

TIM SCOTT, SOUTH CAROLINA, CHAIRMAN
ELIZABETH WARREN, MASSACHUSETTS, RANKING MEMBER

MIKE CRAPO, IDAHO
MIKE ROUNDS, SOUTH DAKOTA
THOM TILLIS, NORTH CAROLINA
JOHN KENNEDY, LOUISIANA
BILL HAGERTY, TENNESSEE
CYNTHIA LUMMIS, WYOMING
KATIE BOYD BRITT, ALABAMA
PETE RICKETTS, NEBRASKA
JIM BANKS, INDIANA
KEVIN CRAMER, NORTH DAKOTA
BERNIE MORENO, OHIO
DAVID MCCORMICK, PENNSYLVANIA

JACK REED, RHODE ISLAND
MARK R. WARNER, VIRGINIA
CHRIS VAN HOLLEN, MARYLAND
CATHERINE CORTEZ MASTO, NEVADA
TINA SMITH, MINNESOTA
RAPHAEL G. WARNOCK, GEORGIA
ANDY KIM, NEW JERSEY
RUBEN GALLEGO, ARIZONA
LISA BLUNT ROCHESTER, DELAWARE
ANGELA D. ALSOBROOKS, MARYLAND

LILA NIEVES-LEE, STAFF DIRECTOR
JON DONENBERG, DEMOCRATIC STAFF DIRECTOR

United States Senate

COMMITTEE ON BANKING, HOUSING, AND
URBAN AFFAIRS

WASHINGTON, DC 20510-6075

February 25, 2025

The Honorable Jonathan McKernan
Director-Designee, Consumer Financial Protection Bureau
The White House
1600 Pennsylvania Avenue NW
Washington, D.C. 20500

Dear Mr. McKernan,

Congratulations on your nomination to serve as the Director of the Consumer Financial Protection Bureau (CFPB). In the wake of the 2008 financial crisis, Congress created the CFPB to act as the nation's primary enforcer of consumer financial protection laws.¹ Since its founding, the CFPB has returned over \$21 billion to millions of consumers who had been scammed out of their money.²

The agency requires a leader who is serious about lowering costs for working Americans, holding bad actors accountable, and proactively protecting the public from scams, fraud, and abuse. CFPB leadership is even more important in light of efforts by President Trump, billionaire Elon Musk, and other members of the Trump Administration to dismantle the agency. It is essential that Congress confirm a CFPB Director who is committed to defending the fundamental, statutorily mandated functions of the agency from political attacks. At your nomination hearing on February 27, 2025, you must demonstrate to the U.S. Senate Committee on Banking, Housing, and Urban Affairs that you are willing and able to advocate for consumers, the CFPB, and the robust enforcement of consumer protection law, no matter the directives you receive to the contrary.

Until recently, you served as a member of the Board of Directors of the Federal Deposit Insurance Corporation (FDIC).³ Prior to your work at the FDIC, you served in roles at the Senate Banking Committee, the Federal Housing Finance Agency, and the Treasury Department.⁴ I look forward to learning more about how, if confirmed, you will uphold CFPB's key responsibility to protect and defend consumers. Accordingly, as Ranking Member of the Senate Banking Committee, I request that you review these questions and arrive prepared to answer them at your hearing, and that you provide detailed written responses promptly after the hearing. Your timely

¹ Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111-203.

² Consumer Financial Protection Bureau, "The CFPB," <https://www.consumerfinance.gov/about-us/the-bureau/>.

³ Federal Deposit Insurance Corporation, "Jonathan McKernan," <https://www.fdic.gov/about/jonathan-mckernan>.

⁴ *Id.*

responses will help me and other members of the Senate assess your credentials and determine if you are the right person to lead this important consumer protection agency.

Illegal Efforts to Dismantle the CFPB

Since taking office, President Trump—alongside billionaire Elon Musk, the “Department of Government Efficiency” (DOGE), and other federal officials—has done everything he can to illegally dismantle the CFPB. On January 31, President Trump named Treasury Secretary Scott Bessent—a former hedge fund manager—as Acting CFPB Director.⁵ A few days later, on February 3, Acting Director Bessent directed CFPB employees to freeze all rulemakings, litigation and enforcement activities, and external communications “unless expressly approved by the Acting Director or required by law.”⁶ On February 6, DOGE officials reportedly entered CFPB headquarters and requested access to sensitive CFPB information, including internal staff records, competitive industry data, and personally identifiable consumer information.⁷ One day later, on February 7, Mr. Musk tweeted “CFPB RIP”; meanwhile, President Trump named Office of Management and Budget (OMB) Director Russell Vought as the new CFPB Acting Director.⁸

On February 8, Acting Director Vought issued a series of directives to CFPB staff instructing them “to ‘cease all supervision and examination activity,’ ‘cease all stakeholder engagement,’ pause all pending investigations, not issue any public communications and pause ‘enforcement actions.’”⁹ He also informed the Federal Reserve that the CFPB would not be drawing down any new funds in Q2 2025, claiming the CFPB’s constitutional funding mechanism “is now being turned off.”¹⁰ On February 9, Acting Director Vought closed CFPB headquarters through February 14 and directed most CFPB employees to stay home from their jobs.¹¹ On February 10, President Trump stated that the CFPB “was a very important thing to get rid of.”¹² On February

⁵ Consumer Financial Protection Bureau, “Statement on Designation of Treasury Secretary Scott Bessent as Acting Director of the Consumer Financial Protection Bureau,” press release, February 3, 2025, <https://www.consumerfinance.gov/about-us/newsroom/statement-on-designation-of-treasury-secretary-scott-bessent-as-acting-director-of-the-consumer-financial-protection-bureau/>.

⁶ National Public Radio, “Treasury Secretary Bessent, tapped to run CFPB, orders staff to halt work,” Laurel Wamsley, February 4, 2025, <https://www.npr.org/2025/02/03/nx-s1-5285356/treasury-secretary-bessent-acting-cfpb-director>.

⁷ National Public Radio, “Musk’s team takes control of key systems at Consumer Financial Protection Bureau,” Bobby Allyn, Laurel Wamsley, and Chris Arnold, February 7, 2025, <https://www.npr.org/2025/02/07/g-s1-47322/musks-team-takes-control-of-key-systems-at-consumer-financial-protection-bureau>.

⁸ Tweet by Elon Musk, February 7, 2025, <https://x.com/elonmusk/status/1887979940269666769?s=46&mx=2>; American Banker, “Trump picks Russ Vought as acting CFPB director, WSJ reports,” Kate Berry, February 7, 2025, <https://www.americanbanker.com/news/trump-picks-russ-vought-as-acting-cfpb-director>.

⁹ NBC News, “Russell Vought, CFPB’s new acting head, issues directives to halt parts of bureau activity,” Katherine Doyle, Raquel Coronell Uribe, and Megan Lebowitz, February 8, 2025, <https://www.nbcnews.com/politics/doge/russell-vought-consumer-financial-protection-bureau-trump-rcna191356>.

¹⁰ *Id.*; Tweet by Russ Vought, February 8, 2025, <https://x.com/russvought/status/1888423503537360986>.

¹¹ CNBC, “Consumer Financial Protection Bureau staff told to ‘stand down’ from all work,” Hugh Son, February 9, 2025, <https://www.cnbc.com/2025/02/09/consumer-financial-protection-bureau-staff-to-work-remotely-hq-shuttered.html>.

¹² CBS News, “Trump has subdued the Consumer Financial Protection Bureau. So what does this agency do?” February 12, 2025, Kate Gibson, <https://www.cbsnews.com/news/trump-consumer-financial-protection-bureau-what-is-the-cfpb-refunds/>.

11, Acting Director Vought fired dozens of CFPB employees.¹³ On February 13, an additional 70 to 100 CFPB employees were fired, including at least 20 people specializing in “Big Tech’s entrance into financial products.”¹⁴

The Trump Administration’s lawless actions have crippled the agency and inhibited its ability to fulfill its statutorily mandated obligations to serve consumers. In addition, the Administration’s efforts have caused significant uncertainty for other federal agencies, Congress, state agencies, and the private sector, all of whom interact consistently with the CFPB.

1. Do you agree with President Trump that the CFPB is an “important thing to get rid of”?
2. If confirmed, will you refuse to execute any unlawful directives from President Trump, Mr. Musk, DOGE, the Office of Management and Budget, or other federal officials?
3. If confirmed, will you commit to oppose efforts by President Trump, Mr. Musk, DOGE, the Office of Management and Budget, or other federal officials to weaken the ability of the CFPB to perform its key functions and responsibilities? If not, why not?
4. If confirmed, will you commit to conducting a thorough review of all positions eliminated—or slated for elimination—at the CFPB in recent weeks and assess the ability of the agency to comply with its statutory obligations at current staffing levels?
5. If confirmed, after conducting the review described in (4), will you commit to providing a detailed briefing to my staff of your findings and taking steps—including, if necessary, the reestablishing of staff positions and rehiring of staff—to ensure the CFPB workforce is capable of consistently, effectively, and proactively executing on its statutorily mandated obligations?
6. Do you believe the CFPB’s statutory responsibilities mandated by Congress could be executed by a staff of 100 employees? If so, please provide an estimate of staff that would be allocated to each of the CFPB’s supervisory, enforcement, rulemaking, consumer response, consumer education, and other functions.
7. Did the Supreme Court find the CFPB’s funding structure to be constitutional? Would you undo Acting Director Vought’s decision to “turn off” the CFPB’s funding?
8. On February 18, 2025, President Trump issued an Executive Order on Ensuring Accountability for All Agencies.
 - a. If confirmed, will you send all proposed and final rules to the White House for review prior to their publication in the Federal Register?

¹³ National Public Radio, “Dozens of CFPB workers are fired as the agency remains shuttered,” Laurel Wamsley, February 12, 2025, <https://www.npr.org/2025/02/12/nx-s1-5294479/cfpb-workers-fired-trump-doge>.

¹⁴ National Public Radio, “Up to 100 more workers are fired at CFPB as staff fear mass layoffs are looming,” Laurel Wamsley, February 13, 2025, <https://www.npr.org/2025/02/13/nx-s1-5296929/cfpb-layoffs-staff-trump-doge>; The Verge, “The technology team at financial regulator CFPB has been gutted,” Lauren Feiner, February 14, 2025, <https://www.theverge.com/policy/612933/cfpb-tech-team-gutted-trump-doge-elon-musk>.

- b. If confirmed, will you consult with the White House on all material supervisory and enforcement actions and investigations?
- c. If confirmed, will the White House have the final say on the CFPB's funding levels and staffing decisions?
- d. Please provide statutory citations that vest these CFPB authorities with the White House.

Conflicts of Interest

Federal officials are required to comply with a series of conflict-of-interest laws to prevent them from profiting off their public service. I have significant concerns that individuals, most notably billionaire Elon Musk, have been influencing decision-making at the CFPB without complying with the law.

As you may know, Mr. Musk is a “senior advisor to the president” who, over the past few weeks, has served as the public face of DOGE, an office organized within the Executive Office of the President.¹⁵ As described above, DOGE officials reportedly entered the CFPB on February 6.¹⁶

In addition to his role as head of DOGE, Mr. Musk is the primary owner of the social media company X. Since purchasing X, Mr. Musk has considered expanding the social media platform into digital payments. On January 28, X announced a partnership with Visa to process peer-to-peer payments and launch a digital wallet.¹⁷ Notably, the CFPB has taken steps in recent years to protect consumers from fraud on digital payment apps. Mr. Musk is also the founder and CEO of Tesla,¹⁸ which offers customers the option of working with Tesla to finance their auto purchases.¹⁹ The CFPB plays a critical role in supervising the auto lending industry and protecting consumers from corporate malfeasance and scams.²⁰ Therefore, actions by Mr. Musk and DOGE at the CFPB also have the potential to directly benefit X, Visa, and Tesla—and by extension, further enrich Mr. Musk.

Mr. Musk is serving as a “special government employee,” meaning that he is subject to a series of conflict-of-interest laws designed to prevent government officials from enriching themselves

¹⁵ Politico, “Who’s in charge of DOGE? Not Elon Musk, White House Says,” Kyle Cheney, February 17, 2025, <https://www.politico.com/news/2025/02/17/doge-administrator-elon-musk-00204639>; The White House, “Establishing and Implementing the President’s ‘Department of Government Efficiency,’” Executive Order, January 20, 2025, <https://www.whitehouse.gov/presidential-actions/2025/01/establishing-and-implementing-the-presidents-department-of-government-efficiency/>.

¹⁶ National Public Radio, “Musk’s team takes control of key systems at Consumer Financial Protection Bureau,” Bobby Allyn, Laurel Wamsley, and Chris Arnold, February 7, 2025, <https://www.npr.org/2025/02/07/g-s1-47322/musks-team-takes-control-of-key-systems-at-consumer-financial-protection-bureau>

¹⁷ CNBC, “Elon Musk’s X begins its push into financial services with Visa deal,” Hugh Son and MacKenzie Sigalos, January 28, 2025, <https://www.cnbc.com/2025/01/28/elon-musk-x-visa-digital-wallet.html>.

¹⁸ Tesla, “Elon Musk,” <https://www.tesla.com/elon-musk>.

¹⁹ Tesla, “Financing Your Vehicle,” <https://www.tesla.com/support/financing-your-vehicle>.

²⁰ See Consumer Financial Protection Bureau, “Supervisory Highlights: Special Edition Auto Finance,” Issue 35, October 2024, https://files.consumerfinance.gov/f/documents/cfpb_supervisory-highlights-special-ed-auto-finance_2024-10.pdf, p. 3. “The auto-finance market is subject to various laws and regulations the CFPB enforces.”

at the expense of taxpayers.²¹ Specifically, 18 U.S.C. § 208 prohibits special government employees—with limited exceptions—from participating “personally and substantially” in any “decision, approval, disapproval, recommendation, the rendering of advice, investigation... judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter”²² that would have a “direct and predictable effect” on his or her financial interests.²³ Special government employees are also subject to the “Standards of Ethical Conduct for Employees of the Executive Branch.”²⁴ I have asked both Treasury Secretary Bessent and OMB Director Vought to provide information on Mr. Musk’s compliance with federal ethics law, but I have yet to receive a response.²⁵

1. If confirmed, will you commit to complying with all relevant federal ethics laws, regulations, and norms?
2. If confirmed, will you commit to ensuring that all CFPB employees comply with all relevant federal ethics laws, regulations, and norms?
3. If confirmed, will you commit to ensuring that all federal officials engaged in decision-making involving the CFPB are in compliance with all relevant federal ethics laws, regulations, and norms? Will you commit to denying access to CFPB datasets, records, and other proprietary information to any individual who you cannot confirm is in compliance with all relevant federal ethics laws, regulations, and norms?
4. If confirmed, will you commit to providing timely, comprehensive, and accurate responses to congressional inquiries regarding compliance with ethics laws at CFPB? Will you commit to reporting all individuals who violate ethics laws to the relevant authorities?

Supervision, Enforcement, and Rulemaking Authorities

Supervision

The CFPB has supervisory authority over banks, credit unions, and thrifts with over \$10 billion in assets, as well as nondepository mortgage companies, payday lenders, and private student lenders. Additionally, the CFPB supervises larger participants in other financial markets, including consumer reporting, debt collection, student loan servicing, automobile financing,

²¹ National Public Radio, “Trump hired Musk as a ‘special government employee.’ Here’s what that means,” Joe Hernandez, February 13, 2025, <https://www.npr.org/2025/02/13/nx-s1-5293124/special-government-employee-trump-musk-doge>.

²² 18 U.S.C. § 208.

²³ U.S. Office of Government Ethics, Memorandum, “Conflict of Interest and the Special Government Employee,” February 15, 2000, [https://www.oge.gov/Web/oge.nsf/Legal%20Docs/445ECB1FB63809DA852585BA005BED9E/\\$FILE/00x1.pdf](https://www.oge.gov/Web/oge.nsf/Legal%20Docs/445ECB1FB63809DA852585BA005BED9E/$FILE/00x1.pdf).

²⁴ 5 CFR Part 2635.

²⁵ U.S. Senate Committee on Banking, Housing, and Urban Affairs, “Warren and Schiff Demand Removal of Musk’s Operatives from CFPB, Citing X and Tesla Conflicts of Interest,” February 19, 2025, <https://www.banking.senate.gov/newsroom/minority/warren-and-schiff-demand-removal-of-musks-operatives-from-cfpb-citing-x-and-tesla-conflicts-of-interest>.

digital payment apps. The bureau’s supervisory work is critical to identifying problems and trends before they become systemic and create broader harms to consumers.

1. CFPB staff were recently ordered to “cease all supervision and examination activity.”²⁶
 - a. Are you concerned about a broad swath of consumer finance, from mortgage companies to payment apps, operating unsupervised due to sudden shutdown of the CFPB? If not, why not?
 - b. If confirmed, will you commit to resuming all supervision and examination activity?
2. There has long been insufficient oversight of nonbank financial companies, which was evident in the 2008 crisis when non-bank financial firms pushed toxic predatory mortgage loans on unsuspecting families.²⁷ If confirmed, will you ensure that the bureau continues to monitor these types of financial companies?
3. Too many bad actors view fines and penalties as simply “the cost of doing business.”²⁸ The CFPB’s repeat offender unit and registry detects and deters corporate recidivists. The CFPB has a track record of holding repeat offenders accountable, including taking multiple enforcement actions against Bank of America.²⁹
 - a. Do you agree that it is important for the bureau to monitor repeat offenders?
 - b. If confirmed, do you commit to maintaining the CFPB’s repeat offender registry?
 - c. Would you extend that commitment to highly connected firms, like Andreesen Horowitz-backed LendUp loans, which engaged in deceptive practices, violated the *Military Lending Act*, and repeatedly failed to tell people why they were denied credit?

Enforcement

The CFPB’s enforcement work has returned \$19 billion to consumers.³⁰ Some key enforcement actions include ordering Wells Fargo to pay \$3.7 billion to consumers for violations across auto loans, mortgage loans, and checking and savings accounts,³¹ ordering Regions to refund \$141

²⁶ Reuters, “Consumer protection agency neutralized by Trump’s new chief,” Douglas Gillison, February 10, 2025, <https://www.reuters.com/world/us/trumps-acting-cfpb-chief-halts-all-supervision-companies-2025-02-09/>.

²⁷ Federal Reserve History, “Subprime Mortgage Crisis,” John Duca, <https://www.federalreservehistory.org/essays/subprime-mortgage-crisis>.

²⁸ Consumer Financial Protection Bureau, “Prepared Remarks of CFPB Director Rohit Chopra on the Final Rule to Detect and Deter Repeat Offenders,” June 3, 2024, <https://www.consumerfinance.gov/about-us/newsroom/prepared-remarks-of-cfpb-director-rohit-chopra-on-the-final-rule-to-detect-and-deter-repeat-offenders/>.

²⁹ Consumer Financial Protection Bureau, “What’s ahead for Bank of America and its customers,” press release, July 19, 2023, <https://www.consumerfinance.gov/about-us/blog/whats-ahead-for-bank-of-america-and-its-customers/>; Consumer Financial Protection Bureau, “CFPB Orders Bank of America to Pay \$12 Million for Reporting False Mortgage Data,” press release, November 28, 2023, <https://www.consumerfinance.gov/about-us/newsroom/cfpb-orders-bank-of-america-to-pay-12-million-for-reporting-false-mortgage-data/>.

³⁰ Consumer Financial Protection Bureau, “The CFPB,” <https://www.consumerfinance.gov/about-us/the-bureau/>.

³¹ Consumer Financial Protection Bureau, “CFPB Orders Wells Fargo to Pay \$3.7 Billion for Widespread Mismanagement of Auto Loans, Mortgages, and Deposit Accounts,” December 20, 2022, <https://www.consumerfinance.gov/about-us/newsroom/cfpb-orders-wells-fargo-to-pay-37-billion-for-widespread-mismanagement-of-auto-loans-mortgages-and-deposit-accounts/>.

million to customers harmed by its illegal and surprise overdraft fees,³² and banning Navient from federal student loan servicing and fining the company \$120 million for student lending failures.³³

1. With the agency in limbo, there is uncertainty about the fate of current lawsuits the agency has filed against bad actors. For example, just last week, the CFPB dropped a lawsuit against online lender Solo Funds, which the CFPB alleged had offered loans to consumers with deceptive terms.³⁴ If confirmed, will you commit to resuming enforcement actions?
2. The CFPB uses enforcement actions to tackle discrimination in housing and our economy. In particular, the CFPB has taken enforcement action against banks for mortgage lending discrimination, including, for example, Fairway Independent Mortgage Corporation.³⁵ If confirmed, would you continue to take enforcement action against companies that engage in illegal mortgage lending discrimination?
3. If confirmed, will you take enforcement action against companies that violate the *Equal Credit Opportunity Act*?
4. Do you believe the CFPB's enforcement authorities should be altered? If so, in what way?

Rulemakings

The CFPB uses its rulemaking authority to ensure that all consumers have access to fair, transparent and competitive services and protect consumers from unfair, deceptive or abusive practices. President Trump signed an executive order pausing for 60 days all rulemakings, leaving in limbo a number of CFPB final rules that have been recently proposed or finalized.

1. Will you commit to ensuring the CFPB continues to operate as a regulator of Wall Street and big banks, implementing the rules that have been finalized?
2. Medical bills on credit reports can make loans more expensive, limit access to credit, and harm people's ability to rent an apartment or get a job, and the bureau has found that medical debts are a poor predictor of a borrower's ability to repay debts. In January, the

³² Consumer Financial Protection Bureau, "CFPB Orders Regions Bank to Pay \$191 Million for Illegal Surprise Overdraft Fees," press release, September 28, 2022, <https://www.consumerfinance.gov/about-us/newsroom/cfpb-orders-regions-bank-pay-191-million-for-illegal-surprise-overdraft-fees/>.

³³ Consumer Financial Protection Bureau, "CFPB Bans Navient from Federal Student Loan Servicing and Orders the Company to Pay \$120 Million for Wide-Ranging Student Lending Failures," press release, September 12, 2024, <https://www.consumerfinance.gov/about-us/newsroom/cfpb-bans-navient-from-federal-student-loan-servicing-and-orders-the-company-to-pay-120-million-for-wide-ranging-student-lending-failures/>.

³⁴ Reuters, "Under Trump, consumer watchdog drops case against online lender," February 21, 2025, <https://www.reuters.com/business/finance/under-trump-consumer-watchdog-drops-case-against-online-lender-2025-02-21/>.

³⁵ Consumer Financial Protection Bureau, "CFPB and Justice Department Take Action Against Fairway for Redlining Black Neighborhoods in Birmingham, Alabama," press release, October 15, 2024, <https://www.consumerfinance.gov/about-us/newsroom/cfpb-and-justice-department-take-action-against-fairway-for-redlining-black-neighborhoods-in-birmingham-alabama/>.

CFPB finalized a rule that would ban the inclusion of medical bills on credit reports used by lenders, removing an estimated \$49 billion in medical bills from the credit reports of approximately 15 million Americans.³⁶

- a. Do you believe someone who went through an unexpected medical event should suffer from a lifetime of more expensive loans?
 - b. If confirmed, will you defend the Prohibition on Creditors and Consumer Reporting Agencies Concerning Medical Information (Regulation V) final rule in court?
3. Credit card late fees cost American families more than \$14 billion a year.³⁷ In May, the CFPB finalized the credit card late fee rule, which would reduce a typical fee from \$32 to \$8. The rule is estimated to save American families more than \$10 billion in late fees.³⁸
- a. Do you think that companies should be able to hike up their credit card late fees without evidence of increased costs?
 - b. If confirmed, will you commit to defending the credit card penalty fees final rule in court?
4. In December, the CFPB finalized the overdraft lending rule, which would limit the bank overdraft to \$5 or a fee that simply covers the bank’s costs and losses.³⁹ The rule is expected to save consumers \$5 billion or approximately \$225 in overdraft fees per household.⁴⁰
- a. Several institutions, including Ally and Citibank, have eliminated their overdraft fees, but there are larger institutions such as Wells Fargo that have yet to change their overdraft fee policy.⁴¹ Will you commit to implementing the CFPB’s final rule and working to ensure that larger financial institutions also limit their bank overdraft fees?
 - b. The final rule is being litigated in the Southern District of Mississippi.⁴² If confirmed, will you commit to defending the overdraft lending rule in court?
5. Digital payment apps have increasingly become substitutes for traditional banks or credit unions. However, these apps have not been supervised to ensure they are complying with the same consumer protection safeguards as traditional financial services companies. In November, the CFPB finalized a rule that would allow CFPB to supervise the “largest

³⁶ Consumer Financial Protection Bureau, “CFPB Finalizes Rule to Remove Medical Bills from Credit Reports,” press release, January 7, 2025, <https://www.consumerfinance.gov/about-us/newsroom/cfpb-finalizes-rule-to-remove-medical-bills-from-credit-reports/>.

³⁷ Consumer Financial Protection Bureau, “CFPB Bans Excessive Credit Card Late Fees, Lowers Typical Fee from \$32 to \$8,” press release, March 5, 2024, <https://www.consumerfinance.gov/about-us/newsroom/cfpb-bans-excessive-credit-card-late-fees-lowers-typical-fee-from-32-to-8/>.

³⁸ *Id.*

³⁹ Consumer Financial Protection Bureau, “CFPB Closes Overdraft Loophole to Save Americans Billions in Fees,” press release, December 12, 2024, <https://www.consumerfinance.gov/about-us/newsroom/cfpb-closes-overdraft-loophole-to-save-americans-billions-in-fees/>.

⁴⁰ *Id.*

⁴¹ Bankrate, “Banks that have cut or eliminated overdraft fees,” Karen Bennett, October 5, 2024, <https://www.bankrate.com/banking/checking/banks-eliminated-overdraft-fees/>.

⁴² Mississippi Bankers Association et al v. CFPB, No. 3:24-cv-00792-CWR-LGI (S.D. Miss.).

nonbank companies offering digital funds transfer and payment wallet apps” like PayPal and Cash App.⁴³ This rule would cover apps that collectively process over 13 billion consumer payment transactions annually.

- a. Do you think the Bureau should have oversight over the largest payment apps to protect consumer privacy, guard against fraud, prevent illegal account closures, and level the playing field between fintechs and traditional banking services providers?
 - b. The final rule is being litigated in the D.C. District Court.⁴⁴ If confirmed, will you commit to defending the larger participant rule in court?
 - c. Will you allow the DOGE deregulation effort to stifle enforcement of consumer protection statutes on digital payment platforms?
6. In December, the CFPB proposed a rule designed to apply Fair Credit Report Act protections to “sensitive consumer information...including information sold by databrokers.”⁴⁵ If confirmed, will you commit to finalizing and robustly implementing this rule?
7. In January, the CFPB proposed a rule that would bar companies from fining, suing, or deplatforming based on consumer comments, reviews, or political or religious views.⁴⁶ If confirmed, will you commit to finalizing and robustly implementing this contract rule?

Older Americans

Older Americans are common targets of financial scams, both because they are more vulnerable than younger age groups that are relatively more adept at using ever-evolving financial technology platforms and because they have higher savings than other age groups on average. According to the American Association of Retired Persons (AARP), older Americans who fall victim to financial scams “lose \$28.3 billion annually.”⁴⁷ In addition to harming individual victims and their families and caregivers, these scams also devastate the broader financial industry: “annually, financial institutions lose more than \$1 billion in deposits due to the exploitation of Americans over the age of 50.”⁴⁸

The CFPB, including its Office for Older Americans, has shut down scammers targeting older Americans and educates older consumers, families and caregivers, and financial institutions

⁴³ Consumer Financial Protection Bureau, “CFPB Finalizes Rule on Federal Oversight of Popular Digital Payment Apps to Protect Personal Data, Reduce Fraud, and Stop Illegal ‘Debanking,’” press release, November 21, 2024, <https://www.consumerfinance.gov/about-us/newsroom/cfpb-finalizes-rule-on-federal-oversight-of-popular-digital-payment-apps-to-protect-personal-data-reduce-fraud-and-stop-illegal-debanking/>.

⁴⁴ *Technet v. CFPB*, D.D.C., No. 1:25-cv-00118 (D.D.C.).

⁴⁵ Consumer Financial Protection Bureau, “Protecting Americans from Harmful Data Broker Practices (Regulation V),” December 3, 2024, <https://www.consumerfinance.gov/rules-policy/rules-under-development/protecting-americans-from-harmful-data-broker-practices-regulation-v/>.

⁴⁶ Consumer Financial Protection Bureau, “CFPB Proposes Rule to Ban Contract Clauses that Strip Away Fundamental Freedoms,” press release, January 13, 2025, <https://www.consumerfinance.gov/about-us/newsroom/cfpb-proposes-rule-to-ban-contract-clauses-that-strip-away-fundamental-freedoms/>.

⁴⁷ AARP, “AARP Report: \$28.3 Billion a Year Stolen from Adults 60+,” 2023, <https://states.aarp.org/colorado/aarp-report-28-3-billion-a-year-stolen-from-adults-60>.

⁴⁸ AARP, “The AARP BankSafe Initiative,” <https://www.aarp.org/pri/initiatives/banksafe/>.

about the signs of elder financial exploitation and tools to defend themselves against it. It also helps older Americans fight illegal debt collection practices in the mortgage, nursing home, and healthcare industries. I ask that you commit to continuing and strengthening the CFPB's work to protect older Americans.

1. Do you agree that it is important for the CFPB to protect older Americans in the consumer marketplace and to return money unlawfully or deceptively gained to older consumers and their families and caregivers around the country?
2. Do you agree that the CFPB's work to protect older Americans in the consumer marketplace benefits financial institutions?
3. The CFPB provides several resources and tools for consumers to learn about elder financial exploitation.⁴⁹ Do you agree that raising awareness about elder financial exploitation is important to combat the rising issue? Will you commit to keeping these resources available to the public?
4. The CFPB has successfully identified and barred predatory actors who scam older adults by charging fees for fake services. If confirmed, do you commit to taking actions against companies and individuals that engage in elder financial fraud?
5. The CFPB protects consumers against illegal nursing home debt collection practices that violate federal law, including the *Nursing Home Reform Act*. If confirmed, do you commit to taking actions against nursing home providers that violate the law?
6. Under the *Debt Collection Practices Act (FDCPA)*, it may be illegal for debt collectors to employ or threaten judicial actions, such as foreclosures, to collect a debt once the state's statute of limitations has passed. These predatory practices particularly affect older Americans. If confirmed, do you commit to taking actions against debt collectors that violate the FDCPA?
7. In December 2024, the CFPB finalized an Interagency Statement on Elder Financial Exploitation with the Federal Reserve, FDIC, FinCEN, NCUA, OCC, and state financial regulators.⁵⁰ If confirmed, will you commit to continuing this interagency work to combat elder financial exploitation?
8. The forced collection of Social Security benefits to repay defaulted student loans has increased 3,000% over the last two decades, pushing many older borrowers into poverty

⁴⁹ See Consumer Financial Protection Bureau, "Recovering from Elder Financial Exploitation: A framework for policy and research," September 28, 2022, <https://www.consumerfinance.gov/data-research/research-reports/recovering-from-elder-financial-exploitation-framework-for-policy-and-research/>.

⁵⁰ Board of Governors of the Federal Reserve System, Consumer Financial Protection Bureau, Federal Deposit Insurance Corporation, Financial Crimes Enforcement Network, National Credit Union Administration, Office of the Comptroller of the Currency, State Financial Regulators, "Interagency Statement on Elder Financial Exploitation," December 2024, https://files.consumerfinance.gov/f/documents/cfpb_interagency-statement-on-elder-financial-exploitation_2024-12.pdf.

and undermining Social Security’s purpose.⁵¹ Do you agree that Social Security benefits should not be used to repay defaulted student loans?

Servicemembers and Veterans

Since the CFPB was created, servicemembers have submitted over 400,000 complaints related to a range of consumer financial products, including credit reporting, debt collection, credit cards, and mortgages.⁵² The CFPB has repeatedly stepped in to protect our servicemembers from harmful behaviors as the principal enforcer of the *Military Lending Act*, and it has a dedicated Office of Servicemember Affairs to help military families address unexpected financial challenges. The CFPB has returned approximately \$363 million to servicemembers and veterans from 45 public enforcement actions,⁵³ including ordering Navy Federal Credit Union to refund \$80 million to consumers for charging illegal overdraft fees.⁵⁴

1. Do you agree that it is important for the CFPB to protect servicemembers in the consumer marketplace and to return money unlawfully or deceptively gained to our servicemembers, veterans, and to families around the country?
2. Servicemembers who accrue debt from high-interest loans can be subject to harassment by debt collectors, which can include threatening their standing with the armed services.⁵⁵ Do you think this practice is acceptable?
3. The *Military Lending Act* provides protections for members of the military against predatory loans. If confirmed, do you commit to taking robust enforcement actions against companies who have violated the *Military Lending Act*?
4. The CFPB has found that many military families receive fraudulent calls and mailers from companies that claim to be affiliated with the government, the VA, or their home loan servicer.⁵⁶ If confirmed, do you commit to taking enforcement actions against companies that engage in deceptive mortgage advertising practices?

⁵¹ Consumer Financial Protection Bureau, “Social Security Offsets and Defaulted Student Loans,” January 8, 2025, <https://www.consumerfinance.gov/data-research/research-reports/issue-spotlight-social-security-offsets-and-defaulted-student-loans/>.

⁵² Consumer Financial Protection Bureau, “The CFPB is protecting the military community and providing relief,” May 23, 2024, <https://www.consumerfinance.gov/about-us/blog/the-cfpb-is-protecting-the-military-community-and-providing-relief/>.

⁵³ Consumer Financial Protection Bureau, “The CFPB,” <https://www.consumerfinance.gov/about-us/the-bureau>.

⁵⁴ Consumer Financial Protection Bureau, “CFPB Orders Navy Federal Credit Union to Pay More Than \$95 Million for Illegal Surprise Overdraft Fees,” November 7, 2024, <https://www.consumerfinance.gov/about-us/newsroom/cfpb-orders-navy-federal-credit-union-to-pay-more-than-95-million-for-illegal-surprise-overdraft-fees/>.

⁵⁵ Military Officers Association of America, “What Servicemembers and Veterans Should Know About Debt Collection,” Kevin Lilley, April 26, 2023, <https://www.moaa.org/content/publications-and-media/news-articles/2023-news-articles/finance/what-servicemembers-and-veterans-should-know-about-debt-collection/>.

⁵⁶ Consumer Financial Protection Bureau, “Consumer Fraud Alert - Tips for avoiding VA home loan scams,” Patrick Brick, Carolyn Hahn, and Alberto Planas, July 14, 2021, <https://www.consumerfinance.gov/about-us/blog/consumer-fraud-alert-tips-avoiding-va-home-loan-scams/>.

5. The CFPB’s Victims Relief Fund ensures that servicemembers can get relief when the company that harms them is unable to provide compensation or has gone out of business. If confirmed, do you commit to maintaining the victims relief fund?
6. If confirmed, do you commit to taking enforcement actions against companies that impose illegal and excessive charges on servicemembers and their dependents?
7. The *Servicemembers Civil Relief Act* provides active duty servicemembers extra protections in the event “that legal or financial transactions adversely affect their rights during military or uniformed service.” These protections include reducing the interest rate on any pre-service loans to a maximum of 6 percent, termination of residential housing and automobile leases without penalty, and protections against default judgements in civil cases, foreclosure on their home, and repossession of their property.⁵⁷
 - a. Sometimes servicemembers’ financial problems require the attention of another agency, like the Department of Justice. Will you ensure that complaints are routed to the correct agencies?
 - b. If confirmed, will you commit to taking enforcement actions against companies that violate the *Servicemembers Civil Relief Act*?

Students

Students and student loan borrowers face significant challenges, particularly in navigating the complexities of loan repayment and dealing with problematic loan services. With millions of borrowers resuming payments in 2023 after a pause during the COVID-19 pandemic, many struggled with long hold times, inaccurate billing, and confusion about repayment options. Students attending for-profit schools or using campus banking products often face hidden fees and deceiving lending practices that can further financial strain. These issues highlight the ongoing need for protection and oversight in the student loan industry.⁵⁸

The CFPB has played a crucial role in addressing these challenges by holding institutions accountable and ensuring that borrowers are treated fairly. The agency has taken enforcement actions against entities like predatory student lenders, services, and universities that engage in illegal or harmful practices, such as misrepresenting loan terms, or withholding transcripts as debt collection tactics. Additionally, the CFPB has issued consumer advisories and reports and sent more than 96,000 consumer complaints about student loans to companies for response.⁵⁹ Through these efforts, the CFPB has safeguarded students and borrowers from exploitation.

⁵⁷ Consumer Financial Protection Bureau, “The Servicemembers Civil Relief Act (SCRA),” <https://www.consumerfinance.gov/consumer-tools/educator-tools/servicemembers/the-servicemembers-civil-relief-act-scra/>.

⁵⁸ See Consumer Financial Protection Bureau, “Insights from the 2023-2024 Student Loan Borrower Survey,” November 2024, https://files.consumerfinance.gov/f/documents/cfpb_Insights-from-the-2023-2024-Student-Loan-Borrower-Survey_Report.pdf; Consumer Financial Protection Bureau, “Student Loan Borrowers Potentially At-Risk when Payment Suspension Ends,” April 14, 2022, <https://www.consumerfinance.gov/data-research/research-reports/student-loan-borrowers-potentially-at-risk-payment-suspension-ends/>.

⁵⁹ Consumer Financial Protection Bureau, “The CFPB,” <https://www.consumerfinance.gov/about-us/the-bureau/>.

1. The CFPB has closely monitored student borrowers' experiences during the return to repayment after COVID-19 pandemic, using consumer complaints to identify emerging problems.⁶⁰ If confirmed, will you commit to continuing the agency's work and employing its supervisory authority to examine loan services conduct and performance?
2. Recent CFPB reports find that many student borrowers face inaccurate billing, including premature due dates and inflated monthly payments, which can result in missed payments, unexpected fees, and potential damage to credit scores. If confirmed, will you commit to continuing the agency's work to address harmful inaccurate billing practices?
3. The CFPB has been closely monitoring borrower experiences and consumer complaints to identify emerging problems, such as long hold times, processing delays in income-driven repayment applications, and inaccurate billing statements. If confirmed, will you commit to addressing consumer complaints, including those made against student loan providers?
4. The CFPB has taken enforcement actions against servicers engaging in unlawful practices, including ordering Performant Recovery, Inc. to pay a \$700,000 penalty and banned the company from servicing or collecting any student loan debts due to delays in loan rehabilitation processes that generated fees for the company and cost individual borrowers thousands of dollars.⁶¹ If confirmed, will you commit to take action against services that engage in unlawful conduct?
5. The CFPB has found that some for-profit colleges withhold transcripts from students as a debt collection tactic, preventing them from accessing their academic records, transferring credits, or securing jobs that require proof of transcript.⁶² Do you agree with this practice?
6. The CFPB has found that many college-sponsored financial products, including deposit accounts and credit cards, often carry high fees and less favorable terms.⁶³ If confirmed, will you commit to continuing the agency's work to monitor college-sponsored financial products as required by the *Credit Card Accountability, Responsibility, and Disclosure Act (CARD Act)*?

⁶⁰ Consumer Financial Protection Bureau, "An analysis of the first seven months of the federal student loan return to repayment," November 26, 2024, <https://www.consumerfinance.gov/data-research/research-reports/analysis-of-first-seven-months-of-federal-student-loan-return-to-repayment/>.

⁶¹ Consumer Financial Protection Bureau, "CFPB Takes Action Against Student Loan Debt Collector Performant Recovery for Illegal Fee Generating Scheme That Cost Borrowers Thousands of Dollars," December 9, 2024, <https://www.consumerfinance.gov/about-us/newsroom/cfpb-takes-action-against-student-loan-debt-collector-performant-recovery-for-illegal-fee-generating-scheme-that-cost-borrowers-thousands-of-dollars/>.

⁶² Consumer Financial Protection Bureau, "Consumer Financial Protection Bureau to Examine Colleges' In-House Lending Practices," January 20, 2022, <https://www.consumerfinance.gov/about-us/newsroom/consumer-financial-protection-bureau-to-examine-colleges-in-house-lending-practices/>.

⁶³ Consumer Financial Protection Bureau, "2023 College banking and credit card agreements," December 19, 2023, <https://www.consumerfinance.gov/data-research/research-reports/2023-college-banking-and-credit-card-agreements/>.

Financial Stability Oversight Council (FSOC)

Following the financial crisis, Congress established the Financial Stability Oversight Council (FSOC) to identify, monitor, and address risks that could destabilize the financial system and harm the economy.⁶⁴ If confirmed, you would serve as a voting member of FSOC.

Prior to the creation of FSOC, there was not a single government entity tasked with assessing and mitigating the evolving risks that build up in and across financial institutions and markets.⁶⁵ FSOC was designed to address those risks by bringing together the heads of the federal financial regulatory agencies. One of FSOC's most powerful statutory tools is its authority to subject systemically risky nonbank financial companies to enhanced oversight and stability safeguards.⁶⁶ In addition, in recent years, FSOC has drawn attention to the systemic risks posed by hedge funds and private equity, stablecoins, and cloud services providers, among other entities.⁶⁷

Despite the importance of FSOC to the stability of our financial system, the previous Trump Administration steadily cut funding and staff for FSOC and its data-driven research arm, the Office of Financial Research (OFR)—making our financial system more vulnerable.⁶⁸ Meanwhile, Project 2025 goes even further than the first Trump Administration and recommends that Congress should repeal FSOC.⁶⁹

1. Do you agree that one of the lessons learned from the 2008 financial crisis is that the U.S. should have a regulatory body tasked with overseeing the buildup of risk across the entire financial system? Should Congress abolish FSOC?
2. Do you commit to faithfully execute FSOC's mission to (i) identify risks to U.S. financial stability; (ii) promote market discipline by eliminating expectations of public bailouts; and (iii) respond to emerging threats to the stability of the U.S. financial system?
3. FSOC has the authority to proactively subject risky nonbank financial companies to enhanced oversight and financial stability safeguards by designating the firm as systemically important.

⁶⁴ U.S. Department of the Treasury, "Financial Stability Oversight Council," <https://home.treasury.gov/policy-issues/financial-markets-financial-institutions-and-fiscal-service/fsoc>.

⁶⁵ Center for American Progress, "The Trump Administration is Quietly Slashing Financial Stability and Funding," Gregg Gelzins, December 7, 2017, <https://www.americanprogress.org/article/trump-administration-quietly-slashing-financial-stability-funding/>.

⁶⁶ *Id.*

⁶⁷ Financial Stability Oversight Council, "2024 Annual Report," <https://home.treasury.gov/system/files/261/FSOC2024AnnualReport.pdf>.

⁶⁸ Reuters, "Trump administration cuts staff at financial markets watchdog -source," Pete Schroeder, August 8, 2018, <https://www.reuters.com/article/business/trump-administration-cuts-staff-at-financial-markets-watchdog-source-idUSKBN1KT23R/>.

⁶⁹ Project 2025 Presidential Transition Project, "Chapter 22: Department of the Treasury," William L. Walton, Stephen Moore, and David R. Burton, p. 705, https://static.project2025.org/2025_MandateForLeadership_FULL.pdf.

- a. Do you agree that FSOC’s authority to designate nonbanks as systemically important is necessary to fulfill its statutory mission?
 - b. In evaluating different categories of nonbank financial companies, what type of large and complex firm are you most worried could threaten financial stability?
 - c. You have previously highlighted some of the risks that the “Big Three” asset managers pose to the banking system. Do you believe the two largest nonbank asset managers pose any risks to the stability of the financial system?
4. What do you see as the financial sector vulnerabilities that pose the most risk to the economy? Relatedly, what emerging risks should FSOC be monitoring?

Workplace Culture

While at the FDIC, you served as the co-chair of a Special Committee of the FDIC Board of Directors.⁷⁰ The Special Committee of the Board was established to oversee an independent, third-party investigation of misconduct allegations at the FDIC.⁷¹ In April 2024, the independent review was released. The review found that the agency “failed to provide a workplace safe from sexual harassment, discrimination, and other interpersonal misconduct.”⁷² It described the agency’s culture as “patriarchal, insular, and risk averse,” and noted that managerial responses to misconduct allegations were “insufficient and ineffective,” leading to “a widespread fear of retaliation” and an “underreporting of workplace misconduct.”⁷³ The review offered a series of recommendations for FDIC to improve its culture and prevent future misconduct, including but not limited to “the appointment of a new Culture and Structure Transformation Monitor, with budget [and] staff”; an “enhanced training program” to better train employees on “workplace conduct, culture, and leadership”; and the establishment of “a new anonymous hotline” and an improved set of investigations and reporting procedures.⁷⁴

In the wake of the report’s release, you described the “harassment and misconduct detailed in the Report” as “totally unacceptable.”⁷⁵ You affirmed that “almost all of the FDIC’s staff are good people, solid public servants, [and] deeply committed to a mission that is central to the success of our country” and stated that you “hope[d] the report” would result in “accountability” and “change” at the FDIC.⁷⁶ In testimony submitted to Congress, you called the “root causes recommendations cited in the Report” a “clear roadmap for what needs to be done and why.”⁷⁷

⁷⁰ Federal Deposit Insurance Corporation, “Jonathan McKernan,” <https://www.fdic.gov/about/jonathan-mckernan>.

⁷¹ *Id.*

⁷² Cleary Gottlieb Steen & Hamilton LLP, “Report for the Special Review Committee of the Board of Directors of the Federal Deposit Insurance Corporation,” Joon H. Kim, Jennifer Kennedy Park, and Abena Mainoo, April 2024, <https://www.fdic.gov/sites/default/files/2024-05/cleary-report-to-fdic-src.pdf>.

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ Statement by Jonathan McKernan, Member of the Board of Directors of the Federal Deposit Insurance Corporation, on “Oversight of the FDIC’s Failed Leadership and Toxic Workplace Culture,” before the U.S. House Committee on Financial Services, June 12, 2024, <https://docs.house.gov/meetings/BA/BA00/20240612/117412/HHRG-118-BA00-Wstate-McKernanJ-20240612.pdf>.

⁷⁶ *Id.*

⁷⁷ *Id.*

All workers deserve a workplace free of harassment, misconduct, abuse, and discrimination. Unfortunately, recent efforts by the Trump Administration to slash the federal workforce and eliminate key government programs are likely to limit—not enhance—the government’s ability to root out misconduct.

1. If confirmed, will you commit to fostering and promoting a healthy workplace culture at the CFPB?
2. If confirmed, will you commit to retaining—and in the case of positions that the Trump Administration has recently eliminated, rehiring—staff the CFPB that play key roles in preventing, investigating, eliminating, and educating staff on workplace harassment, misconduct, abuse, and discrimination?
3. Among other important benefits, programs promoting diversity, equity, inclusion, and accessible workplaces “prevent discriminatory conduct and harassment from occurring” and “help ensure that unlawful conduct is promptly identified, reported and addressed when it does occur.”⁷⁸ Based on your experience overseeing a robust investigation of workplace harassment at the FDIC, do you believe that the Trump Administration’s efforts to eliminate all federal “diversity, equity, inclusion, and accessibility (DEIA) mandates, policies, programs, preferences, and activities” are likely to increase or decrease the prevalence of workplace misconduct across federal agencies?
4. If confirmed, you will again be an FDIC Board Member. Do you believe the FDIC staffing cuts, including the termination of staff in positions related to diversity and inclusion, inhibit the agency’s ability to complete its cultural transformation? Did the Cleary Gottlieb Report call for severe staffing cuts? Did the Report find that the FDIC was too focused on diversity, equity, and inclusion?

Conclusion

Thank you for your prompt review of these questions. I look forward to hearing from you at your nomination hearing and having the opportunity to assess your willingness to serve as a strong advocate for consumers and the CFPB in light of recent efforts to undermine the agency.

Sincerely,



Elizabeth Warren
Ranking Member
Committee on Banking, Housing, & Urban Affairs

⁷⁸ The Commonwealth of Massachusetts and the State of Illinois Offices of the Attorney General, “Multi-State Guidance Concerning Diversity, Equity, Inclusion, and Accessibility Employment Initiatives,” February 13, 2025, <https://oag.ca.gov/system/files/attachments/press-docs/DEI%20Guidance%202.13%20FINAL.pdf>.