rule that is "substantially the same." If confirmed, I will ensure that the CFPB follows the law.

Fair Debt Collection Practices Act (FDCPA)

6) Congress gave the CFPB authority to regulate third-party debt collectors under the FDCPA. In 2020, you issued a statement in a Federal Trade Commission (FTC) case (In the Matter of Midwest Recovery Systems) in which you suggested a significant expansion of the CFPB's regulatory authority in a manner that would directly contravene congressional intent and create substantial market uncertainty. Specifically, you suggested that the CFPB should subject first-party creditors (i.e., creditors collecting on debts owed to them) to its debt collection rules. Of course, as the CFPB itself recognizes, the FDCPA does not cover the collection activities of first-party creditors. This reflects a decision by Congress regarding the appropriate scope of debt-collection restrictions. While Congress has the power to revisit that decision, the CPFB does not. On what basis do you believe the CFPB has the authority to issue a rule (whether framed as an FDCPA, unfair, deceptive, or abusive acts or practices (UDAAP), or other rule) that would circumvent the clear limitations Congress embedded in the legislative framework governing debt collection?

---

[1] https://files.consumerfinance.gov/f/201503_cfpb_arbitration-study-report-to-congress-2015.pdf

RESPONSE:

My statement in *Midwest Recovery Systems* did not concern the scope of the FDCPA, but rather the sale of counterfeit debt and related problems. The CFPB has challenged problematic practices by first-party creditors in a number of enforcement matters. For example, in 2015, the CFPB, 47 states, and the District of Columbia charged JPMorgan Chase with unlawfully selling bad credit card debt and illegally robosigning court documents.

7) In addition, the Small Business Administration's Office of Advocacy has warned that "[u]sing the Bureau's UDAAP authority creates uncertainty and legal risk for first party creditors."[2] There are significant business model differences between first- and third-party creditors, which the CFPB has recognized, as well as different regulations applicable to such creditors. Consumers have ongoing relationships with first-party creditors, and collecting unpaid debts is usually only an ancillary function of their business. In light of these important differences between first- and third-party creditors, why do you believe such an expansion of the CFPB's regulations would be warranted?

RESPONSE:

I am not prejudging any regulatory action. If confirmed, I would explore these concerns and seek to understand any impact on small businesses.

Innovation

8) In 2019, the CFPB finalized three policies to promote innovation and reduce regulatory uncertainty: the No-Action Letter Policy, the Compliance Assistance Sandbox Policy, and the Trial Disclosure Program Policy. These policies collectively facilitate compliance and allow regulated entities to bring new products and services to consumers more quickly. What are your views on these policies? Do you intend to retain them if confirmed as CFPB Director?

RESPONSE:

I am a strong believer in promoting competition. In my work at the Federal Trade Commission, I have repeatedly expressed concerns about the difficulties that many new businesses face when it comes to competing against dominant players.

A competitive and innovative financial sector is critical for our economy and our global competitiveness. If confirmed, I am committed to working with CFPB staff to identify ways that the Bureau can further the efforts of promoting a competitive marketplace that incentivizes consumer-friendly innovation.

---

[2] https://cdn.advocacy.sba.gov/wp-content/uploads/2019/09/19153425/Debt-Collection-Comment-Letter-Sept-2019-Final-pdf1.pdf./

9) Last year, the CFPB took another positive step toward providing clarity and reducing regulatory uncertainty by finalizing a new policy on advisory opinions. Under this new framework, institutions seeking to comply with regulatory requirements can submit a request to the CFPB, which will issue opinions on such requests. The CFPB has issued three advisory opinions under this policy regarding private education loans, earned wage access programs, and special purpose credit programs. What are your views on these opinions? Do you intend to retain them if confirmed?

RESPONSE:

Advisory opinions can be a useful tool in the Bureau's toolkit to develop legal interpretations. I do not have access to all of the underlying data and analysis used to develop these advisory opinions. If confirmed, I would work with CFPB staff on any future advisory opinions.

10) Will you commit to continuing to offer advisory opinions and no-action letters?

RESPONSE:

While I do not want to prejudge any particular regulatory action, if confirmed, I would work with CFPB staff on ways to use all of the agency's tools to advance the Bureau's mission to protect consumers and promote competition.

11) Are there other ways that you believe the CFPB can encourage financial innovation?

RESPONSE:

I believe we can spur innovation by ensuring markets are competitive, and there are many ways to do so. For example, Congress enacted section 1033 of the Dodd-Frank Act regarding consumer rights to access information, and I am interested in ways that implementation of this section can lead to more competitive markets. If confirmed, I would work with CFPB staff to identify all of the ways that the Bureau can further the efforts of promoting a competitive marketplace that incentivizes consumer-friendly innovation.

12) CFPB officials have recognized that artificial intelligence (AI) "has the potential to expand credit access by enabling lenders to evaluate the creditworthiness of some of the millions of consumers who are unscorable using traditional underwriting techniques."[3] Do you agree with this assessment? If confirmed, will you encourage the use of AI in credit underwriting?

RESPONSE:

Automated decision-making is reshaping business processes across sectors of the economy. During my time as a Commissioner, the FTC hosted a hearing on Competition and

[3] https://www.consumerfinance.gov/about-us/blog/innovation-spotlight-providing-adverse-action-notices-when-using-ai-ml-models/

Consumer Protection Issues of Algorithms, Artificial Intelligence, and Predictive Analytics that included a number of perspectives. While artificial intelligence offers promise, it also raises important questions about the transparency of decision-making and the accuracy of algorithmic outcomes. If confirmed, I am committed to carefully examining this issue.

Government-Sponsored Enterprise (GSE) Patch

13) CFPB issued a new Qualified Mortgage Rule in 2020 that, after a July 1, 2021 compliance date, would have replaced the existing General QM definition that is based on a 43 percent debt-to-income (DTI) ratio requirement and detailed income and debt verification requirements with a new General QM definition that is based on price spread-based thresholds, and ended the "GSE patch." But, this month, the CFPB Acting Director issued a proposed rule to extend the GSE patch by extending the July 1, 2021 mandatory compliance date of the new rule to October 1, 2022. The GSE patch, as you know, exempts mortgages that meet the Fannie and Freddie underwriting standards certain General QM requirements (the 43 percent DTI limit and the detailed verification requirements) while the companies are under government conservatorship, but not after the conservatorship ends. The practical effect of the GSE patch is to confer yet another regulatory advantage on GSE-supported mortgage intermediation that enables the GSEs to crowd out private capital and continue their growth. I am concerned that the CFPB will extend the GSE patch indefinitely. If confirmed, will you let the GSE patch expire as originally scheduled in the 2020 rule?

14) If not, will you at least commit not to extend the GSE patch beyond the date contemplated in the proposed rule?

RESPONSE TO 13-14:

This announcement was issued by the current leadership of the Bureau, and I understand that the Bureau published a notice on March 3, 2021 describing its proposal in more detail.

I do not wish to prejudge any regulatory action, and I understand that Congress and a number of agencies are carefully considering the future of the GSEs. The CFPB's role, as authorized in Dodd-Frank, is to ensure that consumers can access mortgages on affordable and understandable terms. However, I understand it is critical for the CFPB to work closely with the Federal Housing Finance Agency and others to understand the market.

During the confirmation process, I have had the opportunity to hear the views of many Senators regarding this topic. I appreciated these discussions, and, if confirmed, would listen to all perspectives to determine what, if any, changes should be proposed.

Regulation by Enforcement

15) The government should set clear rules of the road before holding anyone responsible for breaking them. This means conducting notice and comment rulemaking that establish clear rules

in advance. Unfortunately, former CFPB Director Cordray preferred to regulate by enforcement, a practice he engaged in extensively during your time at the CFPB. Perhaps the most egregious example is when Director Cordray filed a complaint against mortgage company PHH that completely reinterpreted well-settled law. In the case of PHH v. CFPB, the D.C. Circuit unanimously agreed that the CFPB violated the Due Process Clause of the U.S. Constitution because it did not provide fair notice in advance of what conduct was prohibited. Do you agree with the D.C. Circuit that this action was unfair and unconstitutional?

RESPONSE:

While I do not have access to the underlying facts and evidence in this matter, I understand that retroactive changes to legal interpretations can raise significant fair notice concerns. If confirmed, I will follow the law.

16) Do you commit to not have the CFPB resume regulation by enforcement if you are confirmed?

RESPONSE:

If confirmed, I commit that enforcement actions will be grounded in the individual facts and circumstances of each case and will respect the rule of law.

17) The Dodd-Frank Act gave the CFPB a new authority to prevent "abusive" practices, a term that was only loosely explained in the statute. It is far from clear exactly what actions a financial institution could take that would cause the CFPB to file a lawsuit announcing that those actions had been "abusive." Law professor Todd Zywicki has written: "'Abusiveness' … is a novel term with limited predecessors. The CFPB, scholars, and commenters have struggled to define the term "abusive" in a manner that effectuates Congress's language and intent in a predictable and consumer welfare-enhancing manner."[4] Will you commit not to bring any new enforcement actions charging that a company was "abusive" until the CFPB has conducted notice-and-comment rulemaking to establish with significantly greater clarity what is prohibited by that term?

RESPONSE:

In the Dodd-Frank Act, Congress prescribed the circumstances under which the CFPB can enforce the prohibition on abusive acts or practices, and I commit to following the law. State regulators can also enforce the prohibition. Although I do not want to prejudge any particular enforcement action, I will carefully analyze the facts and law before authorizing any claims.

Government-Run Credit Reporting

[4] https://files.consumerfinance.gov/f/documents/cfpb_zywicki-written-statement_symposium-abusive.pdf.

18) President Biden has endorsed the idea of creating a new government-run credit reporting agency within the CFPB as an alternative to the private credit reporting agencies. He further endorsed making this government-run agency mandatory for all federal lending programs, including mortgage loans and student loans. Congress has never contemplated CFPB acting as a credit reporting agency, and such an expansion would far exceed the CFPB's current statutory authority. The Dodd-Frank Act gives the CFPB authority to enforce 18 enumerated consumer protection laws, and to regulate, supervise, and enforce "consumer financial protection law"— it does not authorize the CFPB to offer consumer products. Do you agree that the CFPB does not have the authority to establish a credit reporting agency without further legislation?

RESPONSE:

I am not aware of any authority to establish a credit reporting agency without further legislation.

19) Do you believe that the government should expand the CPFB's powers and role to include competing with private enterprise by offering a credit reporting product?

RESPONSE:

I have not reviewed any detailed information regarding this proposal. This is a matter for Congress, and, if confirmed, I would make staff available to provide technical assistance on any proposals.

Small Business Data Collection

20) Section 1071 of the Dodd-Frank Act directs the CFPB to adopt regulations governing the collection of certain small business lending data. In September 2020, the CFPB released an outline of proposals under consideration and alternatives considered. What is your view of this proposal?

21) I am concerned about the potential burdens of a significant new collection of information from small businesses. How will you seek to fulfill the purposes of section 1071 while minimizing compliance burden on small businesses and the financial institutions that serve them?

RESPONSE TO 20-21:

Across the country, small businesses are facing extinction, and we must do everything we can to ensure they can access credit on fair and competitive terms. I do not want to

prejudge any particular proposals, but if confirmed, I am committed to ensuring that the CFPB implements section 1071 of the Dodd-Frank Act. If confirmed, I would review the outline and consult with CFPB staff, and would have ongoing dialogue with Members of the Committee on ways to best implement this requirement.

22) Some stakeholders have suggested that one way to make this collection more efficient would be for the CFPB to establish a database to which small businesses could submit information. Will you consider this alternative as you seek to develop a proposed rule to implement section 1071?

RESPONSE:

Yes. If confirmed, I will look forward to working with your office and with CFPB staff to assess ways to streamline data collection.

Section 1033 Rulemaking

23) In October 2020, the CFPB published an advance notice of proposed rulemaking (ANPR) pursuant to section 1033 of the Dodd-Frank Act, which provides for consumer access to financial records subject to rules prescribed by the CFPB. The ANPR notes that stakeholders have raised concerns about the current state of the consumer-authorized data access ecosystem, including that not all consumers are able to authorize access to their data in a manner commensurate with the access rights described by section 1033. Do you share these concerns?

24) What is your view of the current state of consumer access to financial records? What do you consider the most important considerations relevant to this topic?

RESPONSE TO 23-24:

Yes, I share these concerns. I believe that consumers should have control over their data and over how their data is used. I am also sensitive to the security and privacy concerns that many stakeholders have regarding this issue. I do not believe we have to choose between consumer choice and security and privacy. I believe a functioning market enables competitors to provide products to consumers safely and transparently.

25) Do you anticipate that you will advance a notice of proposed rulemaking pursuant to section 1033? If so, how would you prioritize this issue relative to other rulemaking priorities?

RESPONSE:

I understand that the comment period recently closed on the Advanced Notice of Proposed Rulemaking regarding section 1033. If I am confirmed, I would like to carefully understand the analysis conducted to date by CFPB staff. I will work with CFPB staff to

consider all the comments carefully, and to chart a path forward. I believe this effort is very important, given the critical role of consumer data, and, if confirmed, will update Congress on the CFPB's progress.

26) How will other countries' experience with similar regulations inform the CFPB's work in this area?

RESPONSE:

It is important that the United States has vibrant and competitive financial markets, and I believe our policies should recognize the unique features of the American system. At the same time, I believe there are lessons that we can draw from the experiences of other countries, as well as from the states. As an FTC Commissioner, I am in contact with my counterparts both in the states and around the globe, and I look forward to remaining in contact to share experiences and best practices if confirmed.

CFPB Public Statements and Deliberations

27) Under former Director Cordray, the CFPB was widely criticized for its use of midnight embargoed press releases announcing rules. Such embargoes were viewed as a way to avoid engaging with stakeholders when releasing important information to the public. Will you commit not to return to this practice?

28) How will you ensure transparency in the CFPB's communications to the public?

RESPONSE TO 27-28:

I commit to making transparency an important goal, and if confirmed, I will carefully review the CFPB's policies and procedures related to press announcements.

29) As you are aware from your experience as an FTC Commissioner, agencies with bipartisan boards conduct meetings in open session during which a diversity of views – including dissenting opinions – are publicly discussed. How will you ensure that the CFPB considers a wide range of stakeholder views as it develops policy and how will you ensure that such views are discussed publicly?

RESPONSE:

If confirmed, I will welcome input from all stakeholders, including those who may disagree. I especially support multiple channels for input, including field hearings held outside of Washington, where the agency can hear directly from stakeholders in a public setting. The CFPB must also adhere to the procedures pursuant to the Administrative Procedure Act to solicit public feedback on proposals, where all stakeholders can view public comments.

Public input can help drive sound decision-making, and if confirmed, I look forward to engaging with the people we serve in new and innovative ways.

Enforcement Actions and Regulations

30) Mr. Chopra, in examining your public statements over the years while at the CFPB and the FTC, you have routinely advocated for harsher penalties against private companies that you believe were engaged in wrongdoing. In fact, as an FTC Commissioner, you have dissented from numerous cases on the grounds that the FTC's actions were not harsh enough against the private entity. However, it is unclear when, if ever, you would consider an enforcement or other regulatory action against a private company to be too burdensome or harsh toward that private entity. As an FTC Commissioner, have you ever dissented in a case or voted against a rule because you viewed it as too burdensome or harsh against a private company? Please list any cases or rules and the reasons for your view.

RESPONSE:

During my time at the FTC, I have raised concerns about the Commission's practice of harshly punishing small actors, while holding larger firms to a different standard. For example, I have noted that in the FTC's enforcement of the Children's Online Privacy Protection Act, the Commission will charge individuals and seek harsh penalties for small companies, but will go easy on larger firms.

In some cases, staff have put forth proposed enforcement actions, and I have supported closing the investigation when I did not believe an action was appropriate. I have also agreed, dependent on the facts, to drop claims and individual defendants.

31) You were involved in setting up the CFPB and served there in a senior capacity for several years during the Obama Administration. Has the CFPB undertaken any enforcement actions or issued any rules that you believe were too burdensome or harsh against a private company? Please list any cases and the reasons for your view.

RESPONSE:

My primary responsibilities did not involve enforcement or rulemaking, so I was not privy to the underlying facts in the large majority of matters.

Conflicts of Interest

32) In an effort to "root out corruption and restore faith and trust in our government," you argue in your 2018 "Unstacking the Deck" policy paper that "[c]onflicts of interest for senior government officials should be made public, including all ethics advice received from agency ethics officials that the officeholder is relying upon, as well as any recusals and waivers."[5] If confirmed, will you commit to making publicly available all conflicts of interests involving yourself within two weeks of the conflict being identified by an agency ethics official, including

[5] https://greatdemocracyinitiative.org/wp-content/uploads/2018/05/Unstacked.pdf

all ethics advice received from agency ethics officials that you are relying upon, as well as any recusals and waivers?

RESPONSE:

I understand the importance of transparency and seeking counsel from the CFPB's Designated Agency Ethics Official on issues related to financial conflicts of interest. If confirmed, I would work with CFPB ethics staff to explore this issue further, consistent with existing law and regulation.

Government Transparency

33) In an effort to "root out corruption and restore faith and trust in our government," you argue in your 2018 "Unstacking the Deck" policy paper for increased transparency in the Federal government, including with respect to the Freedom of Information Act (FOIA). If confirmed, in what specific ways, if any, do you plan to be more transparent than is currently required by FOIA and other government transparency laws?

34) In the same paper, you argue that "[o]n a routine basis, agencies should make certain information available [to the public], such as travel expense documentation and executive calendars, to deter the misuse of funds and the fair allocation of stakeholder consultation." Will you commit that, if confirmed, you will make CFPB travel expense documentation and executive calendars available to the public on a routine basis?

RESPONSE TO 33-34:

If confirmed, I would like to continue the CFPB's practice of publishing executive calendars, and I would like to explore proactively making other information available. In addition, I would work with CFPB staff to identify ways to further the goal of transparency, consistent with the Bureau's privacy and confidentiality obligations, as well as any other appropriate law and regulation.

35) What other information, if any, will you make available to the public on a routine basis if confirmed to lead the CFPB?

RESPONSE:

If confirmed, I would like to consult with CFPB staff and stakeholders to identify opportunities to make additional data sets and information available to the public, such as those identified as part of government-wide transparency initiatives, consistent with the Bureau's privacy and confidentiality obligations, as well as any other appropriate law and regulation.

Congressional Oversight

36) In your "Unstacking the Deck" policy paper, you indicate that "Congress has long played a critical role in oversight of the executive branch" and that Congress's "ability to shed light on improper conduct [by executive branch officials] is important." Will you commit that, if confirmed, you will timely respond to and fully comply with all congressional information requests, including but not limited to requests for records?

RESPONSE:

I believe that Congressional oversight is important. If confirmed, I would work with CFPB staff to be responsive to duly authorized requests from this Committee, consistent with the law and with past practice by previous Directors.

37) You suggest in your "Unstacking the Deck" policy paper that agencies may be overusing, if not abusing, FOIA's exemptions to withhold documents from the public. FOIA's (b)(5) exemption permits agencies to withhold deliberative documents from the public. Congress has a constitutional role in conducting oversight of agencies, and is not subject to FOIA or its exemptions. In light of the views you have expressed, will you commit not to withhold deliberative documents requested by a congressional committee Chairman or Ranking Member?

RESPONSE:

Agencies should be responsive to the public and Congress. If confirmed, I would work with CFPB staff to be responsive to duly authorized requests from this Committee, consistent with the law and with past practice by previous Directors.

38) Do you believe that the CFPB may assert any privileges or other legal justifications to withhold information (whether records or oral testimony) from Congress? If so, please describe all such privileges or other legal justifications. Please answer "yes" or "no."

39) If you answered "yes" to question #3, please list every such privilege or other legal justification and provide the legal basis for why you believe the CFPB may use such privilege or legal justification to withhold information from Congress.

40) In an effort to be open and transparent with Congress and the public, will you commit not to assert any such privilege or legal justification against Congress that you listed above? If not, why not? If so, please identify all such privileges or legal justifications that you will commit to not assert against Congress.

41) Will you commit that, if confirmed, you will make yourself and any other CFPB employee expeditiously available to provide oral testimony (including but not limited to briefings, hearings, and transcribed interviews) to a Congressional committee on any matter within the committee's jurisdiction upon the request of either the Chairman or Ranking Member? Please answer "yes" or "no." If your answer is "no," please explain why.

RESPONSE TO 38-41:

Agencies should be responsive to the public and Congress, and I believe that Congressional oversight is important. If confirmed, I would consult the agency's legal counsel so that the CFPB can be responsive to duly authorized requests from this Committee, consistent with the law and with past practice by previous Directors.

Questions for The Honorable Rohit Chopra, of the District of Columbia, to be Director, Bureau of Consumer Financial Protection, from Kevin Cramer:

1) The CFPB has at times been accused of issuing press statements with sensationalized and misleading headlines. What will you do to ensure accurate fact-based communication?

RESPONSE:

Statements by government agencies should be clear, accurate, and aimed at informing the public. If confirmed, I will work to ensure that the CFPB's statements meet these important goals.

2) The Dodd-Frank Act mandated the collection of small business loan applications under Section 1071. The CFPB is currently working on that rule, which would require a significant and new collection of information. One way to make this collection faster and more efficient would be to have the CFPB set up a database that small business owners could submit the data to. They would then be provided with a number which they could give to a lender each time they applied for a loan. This would make it easier on both small business owners and lenders. Would the CFPB be open to such a database?

RESPONSE:

Across the country, small businesses are facing extinction, and we must do everything we can to ensure they can access credit on fair and competitive terms. If confirmed, I look forward to working with your office and with CFPB staff to assess this proposal.

3) Many consumer lenders subject to the CFPB's jurisdiction are licensed by or operating under state laws governing consumer finance—a comprehensive statutory and regulatory regime dating to the 19th century and predating virtually all federal banking laws.

a. What is your view of the validity and efficacy of state regulation of consumer credit?

RESPONSE:

I believe states play a crucial role in safeguarding our financial system against risks to consumers and our economy. Without commenting on any specific regulation, I believe government policymaking must be grounded in market realities, and I look forward to working with my state counterparts on these shared goals if confirmed.

b. Will you as, a matter of course, pledge to consult state regulators before undertaking meaningful policy changes that override the intent and findings of state legislatures or regulatory agencies?

RESPONSE:

As an FTC Commissioner, I am in regular contact with state attorneys general and financial regulators, and I commit to continuing that practice if confirmed.

4) Based on the very real possibility that a regulation may have the unintended consequence of eliminating products that benefit consumers, do you recognize an obligation as Director of the CFPB to exercise restraint in promulgating a rulemaking? Given this impact, what steps will you undertake to:

a. Consider the costs and benefits to consumers and affected financial services industries;

b. Consult with other regulators, including state regulators;

c. Provide an opportunity for affected persons to comment on and object to the rulemaking; and

d. Evaluate the effect of the rulemaking on the availability of credit and financial inclusion to working American families?

RESPONSE:

It is critical that regulatory actions be grounded in data. If confirmed, I would ensure that the costs and benefits of rules – including their impact on the availability of credit – are considered, consistent with the Dodd-Frank Act's requirements. In addition, I am committed to consulting with other regulators, including state regulators, and to providing stakeholders an opportunity to weigh in.

In today's world, every business is subject to a myriad of regulations, whether federal, state, or local. While designed to protect consumers, all regulations have attendant costs and burdens. These burdens often prevent businesses from investing in employees, expanding workforces, opening new locations, enhancing infrastructure, and innovating for the benefit of consumers and businesses. It can also result in unintended consequences for consumers, including increased fees and constrained choice. If confirmed, will you commit to adhering to a robust cost-benefit analysis of proposed regulations? What in your view constitutes a cost-benefit analysis as part of a rulemaking process?

RESPONSE:

I believe it is important for policymakers to take account of the potential benefits and costs to consumers and businesses of any rule, including the potential impact on access to credit. Any analysis should be rigorous, robust, and grounded in data.

5) How will the CFPB evaluate state-level provisions before proposing new rules that may conflict with or preempt existing state laws, or add unduly onerous requirements?

a. Can you ever envision adopting – or at least studying – a model based on a state approach, rather than creating a new, untested regulatory framework?

b. Similarly, how will the CFPB coordinate with state officials on the Bureau's assessments of financial institutions and related enforcement actions to ensure the greatest possible efficiency of the Bureau's supervision programs?

RESPONSE:

States play a vital role in protecting consumers in financial markets, and federal regulators must consider how their efforts align with those of states. Examining existing state models can be useful. If confirmed, I would coordinate closely with my state counterparts, who are on the front lines of detecting and combatting risks to our financial system.

6) The COVID-19 pandemic has had a disproportionate and devastating impact on small businesses. As a result, it will be imperative that your rulemaking processes be especially sensitive to the burden that increased regulations impose on these backbones of the American economy. Will you commit to us that you will bring an appropriate level of attention to the needs of small businesses and implement measures to ensure that regulations do not destroy this critical element of our economy?

a. What do you view to be the requirements for the CFPB with regards to considering the impact of its rulemakings on small business? What will be the role of the SBREFA process in rulemakings moving forward, and how will that differ from what has or hasn't been done in the past by the bureau?

RESPONSE:

Small businesses are facing extinction, and I commit to keeping their interests front of mind if confirmed. Regulations should be focused on combatting the biggest harms, ensuring a level playing field, and promoting competition and innovation, including by new entrants. While I am not familiar with all of the details of previous approaches used internally in CFPB rulemaking, I would ensure that CFPB regulations take the interests of small businesses into account and comply with SBREFA.

7) The Bureau has a stated goal of transparency and the avoidance of lobbying and other *ex parte* influences. If confirmed, how would you ensure the CFPB does not fall victim to regulatory capture, whether by consumer advocacy groups or industry, mindful that both sides have their own motivations and interests in the rulemaking process?

a. How much involvement and input do you view consumer groups will have in the CFPB's rulemaking process moving forward? Will they be able to provide draft language and edits, as they apparently have done in the past? Will industry be allowed equal involvement and input?

I. Under your leadership, will the Bureau commit to making public all meeting notes and email communications to and from third parties relating to rulemaking development?

RESPONSE:

It is critical that regulators hear from a diverse set of stakeholders, and if confirmed, I am committed to maintaining open lines of communication with all stakeholders. All stakeholders should be able to weigh in with their views, and the CFPB must make the ultimate determination based on the best available evidence. I am also committed to full compliance with transparency requirements, including the CFPB's *ex parte* communication policy.

8) Differences of opinion exist within the halls of Congress and at other regulators where opinions are shared in a public setting. This public forum does not exist at the CFPB. What will you do to protect the dissenting opinions of those who disagree and how will their opinions be heard?

RESPONSE:

If confirmed, I would welcome input from all stakeholders, including those who may disagree. I especially support multiple channels for input, including field hearings held outside of Washington, where the agency can hear directly from stakeholders in a public setting. The CFPB must also adhere to the procedures pursuant to the Administrative Procedure Act to solicit public feedback on proposals, where all stakeholders can view public comments.

Public input can help drive sound decision-making, and I look forward to engaging with the public in new and innovative ways.

Midnight embargoed press releases announcing rules were not constructive or seen as a helpful way to engage stakeholders when releasing important information. It was the opinion of many as an unnecessary political tactic that garnered mistrust. Will you pledge to bring more transparency to the rulemaking process and not release rules or other major announcements in the dead of night?

RESPONSE:

I commit to making transparency an important goal, and if confirmed, I will carefully review the CFPB's policies and procedures related to press announcements.

Past Directors have stated the CFPB is a data driven organization which uses facts as the basis for rulemakings, supervisory proceedings, and enforcement actions. What will you do under your tenure to ensure Bureau actions are well-founded in facts and data?

RESPONSE:

I share the view that the CFPB's decision-making should be grounded by data and rigorous analysis. It is important that the CFPB undertake an interdisciplinary approach in analyzing data, and I would solicit the views of all of the agency's staff if confirmed.

Will you commit to releasing all the facts and data that are used to support your decisions during the rulemaking and enforcement process?

RESPONSE:

Transparency is critical. I believe the public should understand the basis for government actions. If confirmed, I would work with CFPB staff to understand how we can ensure, consistent with the law, that the CFPB is being transparent.

Questions for The Honorable Rohit Chopra, of the District of Columbia, to be Director, Bureau of Consumer Financial Protection, from Senator Mike Crapo:

1) The CFPB finalized a rule prohibiting the use of pre-dispute arbitration agreements that prevent consumers from participating in class action lawsuits in July 2017. Critics of the rule noted that the CFPB relied on erroneous assumptions to justify rulemaking. For example, the CFPB's study ignored the pragmatic benefits of arbitration and exaggerated the purported benefits of class action lawsuits.

In October 2017, I worked with my Senate colleagues to repeal the finalized rule. In accordance with the CRA passed to overturn the rule, a new rule may not be issued in "substantially the same form," as the disapproved rule unless specifically authorized by a subsequent law.

a. Do you believe the Bureau maintains the authority to issue a new rule on arbitration clauses despite the CRA enacted in November 2017?

RESPONSE:

Under the Congressional Review Act, 5 U.S.C. § 801(b)(2), I understand that the CFPB cannot reissue the arbitration rule in "substantially the same form," and cannot issue a new rule that is "substantially the same." If confirmed, I would ensure that the CFPB follows the law.

2) What specific steps would you take to increase transparency and accountability at the CFPB?

RESPONSE:

I believe all government agencies must constantly evaluate ways to be more transparent about their actions and decision-making. In particular, I want to explore additional ways to solicit input from the public and stakeholders.

In addition, section 1016 of the Dodd-Frank Act requires the CFPB to file regular reports to Congress on a host of its activities. I am committed to complying fully with this requirement if confirmed. I would also work with CFPB staff to identify opportunities to make additional information available through these and other reports.

Most importantly, I believe that the CFPB must engage with Congress, and I am committed to identifying ways to deepen that engagement. In addition to testifying before this Committee, I also hope to directly communicate with Members of the Committee to discuss priorities, concerns, and areas of common ground.

3) Large data breaches, such as the recent Solarwinds hack, have underscored the vulnerabilities in our technological infrastructure. If confirmed to the CFPB, how would you ensure protection of data protected by the Bureau?

RESPONSE:

I am committed to privacy and data protection. The CFPB was set up to be a data-driven regulator. I support that approach and recognize that we need to protect consumer privacy in the process. CFPB data collection must operate in compliance with a wide variety of federal data privacy standards, such as the Privacy Act of 1974. Additionally, section 1022 of the Dodd-Frank Act limits the Bureau's ability to collect personally identifiable financial information from financial institutions subject to the Bureau's jurisdiction, and in particular it prohibits the Bureau from using its market monitoring and rules assessment authorities to obtain records from those financial institutions for purposes of gathering or analyzing the personally identifiable financial information of consumers. The Federal Information Security Modernization Act of 2014 also requires an annual, independent evaluation of the Bureau's information security program.

If confirmed, I would follow these requirements and explore other best practices to protect information obtained by the Bureau.

Committee on Banking, Housing, and Urban Affairs
Nominations of The Honorable Gary Gensler and The Honorable Rohit Chopra
March 2, 2021

Questions for The Honorable Rohit Chopra, of the District of Columbia, to be Director, Bureau of Consumer Financial Protection, from Senator John Kennedy:

1) A few weeks ago, acting CFPB Director Dave Uejio wrote in a blog post that the Bureau needs more time to consider rules that were implemented but have not yet taken effect, such as those associated with the qualified mortgage (QM) rule. The final rule was created to replace what is generally referred to as the 'GSE patch,' which automatically gives QM status to loans approved by the black box of the GSE underwriting guidelines.

For those policymakers who are skeptical that the best way to determine if borrowers have the ability to repay is based solely on the underwriting of two companies who were the recipients of the largest bailout in American history, $187 billion, are you aware of empirical data that suggests the continuation of the so-called 'GSE-patch' benefits borrowers?

RESPONSE:

It is critical that the CFPB's work is grounded in data so that its actions benefit consumers and law-abiding market participants alike. If confirmed, I would expect the CFPB's market-monitoring activities to be robust, and would be eager to continue the dialogue on this important market.

a. Do you agree that there needs to be simple, observable, verifiable means for mortgage-backed securities investors to confirm that loans backing their investments were legally originated under the ability to repay rules?

RESPONSE:

Simple, bright-line rules are one of the best ways to ensure that market participants can comply with the law. If confirmed, when assessing any potential proposal or update to a rule, I would work with CFPB staff to advance the goals of simplicity and clarity.

b. Do you think borrowers are better off if the primary way to determine if mortgage borrowers have the ability to repay continues to be if it is underwritten by Fannie Mae and Freddie Mac, or should another mechanism be developed?

RESPONSE:

While I have not prejudged any particular approach, I am acutely aware that the CFPB must carefully monitor the markets to ensure that Congress's ability-to-pay requirement for mortgages is met in a way that both protects consumers and promotes access to credit. If confirmed, I look forward to listening to and engaging with Congress and stakeholders to meet these objectives.

c. Do you think the borrowers and the mortgage market would benefit from a forum for analyzing and developing verification standards for a borrower's ability to repay a loan that includes consumer advocacy groups, mortgage-backed securities issuers, and investors?

RESPONSE:

I would be very interested in approaches that include a broad range of stakeholders to inform how the CFPB can promote safe and affordable mortgages. If confirmed, I look forward to learning more about this.

2) If confirmed as Director of the CFPB, you will become an FDIC board member. As such, you will vote on the approval of applications for FDIC insurance. There are currently six pending applications for deposit insurance by Industrial Loan Companies (ILCs). The ILC charter is the result of a legal loophole in the Bank Holding Company Act that allows commercial entities to own a bank while circumventing the separation of banking and commerce and avoiding holding company supervision by the Fed.

These ILCs give me great concern about privacy and the use of customer data, especially in the case of applicant Rakuten, which is a huge international e-commerce company with access to an infinite amount of customer data and plans to use it for cross-selling opportunities with their retail partners. Rakuten Bank America's CEO said in an interview: "It's a way for us to facilitate more commerce on behalf of merchants who do business with Rakuten."

I have introduced legislation to close this loophole, and I have also asked the FDIC to stop approving ILC applications until Congress can debate and decide the matter.

a. As a board member at the FDIC, how would you consider these ILC applications?

RESPONSE:

I appreciate having insight into your point of view, and as a general matter, I share your concern about the misuse of consumer data, which poses risks to personal privacy and to fair competition. If confirmed, I am committed to working with the FDIC staff and my fellow board members to understand the legal framework and policy issues associated with ILC applications.

3) On July 7, 2020, the CFPB issued a final rule regarding small-dollar lending in order to maintain consumer access to credit and encourage competition in the marketplace. The final rule did not alter the payments provisions of the 2017 rule but did rescind the mandatory underwriting provisions of the 2017 rule after re-evaluating the legal and evidentiary bases for these provisions and finding them to be insufficient. The mandatory underwriting requirements would have imposed a complicated ability to repay analysis that was incongruent with the low amounts considered offered by this type of loan.

a. Do you believe it is beneficial to the market for banks to offer small-dollar loans?

RESPONSE:

If confirmed, I look forward to learning more about the small-dollar loans offered by banks. The National Credit Union Administration has also outlined guidance for credit unions to offer small-dollar loans, and I understand that these loans have generally been beneficial.

b. If the underwriting provisions are re-imposed, it will eliminate most small-dollar products offered by financial institutions from the market. How do you propose addressing the need for liquidity in the short-term credit market if these types of products are not available?

RESPONSE:

COVID-19 has led to fundamental changes in family balance sheets. While I do not wish to prejudge any particular approach, I understand that the CFPB is required by Congress to consider access to credit when engaged in rulemaking and I am committed to doing so.

c. Do you think the CFPB has the ability to institute a rate cap, and if so, under what authority?

RESPONSE:

Section 1027(o) of the Dodd-Frank Act explains that the Bureau may not establish a usury limit, unless expressly authorized by law.

4) Artificial Intelligence has been used for decades to help consumers make better decisions, but the debate about AI used to facilitate underwriting decisions is relatively new. When used responsibly, AI can improve risk accuracy and expand access to capital, including to previously underserved communities. This was most recently evident during the disbursement of funds by the Small Business Administration's Paycheck Protection Program, particularly by non-traditional lenders, who were able to process an application in less than ten minutes vs. days, ensuring that those who needed relief received it quickly.

a. If confirmed, will you commit to enabling the use of these decision-making tools in a way that provides benefits to consumers while also ensuring a legally protected plan for underwriters?

RESPONSE:

Automated decision-making is reshaping business processes across sectors of the economy. During my time as a Commissioner, the FTC hosted a hearing on Competition and Consumer Protection Issues of Algorithms, Artificial Intelligence, and Predictive Analytics that included a number of perspectives. While artificial intelligence offers promise, it also raises important questions about the transparency of decision-making and the accuracy of algorithmic outcomes. If confirmed, I am committed to carefully examining this issue.

5) You have a long history of oversight in the financial sector and, in your current position, have been extremely critical of the tech industry. Yet, one of the statutory objectives of the CFPB is to ensure that the Bureau facilitates access and innovation.

a. If confirmed, can you fulfill this objective from an unbiased perspective putting the needs of consumers first? Can you commit to promoting technologies that improve financial services and products for consumers?

RESPONSE:

Yes. I believe that technological progress can improve our lives when done within a vibrant, competitive marketplace that maximizes consumer choice and safety. In my work at the FTC, I have seen how certain practices, particularly by large technology firms, can lead to privacy, consumer protection, and antitrust law violations. I am committed to promoting a competitive marketplace that produces consumer-friendly innovation in the financial sector.

6) Cybersecurity incidents continue to pose a great threat to the financial stability of each American citizen. In the past, the Financial Stability Oversight Council, FSOC, published recommendations regarding improved sharing of information pertaining to cyber threats, instituting and enhancing baseline security protections, and ensuring that adequate cyber response and recovery capabilities exist.

a. If confirmed, what actions will the CFPB take to address current needs for the prevention and detection of cyber attacks?

RESPONSE:

Cyber attacks are no longer only used by scam artists and identity thieves. State and non-state actors who wish to do our country harm also engage in these attacks. This is deeply concerning. If confirmed, I believe the CFPB should closely engage with other federal regulators on the FFIEC, FSOC, and other agencies to prevent, detect, and respond to cyber attacks.

Committee on Banking, Housing, and Urban Affairs
Nominations of The Honorable Gary Gensler and The Honorable Rohit Chopra
March 2, 2021

Questions for The Honorable Rohit Chopra, of the District of Columbia, to be Director, Bureau of Consumer Financial Protection, from Senator Jerry Moran:

1) Congressional policies regarding Indian tribes support prioritizing Indian tribal sovereignty demands and federal policies which promote tribal self-determination and self-reliance.

The structure of the CFPB places an enormous amount of power and responsibility in one person. In the past, that power has been used against tribal governments to create a roller coaster effect and has done little to advance the principles of self-determination and self-reliance. Information received by my office indicates that little meaningful consultation has been done since the inception of the Bureau between tribes and the CFPB under either Democratic or Republican appointees. Under all Directors to date, tribes often were provided with very little notice of meetings in D.C. which resulted in check-the-box consultations that were rarely meaningful and costly to tribal stakeholders regarding time and travel.

Congress was very clear in the Consumer Protection Act that Congress' clear intent was for tribal and state governments and laws to be placed at parity. The CFPA makes this abundantly clear by including federally recognized Indian tribes in the definition of "state."

The CFPB has entered into MOUs with the Conference of State Banking Supervisors and other state units on the intricacies of co-regulation, cooperation, and training. The CFPB's Department of Innovation has freely included states into the American Consumer Financial Innovation Network. Disappointingly, to date only one MOU exists with a tribal government and no tribal governments have been allowed to join the American Consumer Financial Innovation Network despite Congress' clear intent that tribes be treated by the Bureau with the same dignity and respect afforded the 50 state governments, the District of Columbia, and US territories. Further, the CFPB has yet to employ any experts with Indian law expertise and cultural understanding within the Bureau.

Will you commit to rectifying this exclusion during your tenure if confirmed?

RESPONSE:

I am committed to ensuring that the views and interests of tribal communities are reflected in CFPB policymaking, and if confirmed, I would work with CFPB staff to ensure that tribes can have their voices heard around key decisions. I also welcome suggestions from your office on how to continuously improve this engagement.

2) The Bureau has not been clear on the use of prohibited bases in pre-application marketing. Social media platforms present a unique challenge for creditors who want to leverage new and effective communication and social networking channels increasingly used by consumers. Would you support the Bureau clarifying ECOA's coverage of pre-application marketing, so that lenders may proactively seek out consumers who might otherwise not know about their products and services?

RESPONSE:

Social media has become a key part of American life and American commerce, but it can also facilitate practices that exclude and discriminate. I am committed to vigorous enforcement of ECOA regardless of the medium, and I agree that the Bureau must work

with stakeholders and partner agencies to set clear expectations around compliance. If confirmed, I would work with CFPB staff to learn more about the issue of pre-application marketing.

3) The Consumer Financial Protection Act prohibits “abusive” practices, but does not define that term, in contrast to its definition of "unfair" practices. How does an abusive practice differ from an "unfair" one in your mind? Can a practice that does not meet the 3-part standard for unfairness be "abusive," i.e., is an "abusive" act less harmful than an unfair one?

RESPONSE:

The Dodd-Frank Act is clear that the CFPB can enforce the prohibition on abusive acts or practices only if they meet criteria laid out in the statute. These criteria are distinct from the statutory standard for unfairness. Whether particular conduct qualifies as abusive or unfair will depend on the facts. State regulators can also enforce this prohibition.

4) What will be the Bureau's consumer protection priorities for student loan borrowers?

RESPONSE:

If confirmed, my primary focus would be ensuring that entities subject to federal consumer financial laws comply with their legal obligations. I believe that the market for student loans should be transparent and competitive, so that consumers can make informed choices about taking on debt. I also believe that consumers should be treated fairly by servicers as they make payments on their loans, including with respect to any loan modification options available.

5) What can the Bureau do to protect students from loan servicing problems or errors before they occur, rather than after they have happened? Additionally, do you plan to focus on the non-bank actors in the private student loan market that are not subject to the same consumer protection standards (safety, supervision, and compliance) as regulated financial institutions?

RESPONSE:

It is critical to ensure loan servicers have policies and procedures in place to prevent these errors before they harm borrowers. The CFPB currently supervises nonbank larger participants in the student loan servicing market, and ensuring their compliance with consumer protection laws would be a priority if I am confirmed.

6) For a growing number of students, a college education is not a four year process, but takes 5 or more years, increasing the cost substantially. What can the CFPB do to educate families about this problem, either in coordination with colleges or on its own?

RESPONSE:

Many students and their families find borrowing for college to be complex and confusing. In the past, the CFPB has launched a Know Before You Owe effort in partnership with the Department of Education to help families navigate their options and reduce the amount of debt they take on. If confirmed, I am committed to ensuring that the CFPB works closely with the Department of Education and other stakeholders to help improve the borrower decision-making process.

7) Since 2012, the CFPB has been collecting from banks detailed account-level data on credit card customers and other borrowers.

a. How is this information used by the Bureau and how are consumers being protected from the misuse/breach of this data?

b. Are you aware of any CFPB actions, such as rulemakings or enforcement actions, that could not have been made without the use of This information, for example if the Bureau relied instead on other sources of the information, or on periodic rather than monthly data submissions?

c. Will you consider ways to reduce the volume of account level data you collect?

RESPONSE:

The CFPB was set up to be a regulator that monitors markets and bases its policymaking on data and evidence. I support that approach and recognize we need to protect consumer privacy in the process. CFPB data collection must operate in compliance with a wide variety of federal data privacy standards, such as the Privacy Act of 1974. Additionally, section 1022 of the Dodd-Frank Act limits the Bureau's ability to collect personally identifiable financial information from financial institutions subject to the Bureau's jurisdiction. In particular, it prohibits the Bureau from using its market monitoring and rules assessment authorities to obtain records from those financial institutions for purposes of gathering or analyzing the personally identifiable financial information of consumers. The Federal Information Security Modernization Act of 2014 also requires an annual, independent evaluation of the Bureau's information security program.

If confirmed, I would follow these requirements and explore other ways to protect information obtained by the Bureau.

8) The Consumer Financial Protection Act obligates the CFPB to coordinate its examinations of financial institutions with bank regulators, yet banks continue to undergo compliance examinations from as many as four different regulators, and experience unproductive duplication and unnecessary costs.

a. Will you work to enhance coordination perhaps by relying on the work of bank regulators?

b. Are there other ways that the excessive and duplicative burdens on both banks and regulators could be reduced?

RESPONSE:

As an FTC Commissioner, I have developed working relationships with banking supervisors throughout the United States, and I believe coordination across agencies is not only required by the Dodd-Frank Act but prudent as a matter of course. If confirmed, I would continue to work closely with other regulators as appropriate, including other federal agencies on the FFIEC, to identify procedures that may be duplicative.

9) Over the last several years, short-term, small dollar products structured as "Earned Wage Access" products have provided a tools for workers to access cost effective and quick financial assistance based off their earned, but not yet paid, wages. State lawmakers have increased their engagement in the debate around the appropriate structure of these products. Last year, the CFPB weighed in and issued an advisory opinion on these products.

a. Given that 40% of Americans can't meet a $400 emergency expense (according to the Federal Reserve), what is your general view of consumer credit accessibility?

b. Do you think it's beneficial to preserve a safe and regulated marketplace for small consumer loans to meet the needs of consumers with less-than perfect credit?

c. As you approach issues around short-term, small dollar credit, and more specifically, earned wage access products, what are your views on the appropriate regulatory framework and what are your plans with respect to the CFPB's 2020 Advisory Opinion on the topic?

10) As our nation's consumers reel from the COVID-19 pandemic, responsible access to credit is more important now than ever, especially for low-income communities. What will you do under your Directorship to ensure consumers still have access to credit?

RESPONSE TO 9-10:

Access to consumer credit is critical. I believe the CFPB should support a competitive and responsible small-dollar lending market in which businesses compete to provide consumers with affordable credit. If confirmed, I would work with CFPB staff to consider all aspects of this market. I would also work with CFPB staff to better understand Earned Wage Access products and other aspects of this market.

In addition, I support efforts to give consumers more control over their money by modernizing our payments networks. Consumers should be able to access their money as soon as it is deposited and control when that money is debited in real time.

11) When the CFPB was established, Congress intended it to be insulated from the politics of the day and Presidential whims. Now – because of the U.S. Supreme Court's Seila Law decision – the Director is removable for any reason and serves at the pleasure of the President. In fact, we are now considering your nomination because the previous Director resigned – at the request of the President – just two years into a five-year term.

a. Do you think this instability is good for regulated entities or consumers?

b. Do you agree the CFPB should be led by a Commission, or should the Bureau's leadership continue to see-saw between political parties and regulatory philosophies?

RESPONSE:

I agree that consistency and predictability are important both to consumers and regulated entities. As to the structure of the CFPB, that is a matter for Congress to decide.

Committee on Banking, Housing, and Urban Affairs
Nominations of The Honorable Gary Gensler and The Honorable Rohit Chopra
March 2, 2021

Questions for The Honorable Rohit Chopra, of the District of Columbia, to be Director, Bureau of Consumer Financial Protection, from Senator Tim Scott:

1) I appreciated our discussion during the hearing about the importance of providing clear and well-articulated rules of the road regulated entities. Well-defined regulations are important, but it is also vital that the CFPB approaches rulemaking process in a way that carefully considers input form market participants and relevant regulatory agencies. The Bureau was created to specifically focus on consumers, it does not preclude the other federal banking regulators from issuing regulations that benefit consumers.

a. To that end, will you commit to work with the other federal regulators to ensure that CFPB regulations are in conformance with the existing regulatory structure?

RESPONSE:

I agree that regulators should provide clear rules of the road and consider input from a broad range of stakeholders. I also agree that it critical for regulators to maintain open lines of communication, and I commit to working closely with both state and federal regulators if confirmed.

2) As a member of both the Banking and HELP Committees, I am interested in a public comment you made saying "There is a lot more to do in student lending". If confirmed, in what ways do you plan to direct the focus of Bureau staff to protect consumers seeking and obtaining federal student loans?

a. If confirmed, in what ways do you plan to direct the focus of Bureau staff to protect consumers seeking and obtaining federal student loans?

RESPONSE:

Many students and their families find borrowing for college to be complex and confusing. In the past, the Bureau has launched a Know Before You Owe effort in partnership with the Department of Education to help families navigate their options and reduce the amount of debt they take on. If confirmed, I am committed to ensuring that the CFPB works closely with the Department of Education to help improve the borrower decision-making process.

3) The CFPB very recently issued an official statement declaring an intent to delay the implementation periods of the QM regulations issued in December 2020 in order to give the incoming Director the opportunity to review and possibly amend those rules. These regulations were initiated because the GSE Patch—that provides for safe lending to over half of the mortgage market—is lapsing. There is considerable anxiety that shelving these rules will cause a market shock.

I understand that the December final rules being postponed have very broad support from industry, consumer, and civil rights advocates because they will allow lenders to expand mortgage credit while maintaining strong consumer protections.

a. Can you explain the rationale for postponing these rules, as well as changes you intend to undertake in a future rulemaking if confirmed?

RESPONSE:

This announcement was issued by the current leadership of the Bureau, and I understand that the Bureau published a notice on March 3, 2021 describing its proposal in more detail.

I do not wish to prejudge any regulatory action, and I understand that Congress and a number of agencies are carefully considering the future of the GSEs. The CFPB's role, as authorized in Dodd-Frank, is to ensure that consumers can access mortgages on affordable and understandable terms. However, I understand it is critical for the CFPB to work with the Federal Housing Finance Agency and others to understand the market.

During the confirmation process, I have had the opportunity to hear the views of many Senators on this topic. I appreciated these discussions, and, if confirmed, would listen to a broad diversity of perspectives to determine what, if any, changes should be proposed.

4) Manufactured housing is the most affordable homeownership option for American families. However, the smaller dollar size of some manufactured home loans and the lack of a secondary mortgage market for personal property home loans creates the need for agencies to use care in writing regulations that impact this market. For example, using pricing as a criteria disadvantages smaller loans – like those of manufactured homes - so sufficient threshold adjustments must be made to preserve the availability of affordable loans for manufactured home buyers and borrowers. The CFPB's QM notice from December recognized that smaller loans require these different thresholds.

a. As you consider changes to the QM rule and look at other CFPB regulations, can you assure me that you will remain mindful of the impact of agency actions on the availability of financing for manufactured homes, and that you will ensure adjustments are made when needed to preserve liquidity for this important homeownership option?

RESPONSE:

Millions of Americans live in manufactured homes, and it is critical that the CFPB take their interests into account when it comes to rulemaking and other policy initiatives in the housing sector. If confirmed, I would work with CFPB staff and your office to ensure this market is well served.

5) As you know, one of the statutory mandates of the CFPB is to ensure that "markets for consumer financial products and services operate transparently and efficiently to facilitate access and innovation." In support of this objective, Former Director Cordray established an Office of Innovation, which administers the No Action Letter (NAL), Trial Disclosure, and Compliance Assistance Sandbox programs. These programs are important to tools to reduce barriers to innovation.

a. If confirmed, do you intend to maintain and support these programs?

RESPONSE:

I am a strong believer in promoting competition. In my work at the Federal Trade Commission, I have repeatedly expressed concerns about the difficulties that many new businesses face when it comes to competing against dominant players.

A competitive and innovative financial sector is critical for our economy and our global competitiveness. If confirmed, I would work with CFPB staff to identify ways that the Bureau can further the efforts of promoting a competitive marketplace that incentivizes consumer-friendly innovation.

6) Last year, President Biden voiced support for a progressive proposal to create a public credit bureau run by the CFPB. Promoters of this radical idea purport that only the federal government is equipped to solve systemic challenges of financial inclusion.

I am hugely skeptical of these arguments. Not only have I have rarely seen the federal government do something better than private industry, this would also be a massive expansion of government into the lives of private citizens, akin only to what we see in countries like China.

Sound and prudent lending decisions must be based on an individual’s actual credit risk and their ability to repay, which are derived from a credit report’s objective cataloging of a person’s historical financial behavior. A government-run credit bureau will not magically make consumers better credit risks.

a. Do you agree that a state-run public credit bureau would be a huge risk to the safety and soundness of the consumer lending markets?

RESPONSE:

I have not reviewed any detailed information regarding this proposal. This is a matter for Congress, and, if confirmed, I would make CFPB staff available to provide technical assistance on any proposals.

7) One of the key tenets of the government-run bureau, is that it would require so-called “alternative data” reporting – rental, telco and utility information – to bring more people into the credit mainstream. This is confusing, since credit bureaus currently accept alternative data and have been proponents of bipartisan legislation that I’ve repeatedly introduced to encourage more alternative data furnishing. Tens of millions of credit invisible Americans have already gained greater access to credit through the use of alternative data, and companies are investing more every year to bring more people into the credit mainstream.

a. Can you explain to me how a government-run bureau established to collect the very same data that private industry already gathers is not the definition of a solution in search of a problem?

RESPONSE:

I believe the CFPB's role is to monitor consumer reporting markets and ensure compliance with the Fair Credit Reporting Act and other applicable laws. If Congress wishes to amend these laws, I am committed to making CFPB staff available to provide technical assistance.

b. Do you agree that a better solution is for policymakers to incentivize more alternative data furnishing, rather than try to displace a well-functioning industry?

RESPONSE:

I understand that the CFPB has published research on "credit invisibles" that discusses the issue of alternative data furnishing. If confirmed, I would work with CFPB staff and stakeholders to advance the goal of financial inclusion.

Questions for The Honorable Rohit Chopra, of the District of Columbia, to be Director, Bureau of Consumer Financial Protection, from Senator Kyrsten Sinema:

1) If confirmed, will you move forward with a rulemaking pursuant to Section 1033 of the Dodd-Frank Wall Street Reform and Consumer Protection Act?

RESPONSE:

While Section 1033 does not impose a specific deadline, as a general matter, I believe it is important for the CFPB to prioritize the consideration of implementing provisions of the CFPB's authorizing statute. I also support the broader goal of giving consumers greater control of their data. If confirmed, I would consult with CFPB staff and review progress to date on this initiative.

2) In what ways do you believe FinTech can uniquely increase access to credit for consumers? If confirmed, how will you lead the Bureau in a way that protects consumers from predatory practices without stifling innovative technologies?

RESPONSE:

I believe that consumers reap major benefits when markets are competitive and companies are competing to deliver the best, most consumer-friendly products and services. If confirmed, I would seek to identify ways to promote competition and innovation, while also ensuring that laws passed by Congress are followed. This would involve close engagement with innovators, regulators, and other stakeholders to ensure we can reap these benefits.

3) The current payments provisions of the CFPB's Small Dollar Rule apply the same standards to debit cards as ACH transactions. Do you think this approach makes sense for debit cards, given that unlike ACH transactions, no fee is assessed when funds are not available? If you think this approach does not make sense, would you consider addressing this challenge if confirmed?

RESPONSE:

This matter is currently subject to litigation, but I am aware of the petition for rulemaking on this topic and of the Bureau's response, including the discussion of fees. If confirmed, I would work with CFPB staff to consider whether further action is appropriate.

4) If confirmed, how will you ensure that changes made to the QM Rule and other Bureau actions are done in a way that preserve access to manufactured housing for Arizona families? Will you commit to making changes if warranted?

RESPONSE:

Millions of Americans live in manufactured homes, and it is critical that the CFPB take their interests into account when it comes to rulemaking and other policy initiatives in the

housing sector. If confirmed, I would work with CFPB staff and your office to ensure this market is well served.

5) Former Director Cordray established an Office of Innovation, which administers the No Action Letter, Trial Disclosure, and Compliance Assistance Sandbox programs. If confirmed, will you maintain support for these programs?

RESPONSE:

I am a strong believer in promoting competition. In my work at the Federal Trade Commission, I have repeatedly expressed concerns about the difficulties that many new businesses face when it comes to competing against dominant players, particularly when it comes to large technology platforms.

A competitive and innovative financial sector is critical for our economy and our global competitiveness. If confirmed, I would work with CFPB staff to identify all of the ways that the Bureau can further the efforts of promoting a competitive marketplace that incentivizes consumer-friendly innovation.

6) If confirmed, how will you approach the issue of cybersecurity, particularly for non-banks? What is the CFPB's role on this issue?

RESPONSE:

The Equifax data breach is a clear reminder that nonbank financial institutions hold extremely sensitive data that must be protected. If confirmed, I would closely coordinate with other agencies to determine the best way to promote adequate security practices, consistent with existing law and regulation.

Questions for The Honorable Rohit Chopra, of the District of Columbia, to be Director, Bureau of Consumer Financial Protection, from Senator Jon Tester:

Public Service Student Loan Forgiveness:

1) I have been frustrated by the problems in this program and the lack of information.

How will you ensure proper oversight in the areas of the CFPB's jurisdiction?

RESPONSE:

I share your frustration with problems in this program, which was designed to help teachers, first responders, and other public servants. It is critical to ensure loan servicers have policies and procedures in place to prevent these problems before they harm borrowers, and it is important for the CFPB to work closely with the Department of Education on these issues. The CFPB currently supervises nonbank larger participants in the student loan servicing market, and ensuring their compliance with consumer financial protection laws would be a priority if I am confirmed.

Innovations:

2) In recent years the Consumer Financial Protection Bureau has used a combination of No Action Letter policy, the Compliance Assistance Sandbox, and the Advisory Opinion Program to encourage innovation initiatives. We've also seen each of the federal prudential regulators launch and/or expand their innovation initiatives to encourage new innovative financial services providers to engage directly with regulators around new product and service offerings.

a. What role do you envision for your Office of Innovation - particularly in terms of its ability to provide guidance and regulatory certainty to regulated entities regarding innovative product offerings through the Bureau's No Action Letter policy?

b. How will you ensure adequate protections for consumers and recourse through these initiatives?

RESPONSE:

I am a strong believer in promoting competition. In my work at the Federal Trade Commission, I have repeatedly expressed concerns about the difficulties that many new businesses face when it comes to competing against dominant players.

A competitive and innovative financial sector is critical for our economy and our global competitiveness. If confirmed, I would work with CFPB staff to identify all of the ways that the Bureau can further the efforts of promoting a competitive marketplace that incentivizes consumer-friendly innovation.

New Services for Workers:

3) 63% of adults live paycheck to paycheck in this country and are stuck in a cycle of expensive overdraft fees, payday loans and late bill fees, to cover every day essential expenses while waiting for their paycheck to arrive from their employer.

In recent years, there has been an emergence of 'earned wage access' services that aim to help individuals access their pay in real-time and reduce reliance on the costly alternatives that can perpetuate the debt cycle.

a. What do you view the role of the CFPB as these technological innovations emerge?

RESPONSE:

I strongly support competitive markets that give consumers more market power and choices. As firms introduce new financial products and services, it will be critical that the Bureau ensures they comply with the law. If confirmed, I would work with CFPB staff to better understand Earned Wage Access products and other aspects of this market.

In addition, I support efforts to give consumers more control over their money by modernizing our payments networks. Consumers should be able to access their money as soon as it is deposited and control when that money is debited in real time.

Housing:

4) As you and I have discussed, in places like Montana we have unique challenges. For one, our housing market is hot, with people coming to the state for a variety of reasons. That said, we also have a lot of long-time rural homeowners and aspiring homeowners who do not find a standard mold or profile for income and asset verification. The GSEs, USDA, and FHA help, but it's not enough.

a. What can be done to help ensure that a private market can exist for non-traditional borrowers in states like Montana?

b. Can the bureau commit to working with lenders AND investors in these mortgages to help increase safe homeownership access?

RESPONSE:

It is critical that Americans living in rural communities have access to safe, affordable, and nondiscriminatory financial products and services. Too often, these communities are overlooked by major financial institutions. If confirmed, I fully commit to working with lenders, investors, and other stakeholders to promote an inclusive financial system. In addition, at the FTC I have engaged farmers, ranchers, and other agricultural producers, and I would like to continue that engagement at the CFPB if confirmed. This will help the Bureau assess where the market is not meeting the needs of rural communities. Across the

board, I would ensure, if I am confirmed, that the CFPB always takes into account the impact of its rules on consumers in rural areas.

Committee on Banking, Housing, and Urban Affairs
Nominations of The Honorable Gary Gensler and The Honorable Rohit Chopra
March 2, 2021

Questions for The Honorable Rohit Chopra, of the District of Columbia, to be Director, Bureau of Consumer Financial Protection, from Senator Thom Tillis:

1) In 2017, the CFPB filed a lawsuit against 15 securitization trusts – the National Collegiate Student Loan Trusts – seeking to penalize the Trusts, and thereby the underlying investors, for alleged wrongdoing of the loan servicer(s). All market participants, including investors, need to trust that well-meaning government actors and regulators will not abrogate their contractual rights and hold them responsible for unrelated third parties' alleged acts. If market participants cannot trust that transaction documents won't be altered, it calls into question the validity of those contracts and, consequently, the market itself. This uncertainty will result in a reduction in the availability of and/or an increase in the cost of credit for individuals and businesses across the country. In your opinion, do the CFPB's actions threaten the continued healthy functioning of the securitization market or annul investors' contractual rights for the alleged acts of unrelated third parties?

RESPONSE:

I believe that well-functioning capital markets are critical to our country's prosperity and competitiveness. It is always important for agencies to understand the impact of their actions on our capital markets. This matter is in active litigation. If confirmed, I would work with CFPB staff to learn more about the status of the litigation and engage with your office on these concerns.

2) The CFPB is currently in litigation with The National Collegiate Master Student Loan Trust and I'm concerned this case may have far-reaching consequences for markets and consumers. From a policy perspective, the Bureau's positions have real consequences for the securitization market and the substantial credit it provides to consumers. As just one example, under the Bureau's vicarious liability theory, GSE-sponsored securitization trusts—i.e., the owners of the majority of residential mortgage debt in the country—would be liable for violations of federal consumer financial law committed by the servicers with whom they contract. That is a radical upending of the expectations of key players in the largest market for consumer financial services in the country. Does the CFPB plan to reconsider this case?

RESPONSE:

This matter is in active litigation. If confirmed, I would work with CFPB staff to learn more about the status of the litigation and engage with your office on these concerns.

3) Last year I wrote to former Director Kraninger about the CFPB v. NCSLT matter. I'm concerned the uncertainty this case injects into the market that will likely result in securitization investors requiring higher risk premiums or reducing their participation in the securitization market, which in turn can result in higher interest rates for student borrowers. The net effect of this would be higher borrowing costs and lower credit availability for the very consumers and businesses across the U.S. the Bureau is seeking to protect. Has the Bureau decided how to move forward with this case?

RESPONSE:

This matter is in active litigation. If confirmed, I would work with CFPB staff to learn more about the status of the litigation and engage with your office on these concerns.

Committee on Banking, Housing, and Urban Affairs
Nominations of The Honorable Gary Gensler and The Honorable Rohit Chopra
March 2, 2021

<u>Questions for The Honorable Rohit Chopra, of the District of Columbia, to be Director, Bureau of Consumer Financial Protection, from Senator Chris Van Hollen:</u>

1) CFPB employees have raised important concerns about pay disparities at the agency, including pay gaps that disadvantage Black and Hispanic workers. Will you commit to working with CFPB employees and their union to examine and address these issues of pay equity?

RESPONSE:

Yes. If confirmed, I would work with CFPB employees and their union to examine these issues.

Questions for The Honorable Rohit Chopra, of the District of Columbia, to be Director, Bureau of Consumer Financial Protection, from Senator Elizabeth Warren:

1) Section 1073 of the Dodd-Frank Wall Street Reform and Consumer Protection Act required the CFPB to establish disclosure requirements on remittance transfers. Over the past several years, multiple rules on remittances have been finalized. Please describe how you will approach remittances and seek to eliminate hidden costs and fees for consumers and increase transparency in the remittance market.

RESPONSE:

When Americans send money using remittance transfers, it is important that they clearly understand the costs and fees associated with these transfers. If confirmed, I would work with CFPB staff to understand changes in the remittance transfer market, particularly in light of COVID-19.

In addition, I understand that virtual currencies might replace certain types of remittance transfer products. If confirmed, I believe it will be important for the CFPB to work with other regulators to understand any shifts in the marketplace and consumer behavior.

2) Acting Director Uejio has indicated that "some companies have been lax in meeting their obligation to respond to complaints," and that "consumer advocates have found disparities in some companies' responses to Black, Brown, and Indigenous communities." Please describe the importance of the complaint database and how you intend to use it to carry out the functions of the Bureau.

RESPONSE:

The consumer complaint system that the CFPB administers pursuant to the Dodd-Frank Act is a central part of the Bureau's work. Not only is it a gateway for consumers to seek help when faced with serious problems, it also allows the agency to spot trends within certain institutions and across entire markets.

The CFPB's consumer complaint system can and should inform the work of all the agency's functions. In addition, industry participants and compliance professionals have noted that the complaint dataset is an important source of information to understand consumer experience and address issues before they become systemic. If confirmed, I would work to ensure that the consumer complaint system is robust and responsive.