HILARY B. MILLER
ATTORNEY AT LAW

MEMBER OF NEW YORK,
CONNECTICUT AND
DISTRICT OF COLUMBIA BARS

500 WEST PUTNAM AVENUE — SUITE 400
GREENWICH, CONNECTICUT 06830-6096
(203) 399-1320
FACSIMILE: (914) 206-3727

250 PARK AVENUE – 7TH FLOOR
NEW YORK, NEW YORK 10177-0799
(646) 350-0908

1629 K STREET, N.W. — SUITE 300
WASHINGTON, D.C. 20006-1631
(202) 449-9484

HILARY@MILLER.NET

PLEASE REPLY TO:
Connecticut Office

June 20, 2013

Chief, Information Office
Information Quality Program
Bureau of Consumer Financial Protection
1700 G Street, N.W.
Washington, D.C. 20552-0003

***Re:* Petition of Community Financial Services Association of America, Ltd. For Retraction Of "Payday Loans and Deposit Advance Products: A White Paper of Initial Data Findings"**

Dear Sir or Madam:

I. INTRODUCTORY STATEMENT

This letter constitutes a petition on behalf of Community Financial Services Association of America, Ltd. ("CFSA") for the public retraction (*i.e.*, withdrawal in its entirety) of the Bureau's publication entitled "Payday Loans and Deposit Advance Products: A White Paper of Initial Data Findings" dated April 24, 2013 (the "White Paper").[1]

CFSA shows in this petition that fatal information-quality violations and errors exist in those portions of the White Paper that relate to payday lending;[2] the violations and errors CFSA demonstrates are of such substantial significance and magnitude that corrections alone are inadequate, and withdrawal of the White Paper is the only appropriate remedy.

This petition is filed pursuant to (1) Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001, frequently referred to as the "Information Quality Act," 44 U.S.C. 3516, note ("IQA"),[3] as well as pursuant to (2) the OMB Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information

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[1] *Available at* http://files.consumerfinance.gov/f/201304_cfpb_payday-dap-whitepaper.pdf (last visited June 17, 2013).

[2] CFSA's claims are limited to those portions of the White Paper that relate to payday lending, including introductory and concluding provisions thereof (*i.e.*, Sections 1, 2.1, 3.1 and 4). CFSA has not undertaken to comment on the methodology or data summaries presented in the White Paper that relate solely to deposit-advance products. However, certain conclusions of the paper appear equally applicable to both payday and deposit-advance credit and require the retraction of the paper as a whole.

[3] Pub. L. 106–554, § 1(a)(3) [title V, § 515], Dec. 21, 2000, 114 Stat. 2763, 2763A–153.

Disseminated by Federal Agencies ("OMBG"),[4] and (3) the Bureau's own Draft Information Quality Guidelines ("CFPBG").[5]

As petitioner notes below, the data-quality requirements of IQA are not satisfied merely because the computations made in the White Paper may be arithmetically correct and accompanied by a footnoted disclaimer stating the shortcomings of the paper. Rather, IQA requires that sound research methods be used and that the information be presented in a complete, accurate, unbiased and reproducible manner.

Among other problems, the White Paper derives all of its pertinent conclusions from an unrepresentative sample of payday-loan borrowers heavily weighted toward repeat users, fails to disclose completely the nature or source of its underlying data, and makes claims about consumer-welfare outcomes that were not investigated and are neither supported in the document nor capable of being deduced from the data examined.

For these and the other reasons hereinafter set forth, the White Paper fails the requirements of the IQA and therefore must be publicly retracted.

II. INTEREST OF THE PETITIONER

CFSA is the largest national trade association of payday lenders. Its sole source of operating revenue is dues paid by its payday-lender and affiliate members. CFSA believes that it represents the owners of approximately one-half of all storefront payday-lending establishments in the United States. CFSA regularly provides testimony and comments on pending legislation and regulation, appears as an *amicus curiae* in litigation relating to the industry, and publishes guidelines and information documents for those interested in the industry. Importantly, CFSA promulgates, and its members are required to adhere to, a set of "CFSA Member Best Practices" for the protection of the industry's customers. CFSA and its Best Practices are mentioned explicitly in footnotes 10 and 11 of the White Paper.

Pursuant to IQA, CFSA submits that it is an affected person seeking to obtain correction of information maintained and disseminated[6] by the Bureau that does not comply with IQA, OMB and Bureau guidelines.

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[4]Republished at 67 F.R. 8452, 8452 (Feb. 22, 2002), *available at* http://www.whitehouse.gov/omb/fedreg_final_information_quality_guidelines (last visited June 17, 2013).

[5]*Available at* http://www.consumerfinance.gov/informationquality (last visited June 17, 2013). Because the Bureau has apparently never promulgated information quality guidelines other than in draft form, petitioner does not deem itself bound by any of the limitations contained in the CFPBG. In particular, petitioner rejects the Bureau's statement (contained in the CFPBG) to the effect that the Bureau does not "currently [produce] or [sponsor] the distribution of influential scientific, financial, or statistical information within the definitions promulgated by OMB . . . ." As petitioner discusses *infra*, the White Paper itself represents precisely such an "influential" publication. Petitioner further rejects any requirement of the CFPBG that purports to limit the right to file a data-quality complaint to "individuals."

CFSA's principal point of contact in connection with this petition is the undersigned, whose address and other contact information are set forth on the first page hereof.

III. BACKGROUND OF FEDERAL INFORMATION QUALITY REQUIREMENTS

IQA amended the Paperwork Reduction Act in 2001 and became effective October 1, 2002. Under IQA, federal agencies must ensure that the information they disseminate meets certain quality standards. The particular mischief sought to be precluded by IQA was what can occur — as here — when government material published on the Internet contains inaccurate information. See, OMBG, *supra*, n 3.

With limited exceptions inapplicable to the Bureau, IQA applies to all executive departments and to any independent regulatory agency. 44 U.S.C. § 3502. Each affected agency must adopt and publish standards of information quality. 67 F.R. at 8459. Those guidelines apply to "any communication or representation of knowledge such as facts or data, in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual forms." 67 F.R. at 8460.

Under the OMBG, the elements of "quality" are "utility," "objectivity," and "integrity." In this context, "utility" refers to the usefulness of the information to the public or any intended user. 67 F.R. at 8659; thus, prior to any dissemination, potential uses of the information must be assessed both from the agency's own perspective and from that of the public. *Id*. "Objectivity" refers both to the presentation and substance of information. *Id*. at 8459. "Objective" information must be presented in an accurate, clear, complete and unbiased manner. *Id*. The information must be presented in its proper context, along with supporting data, so that the public can assess whether the objectivity of the sources may be questionable. *Id*. Also, the substance of information disseminated must be accurate, reliable and unbiased. *Id*. Agencies must identify the sources of the disseminated information, the methods used to produce it, and provide full, accurate, and transparent documentation. 67 F.R. at 8460. Importantly in the context of this petition, sound statistical research methods must be used to generate original and supporting data and develop analytical results. *Id*. at 8459.

Information that is "influential scientific, financial, or statistical information" also must be reproducible to demonstrate its objectivity. "Influential scientific, financial or statistical information" has a clear and substantial impact on important public policies or important private sector decisions. 67 F.R. at 8460. Agencies that disseminate such information must ensure a high degree of transparency about the data and methods to facilitate its "reproducibility" by qualified third parties. *Id*.

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[6]The White Paper was "disseminated" by, *inter alia*, posting on the Bureau's web site on or about April 24, 2013.

IV. SUBSTANDARD QUALITY ISSUES WITH THE WHITE PAPER

CFSA challenges the White Paper primarily on utility and objectivity grounds.[7] An enumeration of specific errors in the White Paper and of the basis for CFSA's objections follows:

A. THE PAYDAY LENDING DATA WERE DRAWN USING A FATALLY FLAWED SAMPLING TECHNIQUE.

While not a model of clarity in this respect, the White Paper attempts (at pp. 14-15 and footnotes 15 and 16) to explain the sampling methodology employed in the payday-related sections of the paper.

In summary, the Bureau appears to have used a combined file of administrative datasets obtained through the supervisory process. These data were obtained from an unspecified "number" of payday lenders, covering an unspecified number of borrowers, in an unspecified time frame. The dataset inexplicably omits a potentially large number of loans structured to be repayable over an unspecified "longer period of time" (even though such loans would constitute "payday loans" under the Bureau's supervisory definition). The White Paper sets forth, in pertinent part:

> For our study of payday loans, we obtained data from a number of payday lenders to create a dataset of all payday loans extended by each lender for a minimum 12-month period. Information in the data allows us to identify the loans that were made to the same consumer at a given lender, but not to the same consumer across lenders. Our findings are derived from a subset of consumers in the full dataset. The sample consists of consumers who have a loan in our dataset in the first month of a 12-month period and then tracks usage across this timeframe. We limit our analysis to this subset of consumers because one focus of our analysis is sustained use, and consumers that we initially observe later in the data can only be followed for a more limited time. The start and end dates of lenders' 12-month data reporting varies [*sic*], which mitigates concerns about seasonality effects.
>
> Overall, the study sample consists of a total of approximately 15 million loans generated by storefronts in 33 states.

White Paper at 15-16 (footnotes omitted).

The paper later, in a footnote, further explains the sampling methodology and attempts to point out certain limitations of that methodology:

> Loan usage patterns are based on our sample borrowers who take out a loan in the initial month of a lender's dataset. Usage is then tracked for a total of 12 months. *These results thus reflect* the subsequent experiences of *a representative set of consumers* whose loan

[7] While CFSA has no reason to believe that the arithmetic used to prepare the summary statistics, histograms and other numerical analyses in the paper is flawed, the Bureau's dataset has not been made available to investigators, and CFSA is unable to test any of the computations set forth in the White Paper. This topic is discussed *infra* at p. 11.

> usage would include the first month of the study sample. Therefore, our analysis does not reflect a given lender's portfolio over the course of a calendar year, since the lender would also have loan volumes and revenues derived from borrowers who do not take loans in the first month. Two factors may cause the usage statistics in our sample to show somewhat more intense usage than analyses based on all loans made in a calendar year. First, high-intensity borrowers are more likely to be sampled based on usage in a given month than low-intensity borrowers. Second, we exclude borrowers whose initial loan in the 12-month study period occurs after the initial month in the lender's sample, since their usage cannot be tracked over a full 12 months.

Id. at n. 24 (emphasis added).

To paraphrase, the Bureau's study sample consists of an unspecified number of borrowers whose loans happened to be held in the portfolios of an unspecified number of lenders, selected using an unspecified system, in the first month of an unspecified twelve-month period which varied from lender to lender, sampled during an unspecified year or years. Petitioner addresses these specificity failures commencing at p. 9, *infra*.

The White Paper asserts (at n. 24, reproduced *supra*) that the experiences of the consumers included in the Bureau's sample are "representative." However, for the reasons set forth herein, they are not. Because of the sampling error inherent in the methodology chosen by the Bureau, *nearly every statistical conclusion of the White Paper about payday lending is wrong*.

The key error in sampling results from failure to limit the study sample to borrowers without outstanding loans in the months immediately preceding the commencement of the study period. The study sample includes — as, indeed, n. 24 acknowledges — a disproportionately high number of heavy users, because previous users — those most likely to continue their use heavily — were not excluded from the study sample.

In any large, mature payday loan portfolio, loans to repeat borrowers generally constitute between 70 and 90% of the portfolio, and for some lenders, even more. The Bureau failed to test for, or exclude, previous borrowers from the study sample. The borrowers most likely to roll over a payday loan are, first, those who have already done so, and second, those who have had un-rolled-over loans in the immediately preceding loan period. By not excluding previous borrowers, the Bureau effectively oversamples the heaviest users and undersamples those borrowers whose use is short and non-recurring. The effect of this error is a massively unrepresentative sample which is nevertheless used to generalize about the repayment experience of the entire universe of payday borrowers.

It is easy to appreciate the effect of this kind of sampling mistake from a simple, but converse, example: suppose that a credit industry makes only non-amortized ten-year loans, there are no prepayments, and the loans are originated at the same rate that they are repaid. At any point in time, the average maturity of a seasoned portfolio will be five years, even though the "representative" (indeed, invariable) borrower experience is that the loans are repaid in ten years. By sampling this portfolio using the Bureau's technique, the apparent consumer experience is five, rather than ten, years of debt. It is thus very important to look at individual borrowers from the time they enter their cohort — *i.e.*, form their credit relationship with the lender — until that relationship ends (or until another designated endpoint). While this example produces the opposite of the error found in the White Paper, the mistake is the same: one cannot measure borrower time-in-debt experience accurately by commencing to track the borrower after his relationship with the lender is underway; it must be tracked from inception.

The same logic applies to this study. The study should have observed borrowers from the first time they had a payday loan, not from an arbitrary point in time, in most cases long after their credit relationship with the payday lender had already been formed. The correct method of sampling is so-called "static pool" analysis, where the borrowers who enter a study cohort by taking out their first loan with the lender are observed from that point through a specified follow-up period. This method is the "gold standard" in the consumer credit industry.[8]

Previously published academic literature on payday lending[9] placed the Bureau on notice of the appropriateness of excluding prior borrowers from the study sample, but the Bureau inexplicably failed to follow accepted study protocols.

There is no persuasive reason given in the White Paper for the Bureau's failure to follow accepted study protocols. The study sample — even though consisting only of a one-month "slice" — would still apparently have been very large even if previous borrowers had been excluded from it. The White Paper does not explain why such previous borrowers were not, or could not have been, excluded.

Moreover, there was no magic to the selection of an eleven-month follow-up period, even if only twelve months' data were available: the study could just as easily have commenced in month four (with the first three months used solely to confirm the absence of a previous borrower-lender relationship); those borrowers in a lender's portfolio in month four (who were not in the portfolio in months one through three) could have been followed in months five through twelve, providing nearly as much information – but far more reliably – than that contained in the White Paper.

[8]See, generally, 17 C.F.R. § 229.1105.

[9]Fusaro, Marc Anthony and Cirillo, Patricia J., Do Payday Loans Trap Consumers in a Cycle of Debt? (November 16, 2011), *available at* http://ssrn.com/abstract=1960776 (last visited May 17, 2013); and Mann, Ronald J., Assessing the Optimism of Payday Loan Borrowers (March 12, 2013), *Supreme Court Economic Review* (January 2014, forthcoming); Columbia Law and Economics Working Paper No. 443, *available at* http://ssrn.com/abstract=2232954 (last visited May 17, 2013).

CFSA's internal studies do not give emphasis to some of the outcome variables portrayed in the various histograms and tables in the White Paper; nevertheless, on key measures of sustained use, the differences between the correct, static-pool outcomes and those portrayed in the White Paper are vast:

- The white paper concludes (at p. 23) that the mean number of days during a twelve-month period that a borrower is indebted is 196. The corresponding correctly computed number (for a large set of CFSA-member-company borrowers) is 108. The White Paper thus overstates this key figure by 81%.
- In CFSA's administrative dataset, the median borrower becomes debt-free and remains free of debt for more than 14 days after approximately 1.5 rollovers. This is a very different picture from that presented on p. 25 of the White Paper.

In summary, not only did the Bureau employ an unaccepted sampling technique that was guaranteed to oversample repeat- and continuous-use borrowers, but the effect of this error is to cause the principal finding of the White Paper regarding intensity of use to be overstated by 81%. This error in sampling will bring about a concomitant overstatement of the average fees paid and number of transactions concluded by borrowers, rendering the rest of the White Paper — at least insofar as it relates to payday loans — useless.

The author of the payday-loan section of the paper should have been on notice from other academic literature[10] that the 196-day figure was inconsistent with prior science and did not pass the "smell test." Nevertheless, no effort was made by the author to "triangulate" and ascertain the basis for this discrepancy.

The entire White Paper — or so much thereof as relates to payday lending — cannot be viewed as meeting the utility and objectivity requirements imposed by IQA and must, accordingly, be retracted. It was predictable at the time of release of the White Paper that the public, trade groups, non-profits and other federal agencies would rely on it in formulating policy for alternative financial services. They cannot do so in light of the sampling error in the White Paper. The White Paper expressly misleads the reader (at n.24) into believing that the sample is "representative," when it is nothing of the kind. The sampling methodology employed by the Bureau actually causes an overstatement of sustained use of payday loans — the central focus of the White Paper — by nearly a factor of two.

It does not constitute a substantial defense to these assertions that the White Paper discloses some of its own shortcomings. IQA requires more than that agency-disseminated information simply be correctly tabulated; it must also be useful and objective. Subsumed within those directives are requirements that the information also be collected using accepted

[10]*E.g.*, Stoesz, David, Payday Loans and the Secondary Financial Market (March 26, 2012), *available at* http://ssrn.com/abstract=2029146 (last visited June 17, 2013).

methodology, and that it be accurate, clear, complete and unbiased, presented in the proper context, and transparently documented. The sampling methodology causes the White Paper to violate these requirements.

For these reasons, the White Paper should be retracted.

B. THE WHITE PAPER IMPROPERLY RAISES THE SPECTER OF CONSUMER "HARM" WITHOUT HAVING STUDIED THE ISSUE.

The White Paper speculates without supporting data, at numerous points in the paper, regarding the possibility of a relationship between frequency of use of payday loans and detriment to the consumer; see, *e.g.*, p. 4 ("However, if the cost and structure of a particular loan make it difficult for the consumer to repay, this type of product may further impair the consumer's finances"); p. 43 ("However, these products may become harmful for consumers when they are used to make up for chronic cash flow shortages"); p. 44 ("… the current repayment structure of payday loans and deposit advances, coupled with the absence of significant underwriting, likely contributes to the risk that some borrowers will find themselves caught in a cycle of high-cost borrowing over an extended period of time"[11]) and *id*. ("Other structural and usage characteristics may also play a material role in harms experienced by consumers").

In preparing the White Paper, the Bureau did not collect any data, and it does not now cite any reliable third-party sources, to support these statements. The matters speculated upon in these statements could not have been ascertained from the dataset employed in drafting the White Paper. No data on actual consumer welfare outcomes were collected to match with the sample data. Indeed, the great weight of academic research concerning payday loans suggests that payday loans, regardless of frequency of use, have little or no impact on consumer financial health.[12]

To be free of bias, as required by OPMG, the White Paper would need to consider, among other things, the harms that would accrue to consumers from *not* having access to payday-loan rollovers, including the costs associated with being driven to illegal lenders for subsequent reborrowing, the costs of defaults on other obligations, and the costs of inability to purchase necessaries because of required premature repayments.

The White Paper's speculations of which CFSA complains do not logically flow from any of the findings of the study. While these are interesting (and indeed arguably important)

[11]Fusaro and Cirillo (2011), *supra*, n. 9, effectively rebut this claim. The inclusion of this assertion in the White Paper, when academic literature contradicts it, and without any mention of the contradictory information, violates the IQA requirements of completeness, sound research basis and unbiased presentation.

[12]*See*, generally, Bhutta, Neil, Skiba, Paige Marta and Tobacman, Jeremy Bruce, Payday Loan Choices and Consequences (October 11, 2012). Vanderbilt Law and Economics Research Paper No. 12-30, *available at* http://ssrn.com/abstract=2160947 (last visited June 17, 2013).

public policy issues, the inclusion of these statements in the White Paper causes the paper to fail the utility and the objectivity standards of IQA. They also render the paper incomplete and biased. Accordingly, in the event that the entire paper is not retracted, these statements should be deleted in their entirety.

C. THE REPORTED BORROWER-INCOME DATA ARE UNRELIABLE.

The White Paper acknowledges (at n. 21) that the reported borrower-income data may include a mix of gross and net incomes. Failure to identify which information is being presented (and resulting failure to "gross up" any net incomes, or to correct for the tax effects of different kinds of non-taxable income through appropriate adjustments) violates the objectivity requirements of IQA that dictate the use of sound research methods.

The same footnote states that income data are only available for an unspecified subset of borrowers. Failure to identify the magnitude and nature of this subset, and failure to provide information sufficient to enable users of the White Paper to draw inferences about its representativeness, violates the objectivity standards of IQA, which require that full, accurate and transparent information, including supporting data, be provided by the Bureau.

Because of these failures, in addition to the sampling issues addressed *supra*, the White Paper must be retracted. To the extent it is not retracted in its entirety, all income-related statistics and inferences contained in the White Paper should be redacted.

E. THE WHITE PAPER FAILS TO SET FORTH THE BASIS FOR CERTAIN ASSERTIONS.

1. The White Paper states (at p. 8), "Initial analysis of loan charge-off rates on deposit advances conducted by the CFPB in connection with this study suggests that deposit advance loss rates are lower than those reported for storefront payday lenders." However, the White Paper omits to state what the respective charge-off rates of the two products were. The Bureau must provide full, accurate and transparent information, including supporting data, in order to meet the objectivity standards of IQA. The White Paper, if it is not withdrawn in its entirety, must be amended to set forth these rates.

2. As noted previously, the White Paper does not set forth the number of payday lenders, or the number of borrowers, in the study sample. The White Paper does not set forth the basis on which lenders' portfolios were selected to be part of the study sample. The White Paper does not set forth the specific dates covered by the study sample and how the lenders' portfolios overlapped or failed to do so. The Bureau must provide full, accurate and transparent information, including supporting data, in order to meet the objectivity standards of IQA. The White Paper, if it is not withdrawn in its entirety, must be amended to set forth this information in detail.

3. The White Paper states (at p. 44), "It is unclear whether consumers understand the costs, benefits, and risks of using these products." Similar to the argument made *supra* with

respect to "harm," in preparing the White Paper, the Bureau did not undertake to study consumers' "understanding" of these credit products, and no analysis of the dataset employed by the Bureau could have shed any light on this question. The sole purpose of the inclusion of this statement is to intimate, without an evidentiary basis and for political reasons, that consumers do not understand these matters. In the absence of any data to support this statement, it must be deleted for the White Paper to meet the objectivity and unbiased requirements of IQA.

4. The White Paper states (at p. 44), ". . . consumers may not appreciate the substantial probability of being indebted for longer than anticipated and the costs of such sustained use." Once again, the Bureau did not undertake in this study to examine the relationship between consumers' *ex ante* expectations and their subsequent payment experience. The sole purpose of the inclusion of this statement is to intimate, without an evidentiary basis and for political reasons, that consumers do not appreciate the matters in question.[13] In the absence of any data to support this statement, it must be deleted in order for the White Paper to meet the objectivity and unbiased requirements of IQA.

D. THE WHITE PAPER MISSTATES HOW PAYDAY LOANS ARE MARKETED.

The White Paper states (at p. 44). "These products are represented as being appropriate for consumers who (1) have an immediate expense that needs to be deferred for a short period of time and (2) will have a sufficient influx of cash by the next pay period to retire the debt – and to pay the significant borrowing costs." This statement is false. No such "representations" are made by CFSA members, nor, to our knowledge, by other operators in the industry; quite to the contrary, CFSA members counsel their borrowers, using a standard customer notice: "A single payday advance is typically for two to four weeks. However, borrowers often use these loans over a period of months, which can be expensive . . . ."

Consumers use payday loans generally because such loans are the best available form of credit for which the consumer is eligible — *not* because the consumer has relied on a representation by the lender regarding the "suitability" of such credit for him or her. The inclusion of this "appropriateness" statement in the White Paper is pure political speech and is intended to disparage payday lenders by creating the implication that consumers are somehow misled by lenders.

[13]The only research of academic quality to have studied the relationship between borrowers' *ex ante* expectations and subsequent actual payment experience determined that a majority of borrowers accurately predict their payment experience. See, Mann (2013), *supra*, n. 9. Those findings are consistent with other literature surveyed in the Mann paper. The failure of the White Paper to mention that the existing research on this topic is contrary to the assertion of the White Paper constitutes a violation of the "unbiased" and "complete" requirements of the "objective" branch of IQA requirements.

In any event, in preparing the White Paper, the Bureau did not collect any data regarding the "representations" made to payday borrowers or their putative reliance thereon. As such, the statement fails to meet the objectivity and unbiased requirements of IQA. CFSA demands that the White Paper, if not retracted in its entirety, be amended to correct this misstatement.

E. THE WHITE PAPER MISSTATES THE OPERATION OF ONLINE PAYDAY LOANS.

The text box on p. 10 of the White Paper, relating to online payday lenders, contains two misstatements of fact: wire transfers are *not* used as a repayment mechanism for online payday loans; on the due date, the lender does *not* submit a debit *authorization* to the borrower's bank (the lender retains the authorization and causes its payment processor to submit an ACH debit *entry*). These failures violate the "accurate" branch of the "objective" requirement under IQA and must be corrected.

V. CONSEQUENCES OF THE "INFLUENTIAL" NATURE OF THE BUREAU

It is simply beyond cavil that the Bureau itself — and, indeed, White Paper standing alone — are "influential." The Bureau manifestly intended that it and the White Paper would be influential: the Bureau issued a press release[14] and held a telephonic press conference regarding the White Paper at the time of its initial dissemination, and it trumpeted the White Paper at its public meetings, including at the Consumer Advisory Board meeting following the White Paper's release.

The results are consistent with the "influential" effect that the Bureau sought: a Google search of "CFPB 'Payday Loans and Deposit Advance Products'" produces 36,500 results. The White Paper has been cited by every major newspaper and wire service and in scores of blog entries. Over a dozen Senators and members of Congress have made public statements about the White Paper. Every major federal banking regulator has responded in some fashion to the White Paper, including the nearly contemporaneous release of proposed guidance by the Office of the Comptroller of the Currency and the Federal Deposit Insurance Corporation.

"Influential scientific, financial or statistical information" is information with a clear and substantial impact on important public policies or important private sector decisions. 67 F.R. at 8460. Regardless of the Bureau's other pronouncements — many of which are themselves "influential" — the White Paper alone would catapult the Bureau into the "influential" category. Agencies that disseminate such information must ensure a high degree of transparency about data and methods to facilitate "reproducibility" by third parties.

[14]The contemporaneous press release itself contains numerous statements that are not supported by the White Paper itself or by the dataset. We do not comment on the press release but reserve the right to do so.

Despite a timely separate request by CFSA that the entire dataset be produced (on a de-identified basis) pursuant to the Freedom of Information Act, to date the Bureau has not provided such information for use in "reproducing" the results of the White Paper using correct sampling methodology. Unless and until these data are made available, the White Paper must be retracted because the Bureau has not satisfied the heightened transparency requirements applicable to agencies that promulgate "influential" statistical data under IQA.[15]

VI. CONCLUSION

For all of the foregoing reasons, the White Paper should be retracted in its entirety, and the retraction should be made with the same publicity that accompanied the original release of the White Paper. To the extent the White Paper is not so retracted, it should be corrected to remedy the deficiencies identified in this petition.

All communications with CFSA regarding this petition should be directed to the undersigned. Kindly acknowledge receipt hereof in a reply email message.

Very truly yours,

Hilary B. Miller

HILARY B. MILLER

VIA ELECTRONIC MAIL: CFPB_IQ_Submissions@cfpb.gov

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[15] This letter is not to be construed as a request for production of agency records; it is a petition for retraction of the White Paper or its amendment as herein set forth.