

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

NATIONAL ASSOCIATION OF  
CONSUMER ADVOCATES; UNITED  
STATES PUBLIC INTEREST RESEARCH  
GROUP; and KATHLEEN ENGEL,

*Plaintiffs,*

v.

KATHLEEN L. KRANINGER, in her  
official capacity as Director of the Consumer  
Financial Protection Bureau; and  
CONSUMER FINANCIAL PROTECTION  
BUREAU,

*Defendants.*

Civil Action No. 1:20-cv-11141

**COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

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## INTRODUCTION

1. In this action, Plaintiffs National Association of Consumer Advocates, United States Public Interest Research Group, and Professor Kathleen Engel challenge the Consumer Financial Protection Bureau’s (“CFPB” or “Bureau”) Federal Consumer Financial Law Taskforce (“Taskforce”) under the Federal Advisory Committee Act. The CFPB claims to have established the Taskforce to obtain recommendations about how to improve and strengthen consumer financial laws and regulations. The Taskforce’s objective therefore goes to the heart of the Bureau’s mission—and positions the Taskforce to provide a blueprint for the CFPB to revise the laws that protect financial consumers across the United States.

2. Created in the wake of the 2008 financial crisis, the CFPB was tasked with protecting consumers as part of a major overhaul of financial regulation that culminated in the Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, 124 Stat. 1376 (2010) (the “Dodd-Frank Act”). That crisis was triggered in large part by financial institutions offering predatory and risky mortgages to homeowners who could not afford them. In response, consumer finance experts and advocates alike pushed for an overhaul of the regulatory regime governing the financial services industry in an effort to protect consumers from dangerous and incomprehensible financial products. Although its formation was met with opposition from the financial services industry and its allies, Congress created the CFPB in 2010 to protect consumers and to ensure that markets for financial products are fair, transparent, and competitive.

3. The Taskforce has a broad mandate to recommend improvements in consumer financial law and regulations. But despite the profound implications of the Taskforce’s work for consumer protections, Defendants have appointed to the Taskforce individuals who uniformly

represent industry views. Indeed, the Chairman of the Taskforce, Todd Zywicki, believes that consumer protections are paternalistic, has argued that the CFPB is a “menace” “guarantee[d]” to manifest “bureaucratic pathologies,”<sup>1</sup> and has worked on behalf of several large financial institutions to influence the Bureau and other agencies. All of his fellow Taskforce members have either expressed similar views or continue to work as industry consultants or lawyers.

4. That lack of balance is no accident. It was the result of a selection process designed to ensure that the Taskforce and its recommendations reflect only the pre-existing views of the Bureau’s leadership, who, since 2017, have rolled back consumer protections through rulemaking and guidance and dramatically reduced enforcement actions against financial institutions. Indeed, the Bureau received numerous applications from qualified consumer finance law experts and advocates who endorse robust protections, but ultimately selected none of them.

5. The biased composition of the Taskforce not only undermines its purpose—it is unlawful. Enacted in 1972, the Federal Advisory Committee Act (“FACA”) is a “sunshine law” designed to prevent special interest groups from exerting undue influence over the Executive Branch by using their membership on advisory committees to promote their private concerns. The law requires the Executive Branch to comply with strict requirements when it establishes an advisory committee, ensuring, among other things, that each committee is essential, in the public interest, fairly balanced between different points of view, and structured to avoid inappropriate influences. To ensure transparency and allow for public participation, advisory committees must also hold their meetings open to the public and disclose all records prepared for or by the committee.

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<sup>1</sup> Todd Zywicki, *The Consumer Financial Protection Bureau: Savior or Menace?*, 81 Geo. Wash. L. Rev. 856, 856 (2013).



6. From the outset, Defendants have violated each of these requirements in their creation and operation of the Taskforce. The fundamental flaw of the Taskforce is its single-minded focus on protecting the industry that the CFPB is supposed to regulate. Defendants could have avoided this problem by selecting some of the many applications they received from nationally prominent consumer finance law experts and consumer advocates, including Professor Engel. Compounding this error, Defendants never made the requisite findings that the Taskforce is essential and in the public interest, a requirement that helps ensure that such committees are only established when they are actually useful and beneficial to the public. And since its creation, Defendants have operated the Taskforce in secrecy: the Taskforce has already held closed-session meetings without providing any notice to the public. Nor has the Taskforce made available any of the records related to those meetings or its other work.

7. The Taskforce's work—and its serious structural flaws—directly implicate the interests of consumer advocates and consumer financial law experts like Plaintiffs, who have long fought for robust consumer protections and whose efforts culminated in the creation of the CFPB. In the absence of any consumer representation on the Taskforce, and without the legally required public participation and transparency, consumer advocates and consumer finance law experts like Plaintiffs have been unable to participate in or follow along with the Taskforce's work. These flagrant and ongoing violations continue to injure Plaintiffs and are of great concern, as the Taskforce has already begun working towards producing a final report due in January 2021. That report may well recommend measures that, if implemented, would unwind the stabilizing consumer protection regime put in place following the 2008 financial crisis.

8. To stop these ongoing violations before they facilitate a biased set of recommendations generated in secrecy, Plaintiffs respectfully request that the Court issue an

order setting aside the Taskforce’s charter, enjoining it from continuing its work, requiring it to make all Taskforce records available to the public, and barring Defendants from accepting advice or recommendations from the Taskforce.

## PARTIES

9. Plaintiff National Association of Consumer Advocates (“NACA”) is a non-profit association of more than 1,500 attorneys and consumer advocates committed to representing consumer interests. NACA’s members include private and public sector attorneys, legal services attorneys, law professors, and law students. NACA’s core mission is to advocate for the interests of consumers and for policies that protect consumers against predatory financial institutions.

10. To accomplish its mission, NACA engages in a variety of activities. First, NACA educates and shares information with both its membership and its members’ consumer clients on a variety of topics including consumer rights, common issues faced by consumers in the marketplace for financial services, and best practices in consumer advocacy. NACA’s educational activities take on many forms, including blog posts, newsletters, webinars, and in-person trainings. For example, NACA has previously educated its members and consumers on various proposed rulemakings by the CFPB, such as a 2020 supplemental proposed rulemaking on time-barred debt,<sup>2</sup> a 2019 proposed rulemaking on debt collection practices,<sup>3</sup> and a 2017 final rule on arbitration.<sup>4</sup>

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<sup>2</sup> NACA, *CFPB Disclosures on Time-Barred Debt: Will They Help or Hurt?* (Mar. 11, 2020), <https://www.consumeradvocates.org/resources/training-library/cfpb-disclosures-time-barred-debt-will-they-help-or-hurt%C2%A0%C2%A0>.

<sup>3</sup> NACA, *The CFPB’s Proposed Debt Collection Rule: Overview and Potential Impact on FDCPA and Debt Defense Practice* (June 6, 2019), <https://www.consumeradvocates.org/resources/training-library/cfpbs-proposed-debt-collection-rule-overview-and-potential-impact-fdcpa>.

<sup>4</sup> Isaac Hoenig, NACA, *CFPB Rule Will Restore Consumers’ Access to Court—and Possibly to Their Free Annual Credit Reports*, Medium (July 17, 2017),

11. Second, NACA promotes the interests of consumers by serving as a voice for consumers in the ongoing struggle to curb unfair and abusive practices by the financial services industry. NACA does this in a variety of ways, including by submitting comments in response to CFPB Requests for Information and on proposed rulemakings,<sup>5</sup> by organizing comment campaigns on rulemakings,<sup>6</sup> by meeting with and educating financial services regulators on consumer issues,<sup>7</sup> and by interfacing with regulators in more formal capacities. For example, various NACA members have served on the CFPB's Consumer Advisory Board, which advises the CFPB on the impacts of emerging practices and trends in the consumer financial services industry. Similarly, NACA sends at least one of its staff members to the Consumer Advisory Board's meetings that are held open to the public in compliance with FACA.

12. Consistent with this mission, NACA has a significant interest in the Taskforce's activities. If the Taskforce were operated transparently, NACA and its members would monitor the Taskforce's activities, attend its public meetings, participate in those meetings to advance consumer interests to the extent possible, and educate its members and clients on the Taskforce's work.

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<https://medium.com/@NACAdvocate/cfpb-rule-will-restore-consumers-access-to-court-and-possibly-to-their-free-annual-credit-ebd72ef24906>.

<sup>5</sup> See, e.g., NACA, *Comments from NACA Regarding the Proposed Rule on Debt Collection Practices* (Sep. 18, 2019),

[https://www.consumeradvocates.org/sites/default/files/NACA.CFPBdebtcollection.comments\\_0.pdf](https://www.consumeradvocates.org/sites/default/files/NACA.CFPBdebtcollection.comments_0.pdf).

<sup>6</sup> See, e.g., NACA, *Submit Your Comment: Tell CFPB That Its Debt Collection Rule Must Put Consumers First* (last visited June 15, 2020),

[https://contentsharing.net/actions/email\\_web\\_version.cfm?recipient\\_id=3879074274&message\\_id=17153571&user\\_id=NACA1&group\\_id=0&jobid=44830596](https://contentsharing.net/actions/email_web_version.cfm?recipient_id=3879074274&message_id=17153571&user_id=NACA1&group_id=0&jobid=44830596).

<sup>7</sup> See, e.g., Letter From State Chairs, NACA, to Kathleen Kraninger, Director, CFPB (Apr. 30, 2020),

[https://www.consumeradvocates.org/sites/default/files/NACA\\_statechairs\\_CFPB04302020.pdf](https://www.consumeradvocates.org/sites/default/files/NACA_statechairs_CFPB04302020.pdf).

13. Plaintiff United States Public Interest Research Group (“U.S. PIRG”) is a non-profit consumer advocacy organization with tens of thousands of members across the United States. To create a safer and healthier world, U.S. PIRG draws on a strong network of researchers, advocates, organizers, and students to improve government transparency and to stand up to powerful special interests on behalf of the public on a variety of issues. Among other things, U.S. PIRG has a long history of working to improve and reform consumer financial laws and regulations, including by defending the Bureau’s core mission against efforts to unwind consumer protections.

14. U.S. PIRG accomplishes its objectives through several activities. First, U.S. PIRG offers free education and information to its members and to the general public regarding the Bureau’s regulatory activities, as well as the ongoing need for improvements in consumer protections. For example, U.S. PIRG has published extensive reports on a wide variety of problems faced by consumers in the financial services marketplace. Most recently, these include a report examining trends in consumer complaints received by CFPB since its inception in 2010, a report that analyzed debt-collection complaints to expose the worst debt collection companies, and a report informing the public about the need for continued public access to the Bureau’s Consumer Complaint Database.<sup>8</sup> U.S. PIRG also educates the public through blog posts, emails to its members, webinars, and social media.<sup>9</sup>

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<sup>8</sup> U.S. PIRG, *Reports: the CFPB Gets Results for Consumers* (updated June 2019), <https://uspirg.org/page/usp/reports-cfpb-gets-results-consumers>.

<sup>9</sup> See, e.g., Ed Mierzwinski, *I’m Reading the CFPB’s Mail About the Pandemic’s Effect of Family Finances*, U.S. PIRG (May 31, 2020), <https://uspirg.org/blogs/eds-blog/usp/i%E2%80%99m-reading-cfpb%E2%80%99s-mail-about-pandemic%E2%80%99s-effect-family-finances> (blog post highlighting the CFPB’s failure to address the increasing numbers of credit reporting and debt collection complaints submitted by consumers since March 1, 2020).

15. Second, U.S. PIRG provides an independent voice for consumers, advocating for improved consumer finance laws and regulations in a number of ways. Specifically, U.S. PIRG has regularly testified before Congress,<sup>10</sup> submitted comments in response to CFPB Requests for Information and on CFPB proposed rulemakings,<sup>11</sup> organized comment campaigns by its members,<sup>12</sup> provided expert testimony at CFPB-hosted events,<sup>13</sup> and met with the CFPB and other financial regulators to educate them on consumer issues.

16. Consistent with this long track record of vigorous advocacy, U.S. PIRG has a significant interest in the Taskforce's activities. If the Taskforce were operated transparently and in compliance with FACA, U.S. PIRG would monitor the Taskforce's activities, attend its public meetings, participate in those meetings to advance consumer interests to the extent possible, and educate its members and clients on the Taskforce's work.

17. Plaintiff Kathleen Engel ("Professor Engel") is a nationally prominent scholar of consumer law and finance, having written extensively on the law and economics of mortgage

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<sup>10</sup> See, e.g., Consumer Fin. Monitor: Ballard Spahr LLP, *House Holds Hearing on Legislative Proposals Relating to the CFPB* (May 28, 2014), <https://www.consumerfinancemonitor.com/2014/05/28/house-holds-hearing-on-legislative-proposal-relating-to-the-cfpb/> (noting U.S. PIRG's testimony).

<sup>11</sup> See, e.g., Ed Mierzwinski, *Mulvaney Lobs One Last Softball To Industry Opponents of CFPB*, U.S. PIRG (Dec. 31, 2018), <https://uspig.org/blogs/eds-blog/usp/mulvaney-lobb-one-last-softball-industry-opponents-cfpb> (describing an extensive series of Requests for Information that U.S. PIRG responded to); U.S. PIRG, *Comment on CFPB Request for Information: Bureau Public Reporting Practices of Consumer Complaint Information* (June 20, 2018), <https://www.regulations.gov/document?D=CFPB-2018-0006-0188>.

<sup>12</sup> See, e.g., U.S. PIRG, *Tell Acting Director Mulvaney: Keep the Payday Lending Rule* (last visited June 15, 2020), [https://uspig.webaction.org/p/dia/action4/common/public/?action\\_KEY=24569&uid=\[\[supporter\\_KEY\]\]&utm\\_source=salsa&utm\\_medium=email&tag=email\\_blast:\[\[email\\_blast\\_KEY\]\]&utm\\_campaign=USP4-FCON:FINREFORM-0518&utm\\_content=EM5:00C:0GH-AAP](https://uspig.webaction.org/p/dia/action4/common/public/?action_KEY=24569&uid=[[supporter_KEY]]&utm_source=salsa&utm_medium=email&tag=email_blast:[[email_blast_KEY]]&utm_campaign=USP4-FCON:FINREFORM-0518&utm_content=EM5:00C:0GH-AAP).

<sup>13</sup> See, e.g., Ed Mierzwinski, *CFPB Report Confirms 2009 Credit Card Act Works to Protect Consumers*, U.S. PIRG (Oct. 2, 2013), <https://uspig.org/news/usp/cfpb-report-confirms-2009-credit-card-act-works-protect-consumers> (excerpting testimony provided by U.S. PIRG at a CFPB field hearing in Chicago on the Credit CARD Act).

markets, and the subprime crisis. Ex. A (Engel Application to Taskforce). She currently holds a position as Research Professor of Law at Suffolk University. Prior to joining Suffolk University in 2009, Professor Engel taught at Cleveland-Marshall College of Law for ten years.

18. Throughout her academic career, Professor Engel has engaged in research on an array of consumer finance issues, ranging from the attributes and risks of specific financial products to the delivery of financial services, the laws that regulate consumer financial products, and the structure of financial markets. *Id.* Her resulting expertise has been widely recognized in the form of numerous awards for her publications. *Id.* For example, she coauthored a book on the 2008 financial crisis—*The Subprime Virus: Reckless Credit, Regulatory Failure, and Next Steps*—that won Best Book from the American College of Consumer Financial Services Lawyers.<sup>14</sup> Her work has also informed critical legislation and regulations, including aspects of the Dodd-Frank Act. Ex. A.

19. In addition to her academic experience, Professor Engel has held numerous public service positions at the state and federal level, including at the CFPB. *Id.* Specifically, Professor Engel has served as a member of (1) the Federal Reserve Board’s Consumer Advisory Council, (2) the CFPB’s Consumer Advisory Board, (3) the Community Affairs Research Board of the Federal Reserve Bank of Boston, and (4) the Federal Reserve Bank of Cleveland’s Academic Advisory Council on Subprime Lending. *Id.* In those positions, she reviewed and assessed existing and proposed regulations governing consumer financial products, as well as empirical and legal research related to consumer finance, for the purpose of improving consumer finance regulations. *Id.* In addition to serving on these committees, she has also advised state

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<sup>14</sup> *Writing Competition – 2011 Winners*, Am. Coll. Consumer Fin. Servs. Lawyers, <http://www.accfsl.org/writing-competition/2011-winners/>.

governments—including Ohio, Massachusetts, California, and Illinois—on a variety of issues related to consumer credit. *Id.*

20. Having devoted her career to studying and improving consumer protection law and finance, Professor Engel has a significant interest in participating in the Taskforce’s work, which will impact both her academic and applied professional activities. Consistent with that interest, Professor Engel applied to serve on the Taskforce, noting in her application that “[h]armonizing, modernizing, and updating consumer credit laws is long overdue” as the current laws and regulations frequently “do not take into account new realities of consumers’ behavior” and could benefit from “consolidation and reorganiz[ation].” *Id.* Concluding that the Taskforce is a “laudable and important project,” Professor Engel outlined several priorities that she would have focused on if selected to serve on the Taskforce. *Id.*

21. Professor Engel was interviewed to serve on the Taskforce. However, her application was ultimately rejected.

22. Professor Engel also has an interest in monitoring the Taskforce’s work. That includes assessing any recommendations the Taskforce might make as well as understanding how the Taskforce produced those recommendations. To that end, Professor Engel would review the Taskforce’s records, attend or review the Taskforce’s meetings, and attempt to make her views known to the Taskforce. It will be harder for Professor Engel to monitor, study, and write on the Taskforce’s activities, as she has on the CFPB’s other efforts, if the Taskforce remains cloaked in secrecy.

23. Defendant Kathleen Kraninger is sued in her official capacity as the Director of the CFPB. Her official address is 1700 G Street NW, Washington, DC 20552.

24. Defendant CFPB is a federal agency headquartered in Washington, DC, at 1700 G Street NW, Washington, DC 20552. CFPB is an “agency” within the meaning of the Administrative Procedure Act, 5 U.S.C. § 551(1).

### **JURISDICTION AND VENUE**

25. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 because the action arises under federal law.

26. Venue is proper in this district pursuant to 28 U.S.C. § 1391(e) because Plaintiff Professor Engel resides in Boston, Massachusetts.

27. This Court has authority to grant the requested relief in this case pursuant to the Administrative Procedure Act, 5 U.S.C. § 706, and the Declaratory Judgment Act, 28 U.S.C. §§ 2201-02.

### **LEGAL BACKGROUND**

#### **I. Federal Advisory Committee Act**

28. The Federal Advisory Committee Act is a “sunshine law,” requiring that, when the Executive Branch establishes or uses non-federal bodies for the purpose of seeking advice and generating policy, it does so in a transparent way that allows for meaningful public participation.

29. These requirements apply to all “advisory committee[s],” including those created by the Bureau, 12 U.S.C. § 5493(h), which are defined to include:

any committee, board, commission, council, conference, panel, task force, or other similar group, or any subcommittee or other subgroup thereof . . . , which is . . . established or utilized by one or more agencies in the interest of obtaining advice or recommendations . . . , except that such term excludes . . . any committee that is composed wholly of full-time, or permanent part-time, officers or employees of the Federal Government[.]

5 U.S.C. App. 2 § 3(2).



30. Title V and its implementing regulations, which govern federal employees, define a full-time employee as one who works more than 32 hours a week (or more than 64 hours during a biweekly pay period), while a part-time employee works 16 to 32 hours a week (or 32 to 64 hours during a biweekly pay period). 5 U.S.C. § 3401(2). Further, “part-time career employment” is employment “under a schedule consisting of an equal or varied number of hours per day . . . , but does not include employment on a temporary or intermittent basis.” *Id.* “Intermittent employment” is, in turn, defined as “employment without a regularly scheduled tour of duty[.]” 5 C.F.R. § 340.401(b).

31. A federal agency may form an advisory committee only after it has “determined as a matter of formal record . . . after consultation with the [General Services Administration] (“GSA”), with timely notice published in the Federal Register, [that the committee is] in the public interest in connection with the performance of duties imposed on that agency by law.” 5 U.S.C. App. 2 § 9(a)(2). The agency must further issue a “[d]etermination of need in the public interest,” including a finding that the committee is “essential to the conduct of agency business and . . . the information to be obtained is not already available through another advisory committee or source within the Federal Government.” 41 C.F.R. § 102-3.30(a). These requirements help ensure that advisory committees are “established only when they are . . . essential” and that “Congress and the public [are] kept informed with respect to [their] . . . purpose[.]” 5 U.S.C. App. 2 § 2(b).

32. A CFPB advisory committee cannot begin meeting until its charter has been approved by the Director of the Bureau and filed with the Bureau’s Committee Management

Officer,<sup>15</sup> the House Committee on Financial Services, the Senate Committee on Banking, Housing, and Urban Affairs, and the Library of Congress. 5 U.S.C. App. 2 § 9(c); 41 C.F.R. § 102-3.70(a).

33. When it enacted FACA, Congress explained that “[o]ne of the great dangers in th[e] unregulated use of advisory committees is that special interest groups may use their membership on such bodies to promote their private concerns,” citing in particular an Industrial Waste Committee where “only representatives of industry were present,” and “[n]o representatives of conservation, environment, clean water, consumer, or other public interest groups were present.” H.R. Rep. No. 92-1017, at 6 (1972), *reprinted in* 1972 U.S.C.C.A.N. 3491, 3496. Accordingly, Congress required in FACA that “the membership of [an] advisory committee . . . be fairly balanced in terms of the points of view represented and the functions to be performed by the advisory committee.” 5 U.S.C. App. 2 § 5(b)(2), (c). Consistent with these requirements, the CFPB must submit to GSA a “fairly balanced membership” plan “[b]efore establishing . . . [an] advisory committee[.]” 41 C.F.R. § 102-3.60(a), (b)(3).

34. Likewise, the advisory committee’s charter must contain appropriate provisions to “assure that the advice and recommendations of the advisory committee will not be inappropriately influenced by the appointing authority or by any special interest, but will instead be the result of the advisory committee’s independent judgment.” 5 U.S.C. App. 2 § 5(b)(3), (c).

35. Once established, an advisory committee must include and facilitate public comment and participation. An advisory committee must hold “[e]ach advisory committee meeting . . . open to the public” and provide “timely notice” of those meetings. *Id.* § 10(a)(1),

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<sup>15</sup> FACA requires each agency to designate an Advisory Committee Management Officer responsible for, among other things, supervising the establishment, procedures, and accomplishments of advisory committees. 5 U.S.C. App. 2 § 8(b).

(2). Further, advisory committees must allow interested persons to “attend, appear before, or file statements with [the] committee, subject to such reasonable rules or regulations as the Administrator [of GSA] may prescribe.” *Id.* § 10(a)(3).

36. The Administrator of GSA has implemented these statutory obligations by requiring advisory committees to publish notice of their meetings “at least 15 calendar days prior” to the meetings, unless documented “exceptional circumstances” require otherwise. 41 C.F.R. § 102-3.150. All meetings must be held “in a manner or place reasonably accessible to the public” and allow “[a]ny member of the public [to] speak to or otherwise address the advisory committee if the agency’s guidelines so permit.” *Id.* § 102-3.140(a),(d).

37. In addition to FACA’s requirement for public notice and participation, an advisory committee must also make available “the records, reports, transcripts, minutes, appendixes, working papers, drafts, studies, agenda, [and] other documents . . . made available to or prepared for or by” the committee. 5 U.S.C. App. 2 § 10(b). “Timely access to advisory committee records is an important element of the public access requirements of the Act. Section 10(b) . . . provides for the *contemporaneous* availability of advisory committee records that, when taken in conjunction with the ability to attend committee meetings, provide a meaningful opportunity to comprehend fully the work undertaken by the advisory committee.” 41 C.F.R. § 102-3.170 (emphasis added); *see also Food Chem. News v. HHS*, 980 F.2d 1468, 1472 (D.C. Cir. 1992) (records must be released before or at the relevant meeting, so that the public can “follow the substance of the [committee’s] discussion”). Notably, “agencies may not require members of the public or other interested parties to file requests for non-exempt advisory committee records.” 41 C.F.R. § 102-3.170.

## **II. The Administrative Procedure Act**

38. The Administrative Procedure Act (“APA”) allows a person “suffering legal wrong because of agency action, or adversely affected or aggrieved by agency action” to seek judicial review of that action. 5 U.S.C. § 702. Under the APA, a reviewing court may “compel agency action unlawfully withheld or unreasonably delayed,” *id.* § 706(1), and “hold unlawful and set aside agency action, findings, and conclusions” that are “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law,” *id.* § 706(2)(A), or that are taken “without observance of procedure required by law,” *id.* § 706(2)(D).

39. Cases involving FACA are adjudicated under the standards set forth in the APA. *See* 5 U.S.C. § 701(a); *Judicial Watch, Inc. v. U.S. Dep’t of Com.*, 736 F. Supp. 2d 24, 30-31 (D.D.C. 2010).

## **FACTUAL ALLEGATIONS**

### **I. The History and Purpose of the Consumer Financial Protection Bureau**

40. The CFPB was created in the wake of the 2008 financial crisis as part of a major overhaul of financial regulation that culminated in the Dodd-Frank Act.

41. Prior to the creation of the CFPB, the federal regulatory regime for consumer financial protection suffered from several structural flaws.

42. First, federal consumer protection laws were implemented by multiple federal agencies.<sup>16</sup> This fragmented regulatory regime “made consumer protection an orphan mission that tended to fall between the cracks.”<sup>17</sup>

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<sup>16</sup> Adam J. Levitin, *The Consumer Financial Protection Bureau: An Introduction*, 32 Rev. of Banking & Fin. L. 321, 327 (2012) [hereinafter Levitin].

<sup>17</sup> *Id.* at 330.

43. Second, many of the responsible agencies had missions that conflicted with consumer protection.<sup>18</sup> For example, the primary mission of federal financial institution regulators (*e.g.*, the Federal Reserve Board, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, and the National Credit Union Administration) is to ensure bank safety and soundness, which requires banks to be profitable.<sup>19</sup> But that mission can conflict with consumer protection because unfair, deceptive, and abusive practices that harm consumers are often quite profitable.<sup>20</sup> Accordingly, consumer protection concerns were “routinely . . . subordinated to bank profitability concerns.”<sup>21</sup>

44. Third, the regulatory environment was plagued by a “race to the bottom,” a symptom of national banks’ ability to switch between different federal bank charters,<sup>22</sup> with banks drawn to the most lax regulator.<sup>23</sup> Because bank regulators received a majority of their budgets from chartering fees rather than Congressional appropriations, regulators were incentivized to “attract more chartering business” by taking a relaxed approach to consumer protection regulation.<sup>24</sup> The competition between the banking regulators to attract banks meant that none of the regulatory agencies “had the incentive to develop deep expertise in consumer finance” or to collect the data necessary to conduct empirical analysis of practices in the mortgage market and develop sound policy.<sup>25</sup>

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<sup>18</sup> *Id.* at 330-31.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Id.* at 331.

<sup>22</sup> *Id.* at 332. Prior to the Dodd-Frank Act, national banks were regulated by one of two federal agencies: the Office of Thrift Supervision (“OTS”) and the Office of the Comptroller of the Currency (“OCC”). The Dodd-Frank Act eliminated OTS, forcing all national banks to obtain their charters from OCC.

<sup>23</sup> *Id.* at 332-33.

<sup>24</sup> *Id.* at 333.

<sup>25</sup> *Id.* at 331-32.

45. By the 2000s, the need for regulatory reform was fast becoming apparent: consumers were increasingly submitting complaints about credit card companies and payday lenders, taking on risky and exotic mortgage products, and filing for bankruptcy.<sup>26</sup>

46. While federal regulators were in some cases aware of these issues,<sup>27</sup> they simply failed to take action, even when obligated to by statute.<sup>28</sup> Indeed, even before the 2008 financial crisis, experts in consumer finance law—led by then-Professor Elizabeth Warren—began calling for reform in the shape of a single agency whose driving purpose would be to protect consumers.<sup>29</sup>

47. The 2008 financial crisis starkly demonstrated the need for such reform.

48. In a post-crisis report, the Treasury Department explained that the pre-crisis financial services industry was “overshadowed by pervasive failures in consumer protection, leaving many Americans with obligations that they did not understand and could not afford.”<sup>30</sup> This failure was a major contributing factor to the crisis, as some of the most sophisticated financial firms began to market, underwrite, and securitize increasingly predatory and exotic subprime mortgage loans to homebuyers who simply could not afford them.<sup>31</sup>

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<sup>26</sup> Kathleen C. Engel & Patricia A. McCoy, *The Subprime Virus: Reckless Credit, Regulatory Failure, and Next Steps* 61, 64-65 (2011) [hereinafter *Subprime Virus*].

<sup>27</sup> Levitin at 328-39 (citing Julie L. Williams, Acting Comptroller of the Currency, Remarks at the BAI National Loan Review Conference 1 (Mar. 21, 2005), <https://www2.occ.gov/news-issuances/speeches/2005/pub-speech-2005-34.pdf>).

<sup>28</sup> *Subprime Virus* at 194-96 (noting the Federal Reserve Board’s failure to adopt regulations mandated under the Home Owners Equity Protection Act).

<sup>29</sup> Levitin at 334-35 (citing Elizabeth Warren, *Unsafe at Any Rate*, Democracy (2007)).

<sup>30</sup> U.S. Dep’t of Treasury, Financial Regulatory Reform: A New Foundation 2 (2009), [https://www.treasury.gov/initiatives/Documents/FinalReport\\_web.pdf](https://www.treasury.gov/initiatives/Documents/FinalReport_web.pdf).

<sup>31</sup> Mark Jickling, Causes of the Financial Crisis 3, Cong. Res. Serv. (Apr. 9, 2010) (explaining that it is “generally accepted” that the 2008 crisis was caused in part by the relaxation of “credit standards in U.S mortgage lending,” which lead to “rising rates of delinquency and foreclosures [that] delivered a sharp shock to a range of U.S. financial institutions”).

49. To get borrowers in the door, lenders would sell financial products that seemed affordable on the front end, but contained nasty surprises several years later.<sup>32</sup> For example, a hybrid adjustable rate mortgage, which accounted for a majority of non-traditional mortgages immediately prior to the crisis, usually charged an affordable fixed rate for the first few years, and then converted to a rate that would adjust every six months by adding a “margin” to an index rate, such as U.S. Treasuries or the LIBOR.<sup>33</sup> Because such products were complex—and often intentionally misrepresented by lenders—a consumer might take out a loan with an initial fixed rate of 5 percent, only to be caught off guard later by a rate that suddenly and dramatically increased to 9 percent (in the case of a 4 percentage point “margin” and a 5 percent LIBOR).<sup>34</sup>

50. Such predatory financial products not only harmed consumers, but also seriously endangered the financial system by creating systemic exposure to the risk that homeowners would default on their loans.

51. Such widespread risk was made possible by changes in the underwriting and origination of mortgage loans. Historically, mortgages were handled by a single entity, such as a community bank, that solicited an application and then underwrote, funded, and serviced the loan.<sup>35</sup> Because lenders bore the risk and would suffer losses if borrowers could not repay, lenders were careful to issue mortgage loans that consumers could afford.<sup>36</sup>

52. That system was revolutionized by a financial tool and process called securitization, which greatly diminished banks’ incentives to make affordable loans. This

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<sup>32</sup> Subprime Virus at 34.

<sup>33</sup> *Id.* The LIBOR is the average rate at which banks lend to each other in the London international interbank market.

<sup>34</sup> *Id.*

<sup>35</sup> *Id.* at 4.

<sup>36</sup> *Id.* at 15.

outcome resulted from the fact that securitization allowed banks to quickly move loans out of their portfolios, meaning that they bore little or no risk if the borrowers defaulted.

53. To illustrate how securitization works, the life of a loan typically began when an intermediary—usually a mortgage broker—would connect a consumer with a loan funded by a different entity, such as a bank or some other financial institution. The bank would then very quickly sell the loan to an investment bank for inclusion in a securitization deal. At that point, the investment bank would bundle multiple mortgage loans, repackage them into tranches of securities rated by credit rating agencies, and transfer the loans to a trust that would issue securities backed by the loans. Those securities were then purchased by investors who would receive income from the stream of loan payments.<sup>37</sup> At each stage of this “lending food chain,” the brokers, lenders, investment banks, and credit rating agencies all “collected upfront fees and passed the risk of a bad loan down the line,” thereby incentivizing each actor to issue, buy up, and repackage as many mortgages as possible with little consideration given to the risk of default.<sup>38</sup>

54. This process “tapped huge new pools of capital . . . to finance home mortgages,” allowing “[l]enders, in a continuous cycle, [to] make loans, sell those loans for securitization, and then plow the sale proceeds into a new batch of loans, which in turn could be securitized.”<sup>39</sup> And, because each entity was motivated by the short-term profits associated with each new batch of loans and bore little exposure to the risk of default, lenders clamored to issue as many new loans as possible.<sup>40</sup>

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<sup>37</sup> *Id.* at 17.

<sup>38</sup> *Id.* at 4-5.

<sup>39</sup> *Id.* at 18.

<sup>40</sup> *Id.* at 28.



55. With less exposure to risk, banks and non-bank lenders began making ever riskier mortgages to sell on Wall Street. Many borrowers entered into loans that the lenders knew would become unaffordable once the interest rates on the loans reset. Brokers even targeted borrowers who qualified for inexpensive, fixed rate loans and steered them into high-risk loans with confusing and exploitative terms—a profitable practice that generated another round of origination and other fees when borrowers were forced to refinance as their loans became unaffordable.<sup>41</sup>

56. Ultimately, access to these kinds of loans drove up the prices of homes until the market peaked and then dropped. As prices plummeted, borrowers—who found themselves holding loans that exceeded the value of homes—could no longer refinance when their loans became unaffordable. This led to a dramatic rise in defaults and foreclosures, which in turn caused alarm in financial markets and triggered the 2008 financial crisis—widely considered to be the worst U.S. economic disaster since the Great Depression (at least before the COVID-19 pandemic).<sup>42</sup>

57. The crisis wiped out nearly \$8 trillion in value from the stock market, deprived home-owners of \$9.8 trillion in wealth due to the decrease in home values, cost millions of Americans their jobs (with unemployment peaking at 10 percent in October 2009), and resulted

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<sup>41</sup> *Id.* at 34.

<sup>42</sup> Renae Merle, *A Guide to the Financial Crisis—10 Years Later*, Wash. Post (Sep. 10, 2018), [https://www.washingtonpost.com/business/economy/a-guide-to-the-financial-crisis--10-years-later/2018/09/10/114b76ba-af10-11e8-a20b-5f4f84429666\\_story.html](https://www.washingtonpost.com/business/economy/a-guide-to-the-financial-crisis--10-years-later/2018/09/10/114b76ba-af10-11e8-a20b-5f4f84429666_story.html).

in a loss of \$2 trillion in global economic growth.<sup>43</sup> It also devastated many consumers, whose wages and opportunities may never recover.<sup>44</sup>

58. While the crisis was caused by a combination of factors, key among them was the failure of bank regulators to exercise their enforcement, rule-making, and supervisory powers to curtail banks' unprecedented risk-taking and exploitation of consumers.

59. Faced with the devastating consequences of regulatory failure, consumer advocate experts renewed their calls for an agency to protect consumers, arguing that the then-current regulatory system "was so flawed that it could not but produce the regulatory failures like the [housing] bubble that precipitated the financial crisis of 2008."<sup>45</sup> Then-Professor Elizabeth Warren argued that regulation was needed to protect consumers from dangerous financial products.<sup>46</sup> In the absence of regulation, she argued, the financial services industry had created "financial products [with] incomprehensible terms and sharp practices" that can result in "wiped-out savings, lost homes, higher costs for car insurance, denial of jobs, troubled marriages, bleak retirements, and broken lives."<sup>47</sup>

60. Thereafter, Congress included the creation of the CFPB as a critical component in various proposals to overhaul the financial regulatory system. Ultimately, the CFPB was established by the Dodd-Frank Act in 2010.<sup>48</sup>

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<sup>43</sup> *Id.*

<sup>44</sup> See, e.g., Eduardo Porter & David Yaffe-Bellany, *New York Times*, *Facing Adulthood With an Economic Disaster's Lasting Scars*, N.Y. Times (May 19, 2020), <https://www.nytimes.com/2020/05/19/business/economy/coronavirus-young-old.html>.

<sup>45</sup> Levitin, at 36.

<sup>46</sup> Oren Bar-Gill & Elizabeth Warren, *Making Credit Safer*, 157 U. Pa. L. Rev. 1, 6-7, 98 (2008).

<sup>47</sup> *Id.* at 5.

<sup>48</sup> Levitin at 335-36.

61. The Act’s authorizing language provides that the purpose of the CFPB is to “ensur[e] that all consumers have access to markets for consumer financial products and services . . . [that] are fair, transparent and competitive.” 12 U.S.C. § 5511(a).

62. To achieve that purpose, Congress tasked the CFPB with five objectives: (1) to help consumers make responsible decisions about financial transactions by providing them with understandable information; (2) to protect consumers from unfair, deceptive, or abusive acts and practices and from discrimination; (3) to identify and address unwarranted regulatory burdens; (4) to enforce federal consumer financial law consistently to promote fair competition; and (5) to ensure that markets for consumer financial services and products operate transparently and efficiently. *Id.* § 1511(b).

63. Notwithstanding the painful lessons of the financial crisis and the strong calls for reform, the financial services industry fiercely opposed the creation of the CFPB. Opponents argued, among other things, that the CFPB would be a “supernanny agency” that would “[m]ake it harder and more expensive for consumers to borrow,” “substitute the choice of bureaucrats for those of consumers,” and “[j]eopardize the financial recovery by reducing credit[.]”<sup>49</sup> Industry advocates and representatives, such as Todd Zywicki,<sup>50</sup> also argued that the creation of the CFPB would “threaten[] innovation as well as competition,” and “could one day undermine the soundness of financial institutions[.]”<sup>51</sup>

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<sup>49</sup> See, e.g., David S. Evans & Joshua D. Wright, *The Effect of the Consumer Financial Protection Agency Act of 2009 on Consumer Credit*, 22 Loy. Consumer L. Rev. 280, 334 (2010).

<sup>50</sup> Lee Fang, *The Scholars Who Shill for Wall Street*, Nation (Oct. 23, 2013), <https://www.thenation.com/article/archive/scholars-who-shill-wall-street/> (explaining that Mr. Zywicki, in addition to his academic career, was the Director of a consulting group with clients such as Visa, Bank of America, and Citigroup).

<sup>51</sup> Todd Zywicki, *Let’s Treat Borrowers Like Adults*, Wall St. J. (July 8, 2009), <https://www.wsj.com/articles/SB124701284222009065>.

64. Robust disagreement exists over the CFPB's role in regulating the financial services industry. On the one hand, consumer advocates and many consumer finance law experts believe that the CFPB, with its broad rulemaking and enforcement authority over consumer financial products, should exercise its regulatory authority aggressively to prevent the proliferation of complex financial products that exploit consumer misunderstanding. On the other hand, the financial services industry and its allies have criticized the very existence of the CFPB as paternalistic and argued that the regulation of financial products harms both consumers (by limiting choices and the availability of credit) and the industry (by undermining competition and innovation). A complete and balanced examination of the regulation of consumer financial products and services cannot neglect the former in favor of the latter.

## **II. CFPB's Leaders Have Sabotaged the CFPB's Mission From Within Since 2017**

65. Since the resignation of Richard Cordray in 2017, the leaders appointed to the CFPB by President Trump have systematically dismantled protections and stalled enforcement efforts, undermining the CFPB's core mission of protecting consumers.

66. While searching for a permanent replacement, President Trump first installed Mick Mulvaney as Acting Director—a choice that clearly signaled the Administration's intention to pursue an agenda favorable to industry at the expense of consumers.

67. Early in his political career, when he served in the South Carolina State Senate, Mulvaney voted against state legislation designed to protect consumers from payday loans,<sup>52</sup> a

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<sup>52</sup> Nicholas Confessore, *Mick Mulvaney's Master Class in Destroying a Bureaucracy From Within*, N.Y. Times Mag. (Apr. 16, 2019), <https://www.nytimes.com/2019/04/16/magazine/consumer-financial-protection-bureau-trump.html>.

predatory financial product that intentionally traps consumers in a long-term debt cycle in order to extract exorbitant fees over time.<sup>53</sup>

68. Similarly, while serving in the U.S. House of Representatives, Mulvaney criticized efforts by the CFPB to regulate payday lenders that donated tens of thousands of dollars to his congressional campaigns.<sup>54</sup>

69. He also advocated for getting rid of the CFPB, which he described as a “joke . . . in a sick, sad kind of way,” in part because (in his view) Congress could not protect the financial services industry from “overreach and abuse by [the Bureau].”<sup>55</sup>

70. Consistent with these views, Mulvaney began his tenure at the Bureau with a hiring freeze, a hold on all enforcement cases, and a budget request for zero dollars.<sup>56</sup>

71. Since then, Mulvaney and his successor, Kathleen Kraninger, have mounted a sustained effort to roll back consumer protections and dramatically reduce enforcement of protections in the interim.<sup>57</sup>

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<sup>53</sup> To illustrate how it works, a typical payday loan customer might be a wage worker who needs to borrow a small sum to pay a routine expense, such as rent. In this example, the customer will pay a \$55 fee to borrow \$375, the full amount of which must be repaid in two weeks. When the loan comes due, many such borrowers cannot afford to pay back the full \$375. They can, however, afford another \$55 fee to take out a new loan to cover the old one. The average payday loan customer will repeat this cycle for five months, paying approximately \$500 in fees just to cover the initial \$375 loan. *Payday Loans Explained*, PEW Charitable Trusts (May 8, 2013), <https://www.pewtrusts.org/en/research-and-analysis/video/2013/payday-loans-explained>. In some instances, the fees can be even higher, costing consumers as much as \$3,000 to pay back a \$300 loan. Elizabeth Warren, *Unsafe at Any Rate*, Democracy (2007), <https://democracyjournal.org/magazine/5/unsafe-at-any-rate/>.

<sup>54</sup> Confessore, *supra* note 52.

<sup>55</sup> Credit Union Times, Interview with Mick Mulvaney, YouTube (Sept. 10, 2014), <https://www.youtube.com/watch?v=RaVeNafdyVA>.

<sup>56</sup> Confessore, *supra* note 52.

<sup>57</sup> Confessore, *supra* note 52.

72. For example, Mulvaney oversaw the initial development of a proposed rulemaking—later issued under Kraninger—that proposes to roll back the CFPB’s ability-to-repay regulation, which would have prohibited payday lenders from making loans to consumers who could not afford them.<sup>58</sup> He also succeeded in having the implementation of those protections stayed while Defendants worked to develop the proposed rulemaking.<sup>59</sup>

73. To justify these and other deregulatory actions, Mulvaney issued an extensive series of Requests for Information throughout his tenure—sometimes on a bi-weekly basis—designed to solicit feedback on how to further dismantle consumer protections.<sup>60</sup> Indeed, as various consumer advocacy organizations have noted, these requests were “slanted towards . . . weakening . . . the Bureau’s role in protecting consumers,” posing questions about the continued need for various consumer protection regulations without asking for comments on “how the Bureau should take stronger action against financial industry abuses.”<sup>61</sup>

74. Enforcement actions also lagged under Mulvaney’s leadership. The Bureau announced eleven new lawsuits or settlements in 2018, which was fewer than a third of the number announced in 2016.<sup>62</sup> In those cases the Bureau did pursue, the Bureau settled with lenders for smaller fines than in the past and, in some cases, required lenders to pay no fines at all.<sup>63</sup>

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<sup>58</sup> *Payday, Vehicle Title, and Certain High-Cost Installment Loans Notice of Proposed Rulemaking*, 84 Fed. Reg. 4252 (Feb. 14, 2019).

<sup>59</sup> Confessore, *supra* note 52; Order, *Cnty. Fin. Servs. Ass’n of Am. v. CFPB*, 18-cv-0295 (W.D. Tex. Nov. 6, 2018) ( ECF No. 53).

<sup>60</sup> Ed Mierzwinski, *Mulvaney Lobs One Last Softball to Industry Opponents of CFPB*, U.S. PIRG (Dec. 31, 2018), <https://uspirg.org/blogs/eds-blog/usp/mulvaney-lobs-one-last-softball-industry-opponents-cfpb>.

<sup>61</sup> *Id.*

<sup>62</sup> Confessore, *supra* note 52.

<sup>63</sup> Confessore, *supra* note 52.

75. Mulvaney also fired every single member of the Consumer Advisory Board (“CAB”)—a statutorily mandated advisory committee that advises the Bureau on its new regulations and policies—“days after some of its members criticized his leadership.”<sup>64</sup> The Bureau explained that it was “revamp[ing]” the CAB with all new members, a move that was widely seen in the consumer advocacy community as an effort to undermine consumer protections and surround Mulvaney and the Bureau’s leadership with views that were friendlier to their agenda.<sup>65</sup>

76. These efforts have continued under Mulvaney’s successor, Kraninger, who previously served under Mulvaney in the Office of Management and Budget.

77. As noted above, Kraninger pushed the proposed rollback of CFPB’s ability-to-repay rule over the finish line in February 2019. And, according to a memorandum written by a CFPB career economist, political appointees under Kraninger’s watch went to great and inappropriate lengths to justify the proposed rulemaking, including by pressuring staff economists to “water down their findings on payday loans and use statistical gimmicks to downplay the harm [to] consumers[.]”<sup>66</sup>

78. Kraninger has also continued Mulvaney’s anti-enforcement trends. In her first six months, the Bureau obtained only \$12 million in consumer relief, “a mere 6 [percent] of the \$200 million reported by the Obama-appointed Director, Richard Cordray, during [a similar time

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<sup>64</sup> Renae Merle, *Mick Mulvaney Fires All 25 Members of Consumer Watchdog’s Advisory Board*, Wash. Post (June 6, 2018), <https://www.washingtonpost.com/news/business/wp/2018/06/06/mick-mulvaney-fires-members-of-cfpb-advisory-board/>.

<sup>65</sup> *Id.*

<sup>66</sup> Nicholas Confessore & Stacey Cowley, *Trump Appointees Manipulated Agency’s Payday Lending Research, Ex-Staffer Claims*, N.Y. Times (Apr. 29, 2020), <https://www.nytimes.com/2020/04/29/business/cfpb-payday-loans-rules.html?referringSource=articleShare>.

period].”<sup>67</sup> An investigation by the U.S. House of Representatives Committee on Financial Services revealed that this trend was partly due to decisions by CFPB political appointees to settle enforcement actions without requiring the lenders to return ill-gotten gains to consumers.<sup>68</sup> These decisions were “contrary to [] Bureau precedent and in defiance of the recommendations of career . . . enforcement attorneys.”<sup>69</sup>

79. Even more troubling, Kraninger has continued to undermine consumer protections amidst the COVID-19 pandemic, when consumers are particularly vulnerable. Among other things, in the past two months she has led the Bureau to suspend enforcement of requirements that mortgage servicers assist homeowners who are behind in their payments,<sup>70</sup> to reduce the collection of fair lending data,<sup>71</sup> and to relax disclosure requirements for remittance transfer providers.<sup>72</sup>

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<sup>67</sup> Settling For Nothing: How Kraninger’s CFPB Leaves Consumers High and Dry 1, U.S. H.R. Comm. on Fin. Servs., (Oct. 2019), <https://financialservices.house.gov/news/documentsingle.aspx?DocumentID=404524>.

<sup>68</sup> *Id.* at 2.

<sup>69</sup> *Id.*

<sup>70</sup> Joint Statement on Supervisory and Enforcement Practices Regarding the Mortgage Servicing Rules in Response to the COVID-19 Emergency and CARES Act (Apr. 3, 2020), [https://files.consumerfinance.gov/f/documents/cfpb\\_interagency-statement\\_mortgage-servicing-rules-covid-19.pdf](https://files.consumerfinance.gov/f/documents/cfpb_interagency-statement_mortgage-servicing-rules-covid-19.pdf).

<sup>71</sup> CFPB, *Home Mortgage Disclosure (Regulation C), Final Rule* (Apr. 16, 2020), prepublication copy available at <https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/regulation-c-home-mortgage-disclosure-act/>.

<sup>72</sup> CFPB, *Remittance Transfers Under the Electronic Fund Transfer Act (Regulation E), Final Rule* (May 11, 2020), prepublication copy available at <https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/remittance-transfers-under-electronic-fund-transfer-act-regulation-e/>.



### III. Defendants Have Illegally Established and Utilized the Taskforce

80. On October 11, 2019, the Bureau announced that it would “establish” the Taskforce and that it would begin to accept applications for members to serve on the Taskforce.<sup>73</sup>

81. On January 8, 2020, Kraninger signed the Taskforce charter, which states that:

The Taskforce will (1) examine the existing legal and regulatory environment facing consumers and financial service providers; and (2) report its recommendations for ways to improve and strengthen consumer financial laws and regulations, including recommendations for resolving conflicting requirements or inconsistencies, reducing unwarranted regulatory burdens in light of market or technological developments, improving consumer understanding of markets and products, and identifying gaps in knowledge that should be addressed through future Bureau research.

CFPB, *Charter of the Bureau’s Taskforce on Consumer Financial Law* ¶ 3 (Jan. 8, 2020),

[https://files.consumerfinance.gov/f/documents/cfpb\\_taskforce-charter.pdf](https://files.consumerfinance.gov/f/documents/cfpb_taskforce-charter.pdf) [hereinafter Charter].

82. The Charter also directs the Taskforce to deliver its findings to the Director of the Bureau “in the form of one consensus final report,” *id.* ¶ 4, “no later than January 2021,” *id.* ¶ 10. The Taskforce will “operate until the final report is delivered,” after which the Charter will expire unless renewed. *Id.*

83. Under the Charter, the Taskforce reports to Kraninger, *id.* ¶ 5, who is to appoint as Staff Director a full-time CFPB employee to “ensure that the Taskforce operates in accordance with the terms of the charter[.],” *id.* ¶ 6. CFPB employee Matt Cameron has been assigned as the Taskforce’s Staff Director.<sup>74</sup>

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<sup>73</sup> Press Release, CFPB, *CFPB Announces Taskforce on Federal Consumer Financial Law* (Oct. 11, 2019), <https://www.consumerfinance.gov/about-us/newsroom/cfpb-announces-taskforce-federal-consumer-financial-law/>.

<sup>74</sup> Press Release, CFPB, *CFPB Announces Membership of Taskforce on Federal Consumer Financial Law* (Jan. 9, 2020), <https://www.consumerfinance.gov/about-us/newsroom/cfpb-announces-membership-taskforce-federal-consumer-financial-law/>.

84. Under the Charter’s terms, the Director of the Bureau “shall select the members of the Taskforce.” Charter ¶ 11. In two press releases dated January 9 and January 17, 2020, the Bureau announced that it had selected 5 individuals to serve on the Taskforce.<sup>75</sup>

85. According to documents released by the Bureau under the Freedom of Information Act (“FOIA”), these members have been appointed to work on a temporary basis with intermittent and limited schedules. Ex. B (documents released under FOIA detailing that the Taskforce members have been appointed on a temporary basis, are working intermittent schedules, and may only work a certain number of days per year); *see also* Charter ¶ 11 (the “Director will select Taskforce members to work for a temporary period of time”); *id.* ¶ 10 (the Taskforce will dissolve in 2021 following the submission of its final report).

86. Accordingly, they do not constitute “full-time or permanent part-time federal officers or employees of the Federal Government.” *See* 5 U.S.C. App. 2 § 3(2).

87. Under the Charter’s terms, the Taskforce is directed to “meet as frequently as necessary to complete the [final] report” by January 2021. Charter ¶ 9.

88. The Taskforce has begun to meet and conduct its work. *See, e.g.*, Ex. C (CFPB Invitation to non-public Taskforce meeting held March 10, 2020). The Taskforce also issued a Request for Information on March 27, 2020, inviting the public to comment broadly on the “areas of consumer protection on which it should focus its research and analysis during the balance of its one-year appointment.”<sup>76</sup>

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<sup>75</sup> *Id.*; Press Release, CFPB, *CFPB Announces Additional Member of Taskforce on Federal Consumer Financial Law* (Jan. 17, 2020), <https://www.consumerfinance.gov/about-us/newsroom/cfpb-announces-additional-member-to-taskforce/>.

<sup>76</sup> Press Release, CFPB, *CFPB Issues Request for Information to Assist Taskforce on Federal Consumer Financial Protection Law* (Mar. 27, 2020), <https://www.consumerfinance.gov/about-us/newsroom/cfpb-issues-rfi-to-assist-taskforce-on-federal-consumer-financial-protection->

89. Under FACA, the Taskforce is an “advisory committee.” 5 U.S.C. App. 2 § 3(2).

90. From the outset, and as set out further below, Defendants have violated FACA’s requirements at every turn, allowing the Taskforce to operate in secrecy and to represent *only* the deregulatory views of the financial services industry—without any regard for the views of consumer advocates that led to the creation of the CFPB and informed its fundamental purpose.

**a. Defendants Illegally Chartered the Taskforce**

91. Under FACA, CFPB was required to meaningfully consult with GSA before creating the Taskforce. 5 U.S.C. App. 2 § 9(a)(2).

92. On information and belief, Defendants did not engage in such meaningful consultation.

93. The Taskforce is not listed in the database of advisory committees maintained by the GSA.<sup>77</sup>

94. Nor did Defendants provide the requisite preliminary findings in a Federal Register Notice before chartering the Taskforce, including findings that this advisory committee is “in the public interest,” 5 U.S.C. App. 2 § 9(a)(2), that it is “essential to the conduct of agency business,” and that the “information to be obtained is not already available through another advisory committee or source within the Federal government,” 41 C.F.R. § 102-3.30(a). Defendants have not published any notices in the Federal Register regarding the Taskforce. Nor does the Taskforce Charter, or any other announcement regarding the Taskforce, make such findings.

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law/#:~:text=WASHINGTON%2C%20D.C.%20%E2%80%93%20The%20Consumer%20Financial,the%20federal%20consumer%20financial%20laws.

<sup>77</sup> *GSA Federal Advisory Committee Act Database: All Agency Accounts*, GSA, <https://www.facadatabase.gov/FACA/apex/FACAPublicAgencyNavigation> (last visited June 15, 2020).

95. Moreover, the Taskforce is not “essential” within the meaning of FACA because the information the Bureau seeks from the Taskforce is “already available through another . . . source within the federal government.”

96. As noted above, the objective of the Taskforce is to provide recommendations on “ways to improve and strengthen consumer financial laws and regulations, including recommendations for resolving conflicting requirements . . . , reducing unwarranted regulatory burdens . . . , improving consumer understanding of markets and products, and identifying gaps in knowledge that should be addressed through future Bureau research.” Charter ¶ 3.

97. The Bureau already has offices that focus on these issues. For example, the Bureau has a Consumer Education and Engagement Division that could surely provide the Bureau with recommendations on “improving consumer understanding of markets and products” as the Taskforce has been tasked.<sup>78</sup> Indeed, that division contains an entire Office of Financial Education whose mission is to “strengthen[] the delivery of financial education throughout the entire United States and create[] opportunities for people to obtain the skills to build their financial well-being.”<sup>79</sup>

98. Similarly, the Bureau has a Division devoted to Research, Markets, and Regulations that provides subject matter expertise, market insights, and strategic direction for the Bureau’s various rulemakings.<sup>80</sup> The Bureau has failed to explain why this Division cannot adequately provide the Bureau with the information it requested from the Taskforce regarding

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<sup>78</sup> *Consumer Education and Engagement Division*, CFPB, <https://www.consumerfinance.gov/about-us/the-bureau/bureau-structure/consumer-education-engagement/> (last visited June 15, 2020).

<sup>79</sup> *Id.*

<sup>80</sup> *Research, Markets & Regulations*, CFPB, <https://www.consumerfinance.gov/about-us/the-bureau/bureau-structure/research-markets-regulation/> (last visited June 15, 2020).

how to “resolv[e] conflicting requirements . . . [and] reduc[e] unwarranted regulatory burdens[.]” Charter ¶ 3.

99. The Bureau thus has not made the public interest findings required by FACA.

**b. Defendants Illegally Appointed Members to the Taskforce**

100. FACA also requires “the membership of [an] advisory committee to be fairly balanced in terms of the points of view represented and the functions to be performed by the advisory committee.” 5 U.S.C. App. 2 § 5(b)(2), (c). Consistent with this requirement, the Bureau was required to include in its consultation with the GSA “a description of the agency’s plan to attain fairly balanced membership” before establishing the Taskforce. 41 C.F.R. § 102-3.60(b)(3).

101. On information and belief, the Bureau did not create a fairly balanced membership plan before establishing the Taskforce.

102. Nor did the Bureau select Taskforce members that are “fairly balanced in terms of the points of views represented.” Rather, the Taskforce is comprised solely of members who have publicly adopted policy positions that expressly view regulation as paternalistic and harmful to consumers and industry alike, or who have historically represented industry interests.

103. Appointed as chairman of the Taskforce, Todd Zywicki’s deregulatory and pro-industry views are clear and longstanding. In 2009, Mr. Zywicki adamantly opposed the CFPB’s creation, arguing that the financial crisis was “not a crisis of consumer protection” and that regulating consumer financial products would have “unintended consequences,” such as stifling innovation and potentially “undermin[ing] the soundness of financial institutions.”<sup>81</sup>

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<sup>81</sup> Zywicki, *supra* note 51.

104. Since then, he has continued to deny the value of protecting consumers from dangerous financial products because, in his view, doing so would create moral hazards.<sup>82</sup> According to Mr. Zywicki, consumers who lost their homes to foreclosure following the financial crisis “were not victims,” but instead were “rationally respond[ing] to incentives.”<sup>83</sup> Against this background, he has been described as the “toughest critic of [CFPB].”<sup>84</sup>

105. He has also worked as the Director of the Global Economics Group—a consulting firm hired by Visa, Bank of America, and Citigroup to influence the Bureau and other regulatory agencies<sup>85</sup>—and worked to defend Morgan Drexen, a debt relief company, from a Bureau investigation.<sup>86</sup>

106. More recently, he has called the Bureau a “tragic failure”<sup>87</sup> and stated that the Bureau has “constantly expanded its power, promoted its own bureaucratic interests at the expense of the public, and trampled underfoot other public policies, such as consumer choice and financial innovation.”<sup>88</sup>

107. The other Taskforce members have expressed similar views on consumer finance regulation and come from backgrounds associated with industry interests.

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<sup>82</sup> Todd Zywicki, *The Economic and Political Significance of the Dodd-Frank Act*, Hillsdale Coll. (Nov. 26, 2013), <https://www.youtube.com/watch?v=49WLXiEoepk&feature=youtu.be&t=5138> (see 1:25:38).

<sup>83</sup> *Id.*

<sup>84</sup> See Lee Fang, *The Scholars Who Shill for Wall Street*, The Nation (Oct. 23, 2013), <https://www.thenation.com/article/archive/scholars-who-shill-wall-street/>.

<sup>85</sup> *Id.*

<sup>86</sup> See Decl. of Todd Zywicki, *Morgan Drexen, Inc. v. CFPB*, No. 13-cv-01112 (D.D.C. July 22, 2013) (ECF No. 3-4).

<sup>87</sup> Lorraine Woellert & Josh Dawsey, *Trump’s Allies Building Case to Oust Consumer Protection Head*, Politico (Feb. 6, 2017), <https://www.politico.com/story/2017/02/trump-richard-cordray-consumer-financial-protection-bureau-234699>.

<sup>88</sup> Evan Weinberger & Lydia Beyoud, *Financial Watchdog’s Conflicted Task Force Earning Top Dollar*, Bloomberg Law (May 11, 2020), <https://news.bloomberglaw.com/banking-law/financial-watchdogs-conflicted-task-force-earning-top-dollar>.

108. Howard Beales, for example, has been described by the Wall Street Journal as “an academic whose studies have been used by a tobacco company and . . . consumer-goods makers to fight federal regulations.”<sup>89</sup>

109. Like Mr. Zywicki, Dr. Beales works for a consulting firm hired by industry,<sup>90</sup> and recently provided his services to a payday lender in bankruptcy proceedings,<sup>91</sup> who had previously been sued by the Bureau for servicing and collecting on loans with interest rates up to 448 percent that were void under state law.<sup>92</sup> In that capacity, he has argued that such loans were not “predatory,” but were instead “beneficial to consumers.”<sup>93</sup>

110. In published studies, he has expanded on this position, arguing that payday loans are beneficial (because they “offer an alternative form of credit” and provide “consumers the freedom to choose products that best serve their needs”) and should not be regulated with ability-to-repay requirements (because “affordability criteria risk[] substantial reductions in credit.”).<sup>94</sup>

111. Similarly, Thomas Durkin has partnered with Mr. Zywicki to author a book, academic articles, and op-eds that advocate for the rollback of financial regulation in favor of payday loans and other dangerous financial products. For example, in an op-ed titled *Why*

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<sup>89</sup> Glenn R. Simpson & Gordon Fairclough, *New FTC Chief is Expected to Name Regulatory Skeptic to Consumer Post*, Wall St. J. (May 31, 2001), <https://www.wsj.com/articles/SB991260563410239800>.

<sup>90</sup> *Dr. J. Howard Beales III*, NERA Econ. Consulting, <https://www.nera.com/experts/dr-howard-beales.html>.

<sup>91</sup> Transcript of Hearing at 47-48, *In re Think Finance, LLC*, No. 17-33964 (Bankr. N.D. Tex. Oct. 11, 2018), (ECF No. 1069) (describing expert services provided by Mr. Beales to Think Finance) [hereinafter Think Finance Bankruptcy Transcript].

<sup>92</sup> Complaint ¶¶ 1, 15, 18, *CFPB v. Think Finance, LLC*, No. 17-cv-00127-BMM (D. Mont. Nov. 15, 2017) (ECF No. 1), available at [https://files.consumerfinance.gov/f/documents/cfpb\\_think-finance\\_complaint\\_112017.pdf](https://files.consumerfinance.gov/f/documents/cfpb_think-finance_complaint_112017.pdf).

<sup>93</sup> See Think Finance Bankruptcy Transcript at 48.

<sup>94</sup> J. Howard Beales, III & Anand M. Goel, Small-Dollar Installment Loans: An Empirical Analysis 58 (Mar. 20, 2015), available at <https://www.consumerfinancemonitor.com/wp-content/uploads/sites/14/2015/03/Navigant-Economics-Report-3.pdf>.

*Everything Elizabeth Warren Told You About Consumer Credit Is Wrong*, Mr. Durkin and Mr. Zywicki argue that payday loans are “legal, high-cost [credit] options,” that benefit consumers, while protective regulations of such loans are “paternalistic” and “make credit more expensive and less available.”<sup>95</sup> The two partners have made similar arguments in various articles and a book titled *Consumer Credit and the American Economy*.<sup>96</sup>

112. Mr. Zywicki, Dr. Beales, and Mr. Durkin also collectively appeared on a panel together in 2014 at the Research Integrity Council’s first academic forum where they expressed pro-industry or deregulatory views.<sup>97</sup> There, Mr. Durkin, for example, criticized the CFPB for not sufficiently coordinating with industry when conducting its research.<sup>98</sup> Dr. Beales, for his part, criticized the CFPB’s Payday Loan Report (later used to support its regulation of payday lenders),<sup>99</sup> which he argued was based on a flawed survey.<sup>100</sup>

113. The remaining two Taskforce members are partners at law firms where they have represented industry and taken deregulatory stances. William MacLeod is a partner at Kelley Drye, where he “[fights] onerous regulations” and defends corporations from government

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<sup>95</sup> Todd Zywicki & Thomas Durkin, *Why Everything Elizabeth Warren Told You About Consumer Credit Is Wrong*, Forbes (Oct. 10, 2014), <https://www.forbes.com/sites/realspin/2014/10/10/why-everything-elizabeth-warren-told-you-about-consumer-credit-is-wrong/>.

<sup>96</sup> Thomas Durkin et al., *Consumer Credit and the American Economy* (2014), <https://www.amazon.com/Consumer-Financial-Management-Association-Synthesis/dp/0195169921>; see also, e.g., Thomas Durkin et al., *Consumer Credit and the American Economy: An Overview*, J. of L. Econ. & Pol’y (2015).

<sup>97</sup> Kim Phan, *Independent Research Could Improve the CFPB Rulemaking Process*, Consumer Fin. Monitor: Ballard Spahr (June 13, 2014), <https://www.consumerfinancemonitor.com/2014/06/13/independent-research-could-improve-the-cfpb-rulemaking-process/>.

<sup>98</sup> *Id.*

<sup>99</sup> CFPB, Payday Lending and Deposit Advance Products (Apr. 24, 2013), [https://files.consumerfinance.gov/f/201304\\_cfpb\\_payday-dap-whitepaper.pdf](https://files.consumerfinance.gov/f/201304_cfpb_payday-dap-whitepaper.pdf).

<sup>100</sup> Phan, *supra* note 97.



investigations.<sup>101</sup> In addition to his activities as a law firm partner, Mr. MacLeod has publicly adopted pro-industry, deregulatory views. For example, in 2011, he moderated a panel titled “Consumer Protection: The Demise and Return (?) of the ‘Nanny State,’” which included Dr. Beales as a panelist.<sup>102</sup>

114. Similarly, Jean Noonan is a partner at Hudson Cook,<sup>103</sup> a law firm that primarily serves clients in the banking and consumer financial services industry.<sup>104</sup> In that capacity, she represents consumer financial services companies, including payday lenders, who have been investigated and sued by the Bureau for predatory anti-consumer practices.<sup>105</sup> She is also a founding member of the American College for Consumer Financial Services Lawyers,<sup>106</sup> an association of lawyers who represent the financial services industry.<sup>107</sup>

115. Conversely, none of the selected Taskforce members has a background advocating for consumers, nor does any appear to believe that the CFPB should vigorously protect consumers from dangerous and confusing financial products.

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<sup>101</sup> William C. MacLeod, Kelley Drye, <https://www.kelleydrye.com/Our-People/William-C-MacLeod>.

<sup>102</sup> Geo. Mason Univ., Agenda: Lessons Since the Reagan Revolution at the FTC (Sep. 30, 2011), available at <http://masonlec.org/site/files/2011/06/Reagan-FTC-at-30-AGENDA-of-8-9-11.pdf>.

<sup>103</sup> L. Jean Noonan, Hudson Cook, <https://www.hudsoncook.com/attorney/jean-noonan/>.

<sup>104</sup> Hudson Cook, <https://www.hudsoncook.com/index.cfm>.

<sup>105</sup> L. Jean Noonan, Hudson Cook, <https://www.hudsoncook.com/attorney/jean-noonan/>; Government Investigations, Examinations and Enforcement, Hudson Cook, <https://www.hudsoncook.com/practices/government-investigations-examinations-enforcement/index.cfm>.

<sup>106</sup> L. Jean Noonan, Hudson Cook, <https://www.hudsoncook.com/attorney/jean-noonan/>.

<sup>107</sup> *About the College*, Am. Coll. Consumer Fin. Servs. Lawyers, <http://www.accfsl.org/about-the-college/>; see also Press Release, Ballard Spahr LLP, *Ballard Spahr’s Mark Furletti Named a Fellow in the American College of Consumer Financial Services Lawyers* (Apr. 1, 2019), <https://www.ballardspahr.com/eventsnews/pressreleases/2019-04-01-mark-furletti-named-fellow-in-accfs-lawyers> (announcing the College’s recognition of a law firm partner and explaining that the College is an invitation-only association of attorneys in the consumer financial services industry).

116. The absence of members with these views is notable given that CFPB received numerous applications from such candidates, including from Professor Engel. As noted above, Professor Engel has engaged in research on many aspects of consumer finance and has won awards for her extensive work on the role subprime mortgages played in the 2008 financial crisis. *See supra* ¶ 18. As part of that research, Professor Engel has explained that the 2008 financial crisis could have been avoided if federal regulators had stepped in to protect consumers from abusive and predatory loans.<sup>108</sup>

117. Drawing lessons from this experience, she has argued, among other things, that responsible consumer finance regulations should require that lenders ensure that borrowers can afford to repay their loans,<sup>109</sup> prevent lenders from ambushing borrowers with nasty surprises (such as hybrid adjustable rate mortgages),<sup>110</sup> and help ensure that consumers understand the available financial products in order to make informed decisions.<sup>111</sup>

118. CFPB received applications from at least four other applicants who have similarly argued in support of robust consumer protections and acknowledged the value of regulations that protect against abusive and predatory products.<sup>112</sup>

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<sup>108</sup> Subprime Virus at 149.

<sup>109</sup> *Id.* at 228.

<sup>110</sup> *Id.* at 229.

<sup>111</sup> *Id.* at 230-31.

<sup>112</sup> Such applicants included, for example, Professor Prentiss Cox, who currently teaches at the University of Minnesota Law School. Ex. D-1. Like Professor Engel, Professor Cox has devoted much of his career to improving consumer protection laws, including by drafting protective legislation. He was the primary drafter of Minnesota's anti-predatory lending law, which was enacted in 2007 and provided an early model for ability-to-repay regulatory requirements. *Id.* at 2. He also assisted in drafting a Minnesota law that restricted foreclosure rescue and equity stripping scams. *Id.* Additionally, Professor Cox has extensive practical experience advocating on behalf of consumers, including his time as an Assistant Attorney General in Minnesota where he enforced consumer protection laws. *Id.* at 1. Similarly, in his current position at the University of Minnesota Law School, he runs a consumer protection clinic where he and his students have

119. In sum, Defendants have set up a Taskforce that is comprised wholly of members who have either publicly criticized consumer protections as paternalistic and harmful to industry or who have historically represented industry interests. The makeup of the Taskforce excludes *any* representation of advocates committed to ensuring that consumers are protected from dangerous financial products.

120. On information and belief, this imbalanced composition was the result of a biased selection process designed to ensure that the Taskforce and its recommendations reflect the views of the Bureau's leadership, who have systematically worked to dismantle consumer protections since 2017, as shown above.

121. Indeed, Defendants appear to have intentionally screened applicants based on whether they supported deregulation. For example, before her application was declined, Professor Engel was interviewed by Chris Muffirage, a political appointee, who "posed questions in an inquisitorial manner" for the purpose of "determin[ing] [Professor Engel's] stance on deregulation." Ex. E (letter of complaint submitted to Kraninger). Notably, Professor Engel was not asked about her qualifications and experience. *Id.*

122. Defendants' decision to establish such an imbalanced advisory committee is especially striking given that the CFPB was created to protect consumers in the wake of a crisis caused, in part, by what Congress determined was a deeply flawed consumer protection regulatory regime.

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advocated on behalf of consumers under the Fair Debt Collections Practices Act, the Electronic Funds Transfer Act, and the Fair Credit Reporting Act. *Id.*

**c. Defendants Have Unlawfully Refused to Provide Public Notice and Participation in Meetings**

123. FACA requires that an agency provide “timely notice” of and hold open to the public “each advisory committee meeting.” *Id.* § 10(a)(1)-(2). An agency must also allow interested persons to “attend, appear before, or file statements with [the] committee.” *Id.* § 10(a)(3).

124. GSA’s implementing regulations further specify that agencies are required to publish notice of their meetings “at least 15 calendar days prior” to the meetings, unless documented “exceptional circumstances” require otherwise. 41 C.F.R. § 102-3.150. Further, all meetings must be held “in a manner or place reasonably accessible to the public” and allow “[a]ny member of the public [to] speak to or otherwise address the advisory committee if the agency’s guidelines so permit.” *Id.* § 102-3.140(a),(d).

125. CFPB has violated each of these requirements. On March 10, 2020, the Taskforce held a meeting to seek input from certain stakeholders on “ways to harmonize and modernize federal consumer financial laws.” *See* Ex. C. Prior to the meeting, Defendants failed to provide public notice.

126. Likewise, they did not hold the meeting in a manner accessible to the public or allow any members of the public to address the Taskforce.

127. Instead, Defendants expressly restricted attendance to invited stakeholders, who were limited to industry representatives and certain consumer advocacy groups. *Id.* (noting that the meeting was “closed press, off the record, not for attribution in social media, and open to invitees only”). Director Kraninger recently testified that the March 10 meeting was attended only by those groups. *Consumer Financial Protection Bureau’s Semi-Annual Report to Congress*, Hearing Before the U.S. S. Comm. on Banking, Hous., and Urban Aff., (Mar. 10,

2020), <https://www.banking.senate.gov/hearings/02/21/2020/the-consumer-financial-protection-bureaus-semi-annual-report-to-congress>.

128. Upon information and belief, the Taskforce has met on other occasions in closed sessions to discuss matters related to the Taskforce’s final report and recommendations. *Id.* at 1:55 (indicating that the Taskforce’s March 10, 2020 meeting was the “first” of such meetings, that the Taskforce would meet with other CFPB advisory committees later that week, and that both such meetings were part of “an ongoing process”); Charter ¶ 9 (directing the Taskforce to “meet as frequently as necessary to complete the [final] report” by January 2021).

129. Defendants have not provided notice of these meetings, nor allowed the public to attend.

130. At the March 10 meeting, a U.S. PIRG representative expressly asked whether the Taskforce would hold future meetings open to the public. Both Mr. Zywicki, the chair of the Taskforce, and Matt Cameron, the Staff Director assigned to the Taskforce by the CFPB, declined to answer in the affirmative.

131. On June 4, 2020, Plaintiffs NACA and Professor Engel sent a letter to the Bureau requesting that the Taskforce provide notice of and hold open to the public all future meetings. Ex. F. To date, the Bureau has not responded.

132. On June 8, 2020, Mr. Zywicki published a blog post announcing the Taskforce’s intent to hold a public hearing later this summer.<sup>113</sup> The blog post also announced a public

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<sup>113</sup> Todd Zywicki, *Taskforce on Federal Consumer Financial Law Chartering a Path Ahead*, CFPB (June 8, 2020), <https://www.consumerfinance.gov/about-us/blog/taskforce-federal-consumer-financial-law-charting-path-ahead/>.

listening session with the Bureau's four other advisory committees at an unspecified date this fall.<sup>114</sup>

133. While the blog post claims that these events are intended to “ensur[e] that the public can inform [the Taskforce’s] work,” it does not state that the Taskforce will make its other meetings open to the public.<sup>115</sup> Nor does it state that the public hearing and listening session are the only meetings it intends to hold.<sup>116</sup> And, of course, this belated notice does nothing to undo the damage from the Taskforce’s prior closed meetings.

**d. Defendants Have Unlawfully Withheld Taskforce Records**

134. FACA requires Defendants to make available for public inspection “the records, reports, transcripts, minutes, appendixes, working papers, drafts, studies, agenda, [and] other documents ... made available to or prepared for or by” the committee. 5 U.S.C. App. 2 § 10(b). Moreover, when such records are relevant to a particular meeting, they must be made available in advance or at the meeting, so that the public can “follow the substance of the [Taskforce’s] discussions.” *Food Chem. News*, 980 F.2d at 1472.

135. Defendants have violated this requirement with respect to records relevant to the March 10, 2020 meeting. Prior to that meeting, Defendants circulated to invited attendees a list of questions that would be discussed at the meeting. Ex. C. Defendants have not made this list public. Defendants also heard from various stakeholders at the meeting, but did not announce in advance who would be speaking or presenting. Nor have copies of their remarks or the meeting minutes been made publicly available.

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<sup>114</sup> *Id.*

<sup>115</sup> *Id.*

<sup>116</sup> *Id.*

136. As explained above, the Taskforce has met on other occasions in closed sessions to discuss matters related to the Taskforce's final report and recommendations. Minutes, notes, and other records from these meetings have not been made publicly available.

137. Defendants have not provided any of the other records made available to or prepared by the Taskforce. To date, the only records made publicly available are the Taskforce Charter, various press releases announcing the establishment of the Taskforce and the selection of its members, and a March 27 Request for Information.<sup>117</sup>

138. On June 4, 2020, Plaintiffs NACA and Professor Engel sent a letter to the Bureau requesting that the Taskforce's records be made available. Ex. F. To date, the Bureau has not responded. In sum, Defendants have operated the Taskforce outside the public eye. The lack of notice for any of the Taskforce meetings, combined with Defendants' failure to make available *any* records beyond those that establish the existence of the Taskforce, has made it impossible for the public to follow along with the Taskforce's work.

#### **IV. The Taskforce Has Harmed Plaintiffs and Advocates for Consumer Protection**

139. Because of the opaque process through which the Taskforce was established, the secrecy with which it has operated, and its lack of a balanced composition of members, the Taskforce is already causing Plaintiffs to suffer harm by impeding NACA's and U.S. PIRG's mission-driven educational activities, thereby forcing both to divert resources in response, and by preventing Professor Engel from carrying out her academic work. In turn, Plaintiffs' ability to meaningfully participate in the Taskforce's work and advocate for policies consistent with their

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<sup>117</sup> See generally *Taskforce on Federal Consumer Financial Law*, CFPB, <https://www.consumerfinance.gov/about-us/taskforce-federal-consumer-financial-law/> (last visited on June 15, 2020).

interests has been, and will continue to be, compromised by Defendants' noncompliance with FACA.

140. To start, the secrecy of the Taskforce—including its failures to publish the requisite findings, consult with the GSA, and provide transparency into its records and meetings—prevents Plaintiffs from studying how the Taskforce's work may impact the regulation of consumer financial products and from informing the public about these issues.

141. While the Taskforce belatedly announced on June 9, 2020 that it would hold two events designed to *solicit* public feedback, *supra* ¶¶ 132-133, this decision falls well short of the transparency FACA requires, which is intended to provide insight into the Taskforce's work. As an initial matter, the decision does nothing to undo the damage of prior non-public meetings. Nor do these measures provide sufficient transparency or public participation going forward—the Taskforce has provided no indication that it will hold *all* of its future meetings open to the public or make its records publicly available as required by FACA. Accordingly, much, if not most, of the Taskforce's work—*i.e.*, the process of arriving at recommendations for “improving” consumer financial laws and regulations—will remain outside of the public eye.

142. Plaintiffs are thus left to their own devices to try to keep abreast of the Taskforce's activities and likely consequences of its work, and are required to expend time and organizational resources pursuing Taskforce records that should already be public. For example, as noted above, Plaintiffs NACA and Professor Engel sent a letter to CFPB requesting that the Bureau release the Taskforce's records and hold its meetings open to the public. Ex. F. Similarly, both NACA and U.S. PIRG attended the March 10, 2020 meeting to express their concerns that the Taskforce was operating in violation of FACA and to request that the Taskforce hold its meetings open to the public.



143. Plaintiffs are statutorily entitled to information about the Taskforce and would seek to use it as part of their work and advocacy efforts, if made available. By mandating that advisory committees like the Taskforce provide transparency into their affairs, Congress sought to equip Plaintiffs and others with the information necessary to protect and advocate for their interests.

144. Specifically, because they have been denied access to the information necessary to determine how the Taskforce's work will shape the CFPB's policies under consumer financial protection laws, NACA is unable to know how best to create educational and training programs that will advance consumer interests, or advise others on the same, given the potentially shifting landscape. Similarly, U.S. PIRG is unable to keep the public abreast of the Taskforce's efforts to reshape consumer financial laws and regulations. If both organizations had access to that information, they would seek to publicize the Taskforce's operations and decisions to its membership and others, as they have in the past with respect to the CFPB.

145. Likewise, Professor Engel cannot study and write about records she cannot access. The Taskforce's lack of transparency therefore prevents her from doing her work as an academic, work that is both part of her career and deeply meaningful to her.

146. The Taskforce's secrecy also prevents Plaintiffs from participating in its work. As currently operated, Plaintiffs have no visibility into the Taskforce's operations, and cannot participate in the Taskforce's meetings. Were the Taskforce operated transparently, it would be easier for Plaintiffs to try to persuade the Taskforce to adopt recommendations for needed consumer protections. Instead, the lack of access to information about the Taskforce's work hampers Plaintiffs' ability to advocate before the Taskforce and makes it more likely that recommendations favorable to industry will come to fruition.

147. For example, all three Plaintiffs have submitted comments in response to the Taskforce's March 27, 2020 Request for Information. Ex. G (Responses to Request for Information). Without access to the Taskforce records and meeting minutes, Plaintiffs are in the dark with respect to the recommendations the Taskforce may be considering. If Plaintiffs had access to such information, they would have been able to tailor their comments to address any issues under the Taskforce's consideration.

148. These harms are exacerbated because the Taskforce does not include a member who represents the interests of consumer advocates or academics, like Plaintiffs, who believe that regulating dangerous financial products is essential to protect consumers and ensure the stability of the economy.

149. Plaintiffs' views are necessarily not represented on the Taskforce.

150. Professor Engel was also injured by the Taskforce's rejection of her application through a biased process that yielded an imbalanced slate.

151. Once the Taskforce has completed its final report, its work will further inflict concrete, imminent harms on Plaintiffs. Given the statements and public positions of its members, the Taskforce is likely to issue a report that adopts the views of several Taskforce members, including Chairman Zywicki, that protecting consumers from abusive financial products is paternalistic and harmful. And because the Taskforce does not contain members who would represent the contrary view, the Taskforce's report would fail to represent the views of many consumer finance experts—*i.e.*, that consumer protections are beneficial to both consumers and the broader economy. That failure stands in stark contrast to the history and purpose of the CFPB as set forth in the Dodd-Frank Act.

152. Specifically, the Taskforce’s report is likely to recommend deregulatory measures that will allow the proliferation of harmful consumer financial products, such as payday lending—a product that both Mr. Zywicki and Mr. Durkin have endorsed.<sup>118</sup> Such a result is the predictable consequence of the Bureau appointing to the Taskforce individuals holding well-established deregulatory positions, and failing entirely to include consumer advocacy perspectives that were foundational to the CFPB’s purpose and that are shared by many consumer finance experts, like Plaintiffs.

153. The Taskforce’s report will likely be used to influence CFPB policy. In the press release announcing the Taskforce, Defendants state that the Taskforce was inspired by a prior commission established in 1968 whose recommendations “led to significant legislative and regulatory developments in consumer finance.”<sup>119</sup> Given the tremendous resources already invested in the Taskforce (including by paying the members extremely generous pro-rated salaries<sup>120</sup> and by assigning multiple CFPB employees to support and facilitate the Taskforce’s work), the Taskforce’s recommendations will likely serve as a blueprint for unwinding consumer protections.

154. Thus, the Taskforce is likely to issue recommendations that will influence CFPB policy in a manner harmful to Plaintiffs’ interests, causing Plaintiffs to expend further resources to monitor, and if necessary, advocate against harmful agency actions. Even if the Taskforce’s

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<sup>118</sup> Zywicki & Durkin, *supra* note 95.

<sup>119</sup> Press Release, CFPB, *CFPB Announces Taskforce on Federal Consumer Financial Law* (Oct. 11, 2019), <https://www.consumerfinance.gov/about-us/newsroom/cfpb-announces-taskforce-federal-consumer-financial-law/>.

<sup>120</sup> Evan Weinberger & Lydia Beyoud, *Financial Watchdog’s Conflicted Task Force Earning Top Dollar*, Bloomberg Law (May 11, 2020), <https://news.bloomberglaw.com/banking-law/financial-watchdogs-conflicted-task-force-earning-top-dollar> (explaining that the Taskforce members’ pro-rated salaries are near the top of the CFPB’s payscale).

recommendations are rejected, the financial services industry might seek to use those recommendations for legislative advocacy efforts, further requiring Plaintiffs to rebut them.

155. In the midst of this potentially new landscape, NACA and U.S. PIRG will be required to divert resources to first understand how and why the Taskforce reached its final conclusions, what the impact of those will be, and second, to adapt their educational and advocacy work to this new reality. This work will be made significantly more difficult by the Taskforce's current lack of transparency, which has impaired the ability of Plaintiffs to participate and follow the work of the Taskforce. Professor Engel will similarly be forced to analyze the Taskforce's biased recommendations and, potentially, refocus her academic efforts accordingly.

## **CLAIMS FOR RELIEF**

### **First Claim for Relief**

#### **Unlawful Creation of a Federal Advisory Committee in Violation of 5 U.S.C. § 706, 5 U.S.C. App. 2 § 9, 41 C.F.R. §§ 102-3.30, 102-3.60**

156. Plaintiffs repeat and incorporate by reference each of the forgoing allegations as if fully set forth herein.

157. The Taskforce is an advisory committee subject to the requirements of FACA.

158. FACA and its implementing regulations require certain findings and procedures before an agency may create an advisory committee. Defendants failed, in multiple respects, to comply with such requirements. In particular:

- a. Defendants have not made the requisite findings concerning whether: (1) the Taskforce is "in the public interest in connection with the performance of duties imposed on that agency by law," 5 U.S.C. App. 2 § 9(a)(2); (2) the Taskforce is "essential to the conduct of agency business," 41 C.F.R. § 102-3.30(a); and (3)

“the information to be obtained [through the Taskforce] is not already available through another advisory committee or source within the Federal Government,” *id.*

- b. Defendants did not meaningfully consult with GSA before creation of the Taskforce. 5 U.S.C. App. 2 § 9(a)(2).
- c. Defendants did not prepare a Membership Balance Plan before establishing the Taskforce. 41 C.F.R. § 102-3.60(a), (b)(3).

159. Accordingly, Defendants’ creation of the Taskforce was done without observance of procedure required by law. 5 U.S.C. § 706(2)(D).

**Second Claim for Relief**  
**Failure to Provide for Public Notice and Participation in Advisory Committee Meetings**  
**in Violation of 5 U.S.C. § 706, 5 U.S.C. App. 2 § 10, 41 C.F.R. § 102-3.145**

160. Plaintiffs repeat and incorporate by reference each of the forgoing allegations as if fully set forth herein.

161. FACA and its implementing regulations require that Defendants be transparent when conducting advisory committee business.

162. Defendants have failed to meet those requirements. Specifically, Defendants have failed to provide adequate notice of all Taskforce meetings, 5 U.S.C. App. 2 § 10(a)(2), 10(d); 41 C.F.R. § 102-3.145, or to allow meaningful public participation at all Taskforce meetings, 5 U.S.C. App. 2 § 10(a)(1), (a)(2), 10(d); 41 C.F.R. § 102-3.145.

163. Defendants’ failures, described above, are arbitrary, capricious, an abuse of discretion, not in accordance with law, and in excess of statutory authority, and/or constitute agency action unlawfully withheld. 5 U.S.C. § 706(1), (2).

**Third Claim for Relief**  
**Failure to Disclose Advisory Committee Materials In a Manner That Provides for**  
**Meaningful Public Participation in Violation of 5 U.S.C. § 706, 5 U.S.C. App. 2 § 10**

164. Plaintiffs repeat and incorporate by reference each of the forgoing allegations as if fully set forth herein.

165. Contrary to FACA, Defendants have failed to make available to the public the “[r]ecords, reports, transcripts, minutes, appendixes, working papers, drafts, studies, agenda, [and] other documents . . . made available to or prepared for or by” the Taskforce. 5 U.S.C. App. 2 § 10(b).

166. Defendants’ failures, described above, are arbitrary, capricious, an abuse of discretion, not in accordance with law, and in excess of statutory authority, and/or constitute agency action unlawfully withheld. 5 U.S.C. § 706(1), (2).

**Fourth Claim for Relief**  
**Unfairly Balanced Advisory Committee**  
**In Violation of 5 U.S.C. § 706, 5 U.S.C. App. 2 § 5**

167. Plaintiffs repeat and incorporate by reference each of the forgoing allegations as if fully set forth herein.

168. FACA requires that an advisory committee be “fairly balanced in terms of the points of view represented and the functions to be performed by the advisory committee.” 5 U.S.C. App. 2 § 5(b)(2).

169. The Taskforce’s stated function is to provide recommendations on “ways to improve and strengthen consumer financial laws and regulations[.]” Charter ¶ 3. The Taskforce does not include representation of consumer advocates or consumer finance law experts who endorse consumer protections despite the fact that the Taskforce is tasked with advising the agency on how to improve laws and regulations intended to protect consumers. Failure to include

these perspectives leaves the Taskforce incapable of considering this much-disputed topic with integrity.

170. Defendants' actions in appointing the Taskforce members are arbitrary, capricious, an abuse of discretion, not in accordance with law, and in excess of statutory authority. 5 U.S.C. § 706(2).

**Prayer for Relief**

WHEREFORE, Plaintiffs pray that this Court:

1. Declare that Defendants' creation and administration of the Taskforce violates the APA, FACA, and FACA's implementing regulations, and that the establishment of the Taskforce is therefore unlawful;
2. set aside the Taskforce's charter and all orders and decisions attendant to the Taskforce's creation, including the appointments of individual Taskforce members;
3. through the named Defendants, enjoin the Taskforce from meeting, advising the Director, and otherwise conducting Taskforce business;
4. order Defendants to immediately release all materials prepared for the Taskforce or its subcommittees, and to provide a *Vaughn* index for such material and those withheld from production for any reason;
5. enjoin Defendants from relying on and using any recommendations or advice from the Taskforce;
6. award Plaintiffs their costs, attorneys' fees, and other disbursements for this action; and
7. grant any other relief this Court deems appropriate.

DATED this June 16, 2020.

Kristen Miller (D.C. Bar No. 229627)\*  
John Lewis (D.C. Bar No. 1033826)\*  
Sean Lev (D.C. Bar No. 449936)\*  
Democracy Forward Foundation  
P.O. Box 34553  
Washington, DC 20043  
(202) 601-2483  
kmiller@democracyforward.org  
jlewis@democracyforward.org  
slev@democracyforward.org

*Counsel for Plaintiffs*

Respectfully submitted,

/s/ David A. Nicholas  
David A. Nicholas (BBO# 553996)  
Of Counsel  
Wolf Popper LLP  
20 Whitney Road  
Newton, MA 02460  
(617) 964 - 1548  
dnicholas@wolfpopper.com

*Counsel for Plaintiffs*

Michael Landis\*  
The Center for Public Interest Research  
1543 Wazee St., Ste. 400  
Denver, CO 80202  
(303) 573-5995 ext. 389  
mlandis@publicinterestnetwork.org

*Counsel for U.S. PIRG*

*\*Pro Hac Vice Motion forthcoming*



## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

National Association of Consumer Advocates; United States Public Interest Research Group; Kathleen Engel

(b) County of Residence of First Listed Plaintiff District of Columbia  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

David A. Nicholas  
Wolf Popper LLP  
20 Whitney Road  
Newton, MA  
(617) 964-1548

**DEFENDANTS**

Kathleen L. Kraninger, in her official capacity as Director of the Consumer Financial Protection Bureau; Consumer Financial Protection Bureau

County of Residence of First Listed Defendant \_\_\_\_\_

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice <b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input checked="" type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education <b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

**V. ORIGIN** (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding    ☐ 2 Removed from State Court    ☐ 3 Remanded from Appellate Court    ☐ 4 Reinstated or Reopened    ☐ 5 Transferred from Another District (specify)    ☐ 6 Multidistrict Litigation - Transfer    ☐ 8 Multidistrict Litigation - Direct File

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
Federal Advisory Committee Act (5 U.S.C. App. 2); Administrative Procedure Act (5 U.S.C. § 706)

Brief description of cause:

Violation of the Federal Advisory Committee Act and the Administrative Procedure Act.

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.    DEMAND \$ \_\_\_\_\_

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE \_\_\_\_\_

DOCKET NUMBER \_\_\_\_\_

DATE

SIGNATURE OF ATTORNEY OF RECORD

6/16/2020

/s/ David A. Nicholas

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_

AMOUNT \_\_\_\_\_

APPLYING IFP \_\_\_\_\_

JUDGE \_\_\_\_\_

MAG. JUDGE \_\_\_\_\_

**INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**

## Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.  
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.  
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.  
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.  
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.  
 Original Proceedings. (1) Cases which originate in the United States district courts.  
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.  
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.  
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.  
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.  
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.  
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.  
**PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.  
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.  
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

## 1. Title of case (name of first party on each side only)

National Association of Consumer Advocates, et al. v. Kathleen L. Kraninger, et ano.

## 2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).

☐

I. 160, 400, 410, 441, 535, 830\*, 835\*, 850, 891, 893, R.23, REGARDLESS OF NATURE OF SUIT.

☒

II. 110, 130, 190, 196, 370, 375, 376, 440, 442, 443, 445, 446, 448, 470, 751, 820\*, 840\*, 895, 896, 899.

☐

III. 120, 140, 150, 151, 152, 153, 195, 210, 220, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 367, 368, 371, 380, 385, 422, 423, 430, 450, 460, 462, 463, 465, 480, 490, 510, 530, 540, 550, 555, 560, 625, 690, 710, 720, 740, 790, 791, 861-865, 870, 871, 890, 950.

\*Also complete AO 120 or AO 121. for patent, trademark or copyright cases.

## 3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.

## 4. Has a prior action between the same parties and based on the same claim ever been filed in this court?

YES

☐

NO

☒

## 5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)

YES

☐

NO

☒

If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?

YES

☐

NO

☐

## 6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?

YES

☐

NO

☒7. Do all of the parties in this action, excluding governmental agencies of the United States and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).

YES

☐

NO

☒A. If yes, in which division do all of the non-governmental parties reside?

Eastern Division

☐

Central Division

☐

Western Division

☐

## B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?

Eastern Division

☒

Central Division

☐

Western Division

☐

## 8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)

YES

☐

NO

☐

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME David A. Nicholas

ADDRESS 20 Whitney Road, Newton MA

TELEPHONE NO. (617) 964-1548

# EXHIBIT A



Office of Law Faculty

120 Tremont Street  
Boston, MA 02108

617-573-8000

[www.law.suffolk.edu](http://www.law.suffolk.edu)

October 25, 2019

Director Kathleen Kraninger  
Consumer Financial Protection Bureau  
1700 G St NW  
Washington, DC 20552

Dear Director Kraninger,

I am writing to apply for a position on the Taskforce on Federal Consumer Law.

Consumer law and finance has been the focus of my research and policy work for twenty years. I have written many articles related to consumer protection and a book on the law and economics of mortgage markets and the subprime crisis. In addition, I have held senior public positions and board positions related to consumer protection.

Senior public service

I have held numerous public service positions at the state and Federal level, including serving as a member of: (1) the Federal Reserve Board's Consumer Advisory Council (CAC) where I chaired the Consumer Credit Committee; (2) the CFPB's Consumer Advisory Board; (3) the Community Affairs Research Advisory Board of the Federal Reserve Bank of Boston; and (4) the Federal Reserve Bank of Cleveland's Academic Advisory Council on Subprime Lending.

In these positions, I reviewed and assessed extant and proposed regulations governing consumer financial products as well as empirical and legal research related to consumer finance. The positions have all involved working closely with people representing diverse constituencies, ranging from payday lenders to community development corporations.

While on the CAC, I organized a Data Subgroup with the mission of reducing the data reporting burden on banks by centralizing data collection and access. Our vision was to have a data warehouse that contained all the data that regulators require banks to produce; each regulator would then have access to the data that related to their authority using a single software platform.



I have trained Federal Trade Commission attorneys on mortgage regulations and twice been on consulting teams that were awarded contracts to assist the Department of Housing and Urban Development on fair lending compliance. In addition to my public service activities listed in my resume, I have advised state governments, including Ohio, Massachusetts, California and Illinois, on an array of issues related to consumer credit.

#### Research and teaching

I have engaged in research on all aspects of consumer finance, ranging from specific products and the delivery of services to the laws that regulate consumer financial products and the structure of financial markets. As a law professor, I have taught courses on consumer credit, including a survey course and an advanced seminar, and a class on the financial crisis, called Credit and Catastrophe. My knowledge of the laws and regulations governing consumer credit is based on both practical experience and deep academic study.

I am a highly respected scholar of consumer law. My publications have garnered numerous awards, including first place awards for a book and an article from the American College of Consumer Financial Services Lawyers-- an organization of lawyers that primarily represent financial institutions. Policy-makers have relied on my research in issuing regulations and passing legislation. A suitability standard that my co-author and I first proposed in 2001 informed pieces of the Dodd-Frank Act. Amendments to Reg. Z and AMPA have cited my articles.

My research frequently incorporates economic principles and research. I have co-authored several articles with economists and have conducted my own empirical research on consumer protection laws.

Several years ago, I decided to stop teaching and dedicate my time to policy work and research. I continue to hold an appointment as a Research Professor at Suffolk University Law School and have maintained my academic connections such as serving on the Executive Committee of the American Association of Law Schools' Section on Commercial and Related Consumer Law.

I have also joined a number of Boards of Directors, including Consumer Reports, and am working on a new research project on student loan servicing. The flexibility in my schedule allows me to pursue opportunities like the Taskforce, which would not have been possible when I was teaching full-time.

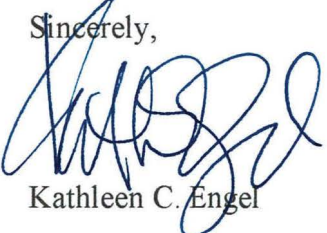
Taskforce goals

Harmonizing, modernizing, and updating consumer credit laws and regulations is long overdue. Examples abound of laws that do not take into account new realities of consumers' behavior. For example, the APR for closed end loans assumes a holding period of thirty years. Although the new TILA/ RESPA integrated disclosure attempts to address this distorting assumption, there are tools that could more accurately approximate borrowers' APRs and, thus, help them to comparison shop and make well-informed choices. Similarly, repeated revisions to TILA regulations have resulted in a complex scheme that is very difficult to navigate. There is significant room for consolidation and reorganizing the regs. The process likely requires returning to first principles and asking whether the regulations efficiently achieve those principles. Any new approaches would benefit from the CFPB's ability to conduct experiments.

Consumers have become accustomed to learning, evaluating products, and making decisions online. Digital innovations can be important tools for assisting consumers in the process of making choices among credit products. To the extent regulations can take this new reality into account, technology could improve transparency and consumer decision-making while also helping lenders increase their efficiency and decrease their costs. Of course, any modernization should take into account potential enforcement challenges for the CFPB and other regulators, operational hurdles for lenders, and the rich behavioral research on how consumers make decisions. Regulations not based on research run the risk of failing at their purpose.

The CFPB is embarking on a laudable and important project. I believe that I have the experience and interpersonal skills to make substantial contributions to the process and goals of the Taskforce.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Kathleen C. Engel', is written over the printed name.

Kathleen C. Engel

# EXHIBIT B



**From:** [Cameron, Matt \(CFPB\)](#)  
**To:** [Sutton, Yasaman \(CFPB\)](#)  
**Cc:** [Weber, Nathaniel \(CFPB\)](#)  
**Subject:** RE: Taskforce Compensation  
**Date:** Wednesday, January 29, 2020 12:26:07 PM

---

Hi Yasi:

Per our conversation and to help provide some additional clarity on Taskforce compensation. We have been working with the Office of Human Capital (OHC), who has had the lead on this. Here's how their compensation was determined:

- Chair, Todd Zywicki
  - Is appointed through our Intergovernment Personnel Act (IPA) authority – through this authority, the Bureau will reimburse his university, George Mason (GMU), directly for the time he is with us. Not to exceed 200 days of service, as outlined in a Memorandum of Understanding (MOU) between the Bureau and GMU. The Director has capped his time of service with us at 200 days to ensure we are being good stewards of Bureau resources in this effort. Given the intermittent schedule, his pay is reimbursed at the hourly rate.
- Dr. J. Howard Beales, III
  - Is appointed through our Expert hiring authority (direct hire authority). His pay was determined through the standard compensation process within OHC and is at the CN-71 grade level. Dr. Beales has also received the designation of a Special Government Employee (SGE), which limits the amount of time he is able to work at the Bureau to 130 days. Given the intermittent schedule, his pay is reimbursed at the hourly rate.
- Dr. Thomas Durkin
  - Is appointed through our Expert hiring authority (direct hire authority). His pay was determined through the standard compensation process within OHC and is at the CN-71 grade level. Dr. Durkin has also received the designation of a Special Government Employee (SGE), which limits the amount of time he is able to work at the Bureau to 130 days. Given the intermittent schedule, his pay is reimbursed at the hourly rate.
- L. Jean Noonan
  - Is appointed through our Expert hiring authority (direct hire authority). Her pay was determined through the standard compensation process within OHC and is at the CN-71 grade level. Ms. Noonan has also received the designation of a Special Government Employee (SGE), which limits the amount of time she is able to work at the Bureau to 130 days. Given the intermittent schedule, her pay is reimbursed at the hourly rate.
- William MacLeod
  - Is appointed through our Expert hiring authority (direct hire authority). His pay was determined through the standard compensation process within OHC and is at the CN-71 grade level. Mr. MacLeod has also received the designation of a Special Government Employee (SGE), which limits the amount of time he is able to work at the Bureau to 130 days. Given the intermittent schedule, his pay is reimbursed at the

hourly rate.

I hope this information is helpful.

Thanks,  
Matt

Matt Cameron, Staff Director  
Taskforce on Federal Consumer Financial Law  
Office of Advisory Board and Councils

---

**From:** Sutton, Yasaman (CFPB) (b)(6)  
**Sent:** Wednesday, January 29, 2020 10:36 AM  
**To:** Cameron, Matt (CFPB) (b)(6)  
**Subject:** Taskforce Compensation

Matt,

I have a question re subject.

Need to connect with you prior to my meeting with the Director today at 2:30.

Appreciate it.

Yasi

**From:** [ARC Human Resources](#)  
**To:** [hbeales@gwu.edu](mailto:hbeales@gwu.edu); [Dunham, Kerri \(CFPB\)](#); [Hall, Unita \(CFPB\)](#)  
**Subject:** No Response Required: Job Offer Letter for Expert (Taskforce Member), CN-0301-71  
**Date:** Friday, January 10, 2020 10:58:26 AM  
**Attachments:** [Official Offer Letter.docx](#)  
[CFPB Ethics Office - Ethics Notice to Prospective CFPB Employee.pdf](#)

This message was sent securely using Zix®

\*\*\*SENSITIVE BUT UNCLASSIFIED\*\*\*

**No Response Required: Job Offer Letter for Expert (Taskforce Member), CN-0301-71**

J. Howard Beales,

Congratulations on your selection for the position of Expert (Taskforce Member), CN-0301-71 (FPL 71) with Consumer Financial Protection Bureau, located in Washington, DC, USA. The attached letter outlines the details of your appointment. If you have any questions, please contact me.

Please read the letter carefully as it includes information regarding the documentation and identification requested for your first day of work.

Thank you,

Kristina Spader

(b)(6)

This message was secured by Zix®.



1/10/2020

Dear J. Howard Beales:

Welcome and congratulations on your selection for a position within the Consumer Financial Protection Bureau, Director. Information regarding your appointment may be found below:

Position Title, Pay Plan-Series-, Grade, Step	Expert (Taskforce Member), CN-0301-71, Step 00
Full Performance Level:	71
Duty Station:	1700 "G" Street, NW Washington, DC 20552
Regional Affiliation:	
Starting Salary:	\$103.39 (Includes a 18% locality rate)
Other Pay Information:	
Type of Action:	Exc Appt NTE, 1/20/2021
Work Schedule:	Intermittent
Effective Date:	1/21/2020
Supervisor Name:	Matt Cameron
Human Capital Customer Consultant:	
Report to Information:	
Orientation Address	1700 G Street NW, Washington, DC 20552
Date and Time	1/21/2020, 8:30am
Contact Name and Phone Number	Tosin Ajayi - (b)(6)

This job offer is contingent upon receipt and verification of any necessary information, if requested, to validate the legality of this appointment.

Relocation expenses will not be paid. You are responsible for the payment of all travel, transportation, and other expenses.

As an intermittent employee, standard payroll taxes will be deducted from your pay and you are not eligible for annual and sick leave. If you have any questions concerning your eligibility for benefits or retirement in connection with this new appointment, please contact the Benefits

Service Center at 304-480-8275 or [benefits@fiscal.treasury.gov](mailto:benefits@fiscal.treasury.gov) to discuss your personal situation with a Benefits staff member.

You will occupy a position that requires a personnel background investigation. Continued employment is subject to receipt of satisfactory results of this investigation.

If you think you may have prior Federal service, including military service, please contact our Benefits Service Center at (866) 868-4357, or [benefits@fiscal.treasury.gov](mailto:benefits@fiscal.treasury.gov), to discuss your service history with one of our Benefits staff members. It is very important to hear from you as soon as possible so that our Benefits staff can accurately assign your retirement coverage and benefit(s) to your new appointment.

Locality payments are supplements to base pay that reflect the cost of labor in a particular place. Your eligibility for a locality payment derives from your duty station. Any change in your duty station must be immediately communicated to your Customer Consultant (identified above), as the locality payment is subject to change.

#### Prior to Your First Day

**Complete the forms on the new employee portal.** You must complete, print and sign each document accordingly, and be prepared to bring them with you on your first day.

The "Benefits" section houses further information about your benefits options and related forms.

If you have a medical condition, please let us know as soon as possible what, if any, reasonable accommodation you may need. Every effort to ensure that your needs are met in advance of your arrival will be made. Please send any requests for reasonable accommodation to Sinajo Jasmir at (b)(6). They will contact you if they need additional information.

Please visit the CFPB New Employee Orientation website to learn more about working at CFPB. It is located here: <https://arc.fiscal.treasury.gov/orientation/fscfpborientation.htm>

#### On Your First Day

On your first day of work you will be required to provide proof of citizenship. The I-9, Employee Eligibility Verification form, outlines the required forms of identification. Also, please be sure to bring your original form OF-306, Declaration for Federal Employment, with you on your first day of work. If you are a United States citizen by naturalization, you will also be required to provide your original naturalization paperwork.

You will receive specific orientation information one week prior to arrival. For more details, please contact (b)(6)

If you have any questions, please contact me at (b)(6)

Sincerely,

Kristina Spader  
Human Resources Specialist

(b)(6)



### **Ethics Notice to Prospective CFPB Employees**

The Consumer Financial Protection Bureau (CFPB) is committed to achieving a standard of exemplary integrity in all that we do. One of the most important ways to ensure our continued success in helping Americans build a strong financial future for themselves and their families is to follow the principle that public service is public trust. Fulfilling this basic tenet helps us earn and keep the trust of financial consumers and the American public. Each of us shares responsibility to assure the vitality of our ethical culture and our reputation as a trusted resource for consumers.

Upon joining the CFPB, you will be subject to a number of ethics laws, including:

- Standards of Ethical Conduct for Employees of the Executive Branch
- Criminal conflict of interest statutes
- CFPB Ethics Regulations

The CFPB Ethics Regulations will prohibit you, your spouse, and minor children from owning or controlling financial interests, such as stocks and corporate bonds, in entities supervised by the CFPB. You may be required to divest these interests before you begin employment or shortly after.

The CFPB Ethics Regulations also will restrict your ability to work on matters involving certain of your creditors, prevent you from seeking credit from certain lenders, and require you to obtain prior approval for outside employment or business activities.

#### Important Dates

- You will be required to complete initial government ethics training within 3 months of your appointment.
- Certain Bureau employees whose duties require them to exercise discretion in sensitive areas such as contracting, procurement, or regulating, supervising or examining non-Federal entities, must file confidential disclosure reports (OGE Form 450). If you are appointed to a position subject to this filing requirement, you must file your report within 30 days of assuming your position.
- The Director, Executives (Bands 8 and 9), Administrative Law Judges, certain Special Government Employees, and certain Intergovernmental Personnel Act employees are required to file public financial disclosure reports (OGE Form 278e). If you are appointed to a position subject to this filing requirement, you must file your report within 30 days of assuming the position.

Please contact the CFPB Ethics Office at (b)(6) to discuss any questions you may have. We look forward to you joining our team.

## NOTIFICATION OF PERSONNEL ACTION

1. Name (Last, First, Middle) BEALES III, JOHN HOWARD					2. Social Security Number (b)(6)		3. Date of Birth (b)(6)		4. Effective Date 01-21-2020		
<b>FIRST ACTION</b>					<b>SECOND ACTION</b>						
5-A. Code 171		5-B. Nature of Action EXC APPT NTE 01/20/21			6-A. Code		6-B. Nature of Action				
5-C. Code ZLM		5-D. Legal Authority 213 3102 L			6-C. Code		6-D. Legal Authority				
5-E. Code		5-F. Legal Authority			6-E. Code		6-F. Legal Authority				
7. FROM: Position Title and Number					15. TO: Position Title and Number EXPERT (TASKFORCE MEMBER) 66317865 200530						
8. Pay Plan	9. Occ. Code	10. Grade or Level	11. Step or Rate	12. Total Salary .00	13. Pay Basis	16. Pay Plan CN	17. Occ. Code 0301	18. Grade or Level 71	19. Step or Rate 00	20. Total Salary \$215,769.00	21. Pay Basis PA
12A. Basic Pay .00		12B. Locality Adj. .00		12C. Adj. Basic Pay .00	12D. Other Pay .00	20A. Basic Pay \$182,855.00		20B. Locality Adj. \$32,914.00		20C. Adj. Basic Pay \$215,769.00	20D. Other Pay .00
14. Name and Location of Position's Organization					22. Name and Location of Position's Organization CONSUMER FINANCIAL PROTECT BUREAU DIRECTOR OFFICE OF THE DIRECTOR  FR FT1010000000000000 PP 02 2020						
<b>EMPLOYEE DATA</b>											
23. Veterans Preference (b)(6) 1 ? None 3 ? 10 Point/Disability 5 ? 10 Point/Other 2 ? 5 Point 4 ? 10 Point/Compensable 6 ? 10 Point/Compensable/30%					24. Tenure 0 0 ? None 2 - Conditional 1 ? Permanent 3 - Indefinite			25. Agency Use		26. Veterans Preference for RIF (b)(6) NO	
27. FEGLI A0 INELIGIBLE-EXCLUDED BY LAW OR REG					28. Annuitant Indicator 9 NOT APPLICABLE			29. Pay Rate Determinant 0			
30. Retirement Plan (b)(6)					31. Service Comp. Date (Leave)			32. Work Schedule I INTERMITTENT		33. Part-Time Hours Per Biweekly Pay Period	
<b>POSITION DATA</b>											
34. Position Occupied 2 1 ? Competitive Service 3 ? SES General 2 ? Excepted Service 4 ? SES Career Reserved				35. FLSA Category E E ? Exempt N - Nonexempt		36. Appropriation Code			37. Bargaining Unit Status 8888		
38. Duty Station Code 11-0010-001				39. Duty Station (City-County-State or Overseas Location) WASHINGTON DIST OF COLUMBIA DC							
40. Agency Data		41.		42.		43.		44.			
45. Remarks INELIGIBLE FOR LEAVE. POSITION IS AT THE FULL PERFORMANCE LEVEL OR BAND. APPOINTMENT AFFIDAVIT EXECUTED 01/21/2020. REASON FOR TEMPORARY APPOINTMENT: ADMINISTRATIVE NEED. OPF MAINTAINED BY BUREAU OF THE FISCAL SERVICE, 200 THIRD STREET, PARKERSBURG, WV 26106. CREDITABLE MILITARY SERVICE: (b)(6) PREVIOUS RETIREMENT COVERAGE: (b)(6)											
46. Employing Department or Agency CONSUMER FINANCIAL PROTECTION BUR						50. Signature/Authentication and Title of Approving Official E/S BY: JEFFREY SUMBERG CHIEF HUMAN CAPITAL OFFICER					
47. Agency Code FR FT		48. Personnel Office ID 2731		49. Approval Date 01-23-2020							

Editions Prior to 7/91 Are Not Usable After 6/30/93

NSN 7540-01-333-6236

1 - Employee Copy - Keep for Future Reference



**From:** [ARC Human Resources](#)  
**To:** (b)(6) [Dunham, Kerri \(CFPB\); Hall, Unita \(CFPB\)](#)  
**Subject:** No Response Required: Job Offer Letter for Expert (Taskforce Member), CN-0301-71  
**Date:** Friday, January 10, 2020 9:53:21 AM  
**Attachments:** [Official Offer Letter.docx](#)  
[CFPB Ethics Office - Ethics Notice to Prospective CFPB Employee.pdf](#)

This message was sent securely using Zix®

\*\*\*SENSITIVE BUT UNCLASSIFIED\*\*\*

**No Response Required: Job Offer Letter for Expert (Taskforce Member), CN-0301-71**

Thomas Durkin,

Congratulations on your selection for the position of Expert (Taskforce Member), CN-0301-71 (FPL 71) with Consumer Financial Protection Bureau, located in Washington, DC, USA. The attached letter outlines the details of your appointment. If you have any questions, please contact me.

Please read the letter carefully as it includes information regarding the documentation and identification requested for your first day of work.

Thank you,

Kristina Spader

(b)(6)

This message was secured by Zix®.



1/9/2020

Dear Thomas Durkin:

Welcome and congratulations on your selection for a position within the Consumer Financial Protection Bureau, Director. Information regarding your appointment may be found below:

Position Title, Pay Plan-Series-, Grade, Step	Expert (Taskforce Member), CN-0301-71, Step 00
Full Performance Level:	71
Duty Station:	1700 "G" Street, NW Washington, DC 20552
Regional Affiliation:	
Hourly Rate of Pay:	\$103.74 (Includes a 18% locality rate)
Other Pay Information:	
Type of Action:	Exc Appt NTE, 1/20/2021
Work Schedule:	Intermittent
Effective Date:	1/21/2020
Supervisor Name:	Matt Cameron
Human Capital Customer Consultant:	Kerri Dunham - (b)(6)
Report to Information:	
Orientation Address	1700 G Street NW, Washington, DC 20552
Date and Time	1/21/2020, 8:30am
Contact Name and Phone Number	Tosin Ajayi - (b)(6)

This job offer is contingent upon receipt and verification of any necessary information, if requested, to validate the legality of this appointment.

**You will be designated as a Special Government Employee which limits your work schedule to no more than 130 days within a 365 day period of time.**

Relocation expenses will not be paid. You are responsible for the payment of all travel, transportation, and other expenses.

As an intermittent employee, standard payroll taxes will be deducted from your pay and you are not eligible for annual and sick leave. If you have any questions concerning your eligibility for benefits or retirement in connection with this new appointment, please contact the Benefits Service Center at 304-480-8275 or [benefits@fiscal.treasury.gov](mailto:benefits@fiscal.treasury.gov) to discuss your personal situation with a Benefits staff member.

You will occupy a position that requires a personnel background investigation. Continued employment is subject to receipt of satisfactory results of this investigation.

If you think you may have prior Federal service, including military service, please contact our Benefits Service Center at (866) 868-4357, or [benefits@fiscal.treasury.gov](mailto:benefits@fiscal.treasury.gov), to discuss your service history with one of our Benefits staff members. It is very important to hear from you as soon as possible so that our Benefits staff can accurately assign your retirement coverage and benefit(s) to your new appointment.

Locality payments are supplements to base pay that reflect the cost of labor in a particular place. Your eligibility for a locality payment derives from your duty station. Any change in your duty station must be immediately communicated to your Customer Consultant (identified above), as the locality payment is subject to change.

#### Prior to Your First Day

**Complete the forms on the new employee portal.** You must complete, print and sign each document accordingly, and be prepared to bring them with you on your first day.

The "Benefits" section houses further information about your benefits options and related forms.

If you have a medical condition, please let us know as soon as possible what, if any, reasonable accommodation you may need. Every effort to ensure that your needs are met in advance of your arrival will be made. Please send any requests for reasonable accommodation to Sinajo Jasmir at (b)(6) They will contact you if they need additional information.

Please visit the CFPB New Employee Orientation website to learn more about working at CFPB. It is located here: <https://arc.fiscal.treasury.gov/orientation/fscfpborientation.htm>

#### On Your First Day

On your first day of work you will be required to provide proof of citizenship. The I-9, Employee Eligibility Verification form, outlines the required forms of identification. Also, please be sure to bring your original form OF-306, Declaration for Federal Employment, with

you on your first day of work. If you are a United States citizen by naturalization, you will also be required to provide your original naturalization paperwork.

You will receive specific orientation information one week prior to arrival. For more details, please contact (b)(6)

If you have any questions, please contact me at (b)(6)

Sincerely,

Kristina Spader

(b)(6)



### **Ethics Notice to Prospective CFPB Employees**

The Consumer Financial Protection Bureau (CFPB) is committed to achieving a standard of exemplary integrity in all that we do. One of the most important ways to ensure our continued success in helping Americans build a strong financial future for themselves and their families is to follow the principle that public service is public trust. Fulfilling this basic tenet helps us earn and keep the trust of financial consumers and the American public. Each of us shares responsibility to assure the vitality of our ethical culture and our reputation as a trusted resource for consumers.

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- CFPB Ethics Regulations

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The CFPB Ethics Regulations also will restrict your ability to work on matters involving certain of your creditors, prevent you from seeking credit from certain lenders, and require you to obtain prior approval for outside employment or business activities.

#### Important Dates

- You will be required to complete initial government ethics training within 3 months of your appointment.
- Certain Bureau employees whose duties require them to exercise discretion in sensitive areas such as contracting, procurement, or regulating, supervising or examining non-Federal entities, must file confidential disclosure reports (OGE Form 450). If you are appointed to a position subject to this filing requirement, you must file your report within 30 days of assuming your position.
- The Director, Executives (Bands 8 and 9), Administrative Law Judges, certain Special Government Employees, and certain Intergovernmental Personnel Act employees are required to file public financial disclosure reports (OGE Form 278e). If you are appointed to a position subject to this filing requirement, you must file your report within 30 days of assuming the position.

Please contact the CFPB Ethics Office at (b)(6) to discuss any questions you may have. We look forward to you joining our team.

**NOTIFICATION OF PERSONNEL ACTION**

1. Name (Last, First, Middle) DURKIN, THOMAS A					2. Social Security Number (b)(6)		3. Date of Birth (b)(6)		4. Effective Date 01-21-2020		
<b>FIRST ACTION</b>					<b>SECOND ACTION</b>						
5-A. Code 171		5-B. Nature of Action EXC APPT NTE 01/20/21			6-A. Code		6-B. Nature of Action				
5-C. Code ZLM		5-D. Legal Authority 213 3102 I			6-C. Code		6-D. Legal Authority				
5-E. Code		5-F. Legal Authority			6-E. Code		6-F. Legal Authority				
7. FROM: Position Title and Number					15. TO: Position Title and Number EXPERT (TASKFORCE MEMBER) 66317866 200530						
8. Pay Plan	9. Occ. Code	10. Grade or Level	11. Step or Rate	12. Total Salary .00	13. Pay Basis	16. Pay Plan CN	17. Occ. Code 0301	18. Grade or Level 71	19. Step or Rate 00	20. Total Salary \$215,055.00	21. Pay Basis PA
12A. Basic Pay .00		12B. Locality Adj. .00		12C. Adj. Basic Pay .00	12D. Other Pay .00	20A. Basic Pay \$182,250.00		20B. Locality Adj. \$32,805.00		20C. Adj. Basic Pay \$215,055.00	20D. Other Pay .00
14. Name and Location of Position's Organization					22. Name and Location of Position's Organization CONSUMER FINANCIAL PROTECT BUREAU DIRECTOR OFFICE OF THE DIRECTOR  FR FT1010000000000000 PP 02 2020						
<b>EMPLOYEE DATA</b>											
23. Veterans Preference (b)(6) 1 ? None 3 ? 10 Point/Disability 5 ? 10 Point/Other 2 ? 5 Point 4 ? 10 Point/Compensable 6 ? 10 Point/Compensable/30%					24. Tenure 0 0 ? None 2 - Conditional 1 ? Permanent 3 - Indefinite			25. Agency Use		26. Veterans Preference for RIF (b)(6) NO	
27. FEGLI A0 INELIGIBLE-EXCLUDED BY LAW OR REG					28. Annuitant Indicator 9 NOT APPLICABLE			29. Pay Rate Determinant 0			
30. Retirement Plan (b)(6)			31. Service Comp. Date (Leave) (b)(6)		32. Work Schedule I INTERMITTENT			33. Part-Time Hours Per Biweekly Pay Period			
<b>POSITION DATA</b>											
34. Position Occupied 2 1 ? Competitive Service 3 ? SES General 2 ? Excepted Service 4 ? SES Career Reserved				35. FLSA Category E E ? Exempt N - Nonexempt		36. Appropriation Code			37. Bargaining Unit Status 8888		
38. Duty Station Code 11-0010-001				39. Duty Station (City-County-State or Overseas Location) WASHINGTON DIST OF COLUMBIA DC							
40. Agency Data		41.		42.		43.		44.			
45. Remarks INELIGIBLE FOR HEALTH BENEFITS. INELIGIBLE FOR LEAVE. POSITION IS AT THE FULL PERFORMANCE LEVEL OR BAND. APPOINTMENT AFFIDAVIT EXECUTED 1/21/2020 REASON FOR TEMPORARY APPOINTMENT: ADMINISTRATIVE NEED OPF MAINTAINED BY: BUREAU OF THE FISCAL SERVICE, 200 THIRD ST, PARKERSBURG WV 26106 CREDITABLE MILITARY SERVICE: (b)(6) PREVIOUS RETIREMENT COVERAGE: (b)(6)											
46. Employing Department or Agency CONSUMER FINANCIAL PROTECTION BUR						50. Signature/Authentication and Title of Approving Official E/S BY: JEFFREY SUMBERG CHIEF HUMAN CAPITAL OFFICER					
47. Agency Code FR FT		48. Personnel Office ID 2731		49. Approval Date 01-23-2020							

Editions Prior to 7/91 Are Not Usable After 6/30/93

NSN 7540-01-333-6236

1 - Employee Copy - Keep for Future Reference

**From:** [ARC Human Resources](#)  
**To:** [JNoonan@Hudco.com](mailto:JNoonan@Hudco.com); [Dunham, Kerri \(CFPB\)](#); [Hall, Unita \(CFPB\)](#)  
**Subject:** No Response Required: Job Offer Letter for Expert (Taskforce Member), CN-0301-71  
**Date:** Monday, January 13, 2020 12:31:16 PM  
**Attachments:** [Official Offer Letter.docx](#)  
[CFPB Ethics Office - Ethics Notice to Prospective CFPB Employee.pdf](#)

This message was sent securely using Zix®

\*\*\*SENSITIVE BUT UNCLASSIFIED\*\*\*

**No Response Required: Job Offer Letter for Expert (Taskforce Member), CN-0301-71**

Jean Noonan,

Congratulations on your selection for the position of Expert (Taskforce Member), CN-0301-71 (FPL 71) with Consumer Financial Protection Bureau, located in Washington, DC, USA. The attached letter outlines the details of your appointment. If you have any questions, please contact me.

Please read the letter carefully as it includes information regarding the documentation and identification requested for your first day of work.

Thank you,

Kristina Spader

(b)(6)

This message was secured by Zix®.



1/13/2020

Dear Jean Noonan:

Welcome and congratulations on your selection for a position within the Consumer Financial Protection Bureau, Director. Information regarding your appointment may be found below:

Position Title, Pay Plan-Series-, Grade, Step	Expert (Taskforce Member), CN-0301-71, Step 00
Full Performance Level:	71
Duty Station:	1700 "G" Street, NW Washington, DC 20552
Regional Affiliation:	
Annual Salary:	\$215,769 (Includes a 18% locality rate)
Hourly salary with annuity offset Information:	Your hourly rate will be offset by \$46.13 per the gross monthly annuity amount of \$8,023, making your <b>final hourly rate \$57.26</b>
Type of Action:	Exc Appt NTE, 1/20/2021
Work Schedule:	Intermittent
Effective Date:	1/21/2020
Supervisor Name:	Matt Cameron
Human Capital Customer Consultant:	
Report to Information:	
Orientation Address	1700 G Street NW, Washington, DC 20552
Date and Time	1/21/2020, 8:30am
Contact Name and Phone Number	Tosin Ajayi - (b)(6)

This job offer is contingent upon receipt and verification of any necessary information, if requested, to validate the legality of this appointment.

**You will be designated as a Special Government Employee which limits your work schedule to no more than 130 days within a 365 day period of time.**

As a re-employed annuitant receiving a monthly CSRS annuity, your salary will have to be offset



for that amount. Based on your annual salary of \$215,769, your hourly rate would be \$103.39 before the annuity offset. Your hourly rate will be offset by \$46.13 per the gross monthly annuity amount of \$8,023, making your **final hourly rate \$57.26**

As a reemployed annuitant you will not serve a probationary period; however, you are serving at the will of the appointing officer. To obtain additional information about how re-employment will affect your status as an annuitant, please contact James Hinzman at (b)(6)

Relocation expenses will not be paid. You are responsible for the payment of all travel, transportation, and other expenses.

As an intermittent employee, standard payroll taxes will be deducted from your pay and you are not eligible for annual and sick leave. If you have any questions concerning your eligibility for benefits or retirement in connection with this new appointment, please contact the Benefits Service Center at 304-480-8275 or [benefits@fiscal.treasury.gov](mailto:benefits@fiscal.treasury.gov) to discuss your personal situation with a Benefits staff member.

You will occupy a position that requires a personnel background investigation. Continued employment is subject to receipt of satisfactory results of this investigation.

If you think you may have prior Federal service, including military service, please contact our Benefits Service Center at (866) 868-4357, or [benefits@fiscal.treasury.gov](mailto:benefits@fiscal.treasury.gov), to discuss your service history with one of our Benefits staff members. It is very important to hear from you as soon as possible so that our Benefits staff can accurately assign your retirement coverage and benefit(s) to your new appointment.

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your arrival will be made. Please send any requests for reasonable accommodation to Sinajo Jasmir at (b)(6) They will contact you if they need additional information.

Please visit the CFPB New Employee Orientation website to learn more about working at CFPB. It is located here: <https://arc.fiscal.treasury.gov/orientation/fscfpborientation.htm>

### On Your First Day

On your first day of work you will be required to provide proof of citizenship. The I-9, Employee Eligibility Verification form, outlines the required forms of identification. Also, please be sure to bring your original form OF-306, Declaration for Federal Employment, with you on your first day of work. If you are a United States citizen by naturalization, you will also be required to provide your original naturalization paperwork.

You will receive specific orientation information one week prior to arrival. For more details, please contact (b)(6)

If you have any questions, please contact me at (b)(6)

Sincerely,

Kristina Spader  
Human Resources Specialist

(b)(6)



### **Ethics Notice to Prospective CFPB Employees**

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- Criminal conflict of interest statutes
- CFPB Ethics Regulations

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- Certain Bureau employees whose duties require them to exercise discretion in sensitive areas such as contracting, procurement, or regulating, supervising or examining non-Federal entities, must file confidential disclosure reports (OGE Form 450). If you are appointed to a position subject to this filing requirement, you must file your report within 30 days of assuming your position.
- The Director, Executives (Bands 8 and 9), Administrative Law Judges, certain Special Government Employees, and certain Intergovernmental Personnel Act employees are required to file public financial disclosure reports (OGE Form 278e). If you are appointed to a position subject to this filing requirement, you must file your report within 30 days of assuming the position.

Please contact the CFPB Ethics Office at (b)(6) to discuss any questions you may have. We look forward to you joining our team.

**NOTIFICATION OF PERSONNEL ACTION**

1. Name (Last, First, Middle) NOONAN, LINDA JEAN					2. Social Security Number (b)(6)		3. Date of Birth (b)(6)		4. Effective Date 01-21-2020		
<b>FIRST ACTION</b>					<b>SECOND ACTION</b>						
5-A. Code 171		5-B. Nature of Action EXC APPT NTE 01/20/21			6-A. Code		6-B. Nature of Action				
5-C. Code ZLM		5-D. Legal Authority 213 3102 L			6-C. Code		6-D. Legal Authority				
5-E. Code		5-F. Legal Authority			6-E. Code		6-F. Legal Authority				
7. FROM: Position Title and Number					15. TO: Position Title and Number EXPERT (TASKFORCE MEMBER) 66318234 200530						
8. Pay Plan	9. Occ. Code	10. Grade or Level	11. Step or Rate	12. Total Salary .00	13. Pay Basis	16. Pay Plan CN	17. Occ. Code 0301	18. Grade or Level 71	19. Step or Rate 00	20. Total Salary \$215,769.00	21. Pay Basis PA
12A. Basic Pay .00		12B. Locality Adj. .00		12C. Adj. Basic Pay .00	12D. Other Pay .00	20A. Basic Pay \$182,855.00		20B. Locality Adj. \$32,914.00		20C. Adj. Basic Pay \$215,769.00	20D. Other Pay .00
14. Name and Location of Position's Organization					22. Name and Location of Position's Organization CONSUMER FINANCIAL PROTECT BUREAU DIRECTOR OFFICE OF THE DIRECTOR  FR FT1010000000000000 PP 02 2020						
<b>EMPLOYEE DATA</b>											
23. Veterans Preference (b)(6) 1 ? None 3 ? 10 Point/Disability 5 ? 10 Point/Other 2 ? 5 Point 4 ? 10 Point/Compensable 6 ? 10 Point/Compensable/30%					24. Tenure 0 0 ? None 2 - Conditional 1 ? Permanent 3 - Indefinite			25. Agency Use		26. Veterans Preference for RIF (b)(6) NO	
27. FEGLI A0 INELIGIBLE-EXCLUDED BY LAW OR REG					28. Annuitant Indicator I REEMPL. ANN-CS			29. Pay Rate Determinant 0			
30. Retirement Plan (b)(6)			31. Service Comp. Date (Leave) (b)(6)		32. Work Schedule F FULL TIME			33. Part-Time Hours Per Biweekly Pay Period			
<b>POSITION DATA</b>											
34. Position Occupied 2 1 ? Competitive Service 3 ? SES General 2 ? Excepted Service 4 ? SES Career Reserved				35. FLSA Category E E ? Exempt N - Nonexempt		36. Appropriation Code			37. Bargaining Unit Status 8888		
38. Duty Station Code 11-0010-001				39. Duty Station (City-County-State or Overseas Location) WASHINGTON DIST OF COLUMBIA DC							
40. Agency Data		41.		42.		43.		44.			
45. Remarks * CONTINUATION OF REMARKS * ANNUITY AT PRESENT IS \$96,276.00 PA. YOU ARE REQUIRED TO SUBMIT TO THE PERSONNEL OFFICE A COPY OF ANY SUBSEQUENT NOTICE FROM OPM OF ANY CHANGE IN YOUR GROSS ANNUITY RATE.											
46. Employing Department or Agency CONSUMER FINANCIAL PROTECTION BUR						50. Signature/Authentication and Title of Approving Official E/S BY: JEFFREY SUMBERG CHIEF HUMAN CAPITAL OFFICER					
47. Agency Code FR FT		48. Personnel Office ID 2731		49. Approval Date 01-23-2020							

**NOTIFICATION OF PERSONNEL ACTION**

1. Name (Last, First, Middle) NOONAN, LINDA JEAN					2. Social Security Number (b)(6)		3. Date of Birth (b)(6)		4. Effective Date 01-21-2020		
<b>FIRST ACTION</b>					<b>SECOND ACTION</b>						
5-A. Code 171		5-B. Nature of Action EXC APPT NTE 01/20/21			6-A. Code		6-B. Nature of Action				
5-C. Code ZLM		5-D. Legal Authority 213 3102 L			6-C. Code		6-D. Legal Authority				
5-E. Code		5-F. Legal Authority			6-E. Code		6-F. Legal Authority				
7. FROM: Position Title and Number					15. TO: Position Title and Number EXPERT (TASKFORCE MEMBER) 66318234 200530						
8. Pay Plan	9. Occ. Code	10. Grade or Level	11. Step or Rate	12. Total Salary .00	13. Pay Basis	16. Pay Plan CN	17. Occ. Code 0301	18. Grade or Level 71	19. Step or Rate 00	20. Total Salary \$215,769.00	21. Pay Basis PA
12A. Basic Pay .00		12B. Locality Adj. .00		12C. Adj. Basic Pay .00	12D. Other Pay .00	20A. Basic Pay \$182,855.00		20B. Locality Adj. \$32,914.00		20C. Adj. Basic Pay \$215,769.00	20D. Other Pay .00
14. Name and Location of Position's Organization					22. Name and Location of Position's Organization CONSUMER FINANCIAL PROTECT BUREAU DIRECTOR OFFICE OF THE DIRECTOR  FR FT1010000000000000 PP 02 2020						
<b>EMPLOYEE DATA</b>											
23. Veterans Preference (b)(6) 1 ? None 3 ? 10 Point/Disability 5 ? 10 Point/Other 2 ? 5 Point 4 ? 10 Point/Compensable 6 ? 10 Point/Compensable/30%					24. Tenure 0 0 ? None 2 - Conditional 1 ? Permanent 3 - Indefinite		25. Agency Use		26. Veterans Preference for RIF (b)(6)		
27. FEGLI A0 INELIGIBLE-EXCLUDED BY LAW OR REG					28. Annuitant Indicator 1 REEMPL. ANN-CS				29. Pay Rate Determinant 0		
30. Retirement Plan (b)(6)			31. Service Comp. Date (Leave) (b)(6)		32. Work Schedule F FULL TIME			33. Part-Time Hours Per Biweekly Pay Period			
<b>POSITION DATA</b>											
34. Position Occupied 1 ? Competitive Service 3 ? SES General 2 ? Excepted Service 4 ? SES Career Reserved 2				35. FLSA Category E ? Exempt N - Nonexempt E		36. Appropriation Code			37. Bargaining Unit Status 8888		
38. Duty Station Code 11-0010-001				39. Duty Station (City-County-State or Overseas Location) WASHINGTON DIST OF COLUMBIA DC							
40. Agency Data		41.		42.		43.		44.			
45. Remarks POSITION IS AT THE FULL PERFORMANCE LEVEL OR BAND. OPF MAINTAINED BY BUREAU OF THE FISCAL SERVICE, 200 THIRD STREET, PARKERSBURG, WV 26106. CREDITABLE MILITARY SERVICE: (b)(6) AS A REEMPLOYED ANNUITANT, YOU SERVE AT THE WILL OF THE APPOINTING OFFICER. INELIGIBLE FOR HEALTH BENEFITS. INELIGIBLE FOR LEAVE. APPOINTMENT AFFIDAVIT EXECUTED 01/21/2020. REASON FOR TEMPORARY APPOINTMENT: ADMINISTRATIVE NEED. PREVIOUS RETIREMENT COVERAGE: PREVIOUSLY COVERED. ANNUAL SALARY TO BE REDUCED BY THE AMOUNT OF YOUR RETIREMENT ANNUITY AND BY FUTURE COST OF LIVING INCREASES. * REMARKS TO BE CONTINUED ON NEXT FORM *											
46. Employing Department or Agency CONSUMER FINANCIAL PROTECTION BUR					50. Signature/Authentication and Title of Approving Official E/S BY: JEFFREY SUMBERG CHIEF HUMAN CAPITAL OFFICER						
47. Agency Code FR FT		48. Personnel Office ID 2731		49. Approval Date 01-23-2020							

**NOTIFICATION OF PERSONNEL ACTION**

1. Name (Last, First, Middle) NOONAN, LINDA JEAN					2. Social Security Number (b)(6)		3. Date of Birth (b)(6)		4. Effective Date 01-21-2020		
<b>FIRST ACTION</b>					<b>SECOND ACTION</b>						
5-A. Code 002		5-B. Nature of Action CORRECTION			6-A. Code 171		6-B. Nature of Action EXC APPT NTE 01/20/21				
5-C. Code		5-D. Legal Authority			6-C. Code ZLM		6-D. Legal Authority 213 3102 L				
5-E. Code		5-F. Legal Authority			6-E. Code		6-F. Legal Authority				
7. FROM: Position Title and Number					15. TO: Position Title and Number EXPERT (TASKFORCE MEMBER) 66318234 200530						
8. Pay Plan	9. Occ. Code	10. Grade or Level	11. Step or Rate	12. Total Salary .00	13. Pay Basis	16. Pay Plan CN	17. Occ. Code 0301	18. Grade or Level 71	19. Step or Rate 00	20. Total Salary \$215,769.00	21. Pay Basis PA
12A. Basic Pay .00		12B. Locality Adj. .00		12C. Adj. Basic Pay .00	12D. Other Pay .00	20A. Basic Pay \$182,855.00		20B. Locality Adj. \$32,914.00		20C. Adj. Basic Pay \$215,769.00	20D. Other Pay .00
14. Name and Location of Position's Organization					22. Name and Location of Position's Organization CONSUMER FINANCIAL PROTECT BUREAU DIRECTOR OFFICE OF THE DIRECTOR  FR FT1010000000000000 PP 03 2020						
<b>EMPLOYEE DATA</b>											
23. Veterans Preference (b)(6) 1 ? None 3 ? 10 Point/Disability 5 ? 10 Point/Other 2 ? 5 Point 4 ? 10 Point/Compensable 6 ? 10 Point/Compensable/30%					24. Tenure 0 0 ? None 2 - Conditional 1 ? Permanent 3 - Indefinite		25. Agency Use		26. Veterans Preference for RIF (b)(6) NO		
27. FEGLI A0 INELIGIBLE-EXCLUDED BY LAW OR REG					28. Annuitant Indicator I REEMPL. ANN-CS			29. Pay Rate Determinant 0			
30. Retirement Plan (b)(6)			31. Service Comp. Date (Leave) (b)(6)		32. Work Schedule I INTERMITTENT			33. Part-Time Hours Per Biweekly Pay Period			
<b>POSITION DATA</b>											
34. Position Occupied 2 1 ? Competitive Service 3 ? SES General 2 ? Excepted Service 4 ? SES Career Reserved				35. FLSA Category E E ? Exempt N - Nonexempt		36. Appropriation Code			37. Bargaining Unit Status 8888		
38. Duty Station Code 11-0010-001				39. Duty Station (City-County-State or Overseas Location) WASHINGTON DIST OF COLUMBIA DC							
40. Agency Data		41.		42.		43.		44.			
45. Remarks CORRECTS ITEM 32 FROM F. REFLECTS TOUR CHANGE FROM FULL-TIME.											
46. Employing Department or Agency CONSUMER FINANCIAL PROTECTION BUR						50. Signature/Authentication and Title of Approving Official E/S BY: JEFFREY SUMBERG CHIEF HUMAN CAPITAL OFFICER					
47. Agency Code FR FT		48. Personnel Office ID 2731		49. Approval Date 01-23-2020							



OF 69 # (REV. 2-89)

U.S. Office of Personnel Management

FPM Chapter 334

**Assignment Agreement**

Title IV of the Intergovernmental Personnel Act of 1970 (5 U.S.C. 3371-3376)

**INSTRUCTIONS**

This agreement constitutes the written record of the obligations and responsibilities of the parties to a temporary assignment arranged under the provisions of the Intergovernmental Personnel Act of 1970.

Within 30 days of the effective date of the assignment, two copies of this form must be sent to:

U.S. Office of Personnel Management  
Personnel Mobility Program  
Staffing Operations Division/CEG  
1900 E street, NW  
Washington, D.C. 20415

The term "State or local government," when appearing in this form, also refers to an institution of higher education, and Indian tribal government, and any other eligible organization.

Procedural questions on completing the assignment agreement form or on other aspects relating to the mobility program should be addresses to either mobility program coordinators in each Federal agency or to the staff of the Personnel Mobility Program is the U.S. Office of Personnel Management.

Copies of the completed and signed agreement should be retained by each signatory.

**PART 1 - NATURE OF THE ASSIGNMENT AGREEMENT**

1. Check Appropriate Box



New Agreement



Modification



Extension

**PART 2 - INFORMATION ON PARTICIPATING EMPLOYEE**

2. Name (Last, First, Middle)

Zywicki, Todd J.

3. Social Security Number

XXXXXXXXXX

4. Home Address (Street, City, State, Zip Code)

(b)(6)

5.- A. Have you ever been on a mobility assignment?

☐ YES☒ NO

5.- B. If "YES", date of each assignment (Month and Year)

From

To

**PART 3 - PARTIES TO THE AGREEMENT**

6. Federal Agency (List office, bureau or organizational unit which is party to the agreement)

Consumer Financial Protection Bureau, Office of the Director

7. State or Local Government (Identify the governmental agency)

8. Is assignment being made through a faculty fellows program?

If "YES", give name of the program.

☐ YES☒ NO**PART 4 - POSITION DATA****A - Position Currently Held**

9. Employment Office Name and Address (Street, City, State and ZIP Code)

George Mason University  
4400 University Dr.  
Fairfax, VA 22030

10. Employee's Position Title

Professor

11. Office Telephone Number  
(Include the Area Code)

(703) 993-9484

12. Immediate Supervisor (Name and Title)

Henry Butler, Dean

**B - Type of Current Appointment**

13. Federal Employees (Check appropriate box.)



Career Competitive



Other (Specify):

Grade Level

14. State and Local Employees

State or Local Annual Salary

(b)(6)

Original Date Employed by the  
State or Local Government (Month,  
Day, Year)

08/25/2002

**C - Position To Which Assignment Will Be Made**

15. Employment Office Name and Address (Street, City, State and ZIP Code)

Consumer Financial Protection Bureau  
Office of the Director  
1700 G Street, NW  
Washington, DC 20552

16. Assignee's Position Title

Expert (Taskforce Chair)

17. Office Telephone Number  
(Include the Area Code)

18. Immediate supervisor (Name and Title)

Matthew Cameron, Staff Director

**PART 5 - TYPE OF ASSIGNMENT**

## 19. Check Appropriate Boxes

- |   |  |
|---|--|
| <input type="checkbox"/> On detail from a Federal agency          | <input type="checkbox"/> Full Time               |
| <input type="checkbox"/> On leave c from a Federal agency         | <input type="checkbox"/> Part Time               |
| <input checked="" type="checkbox"/> On detail to a Federal agency | <input checked="" type="checkbox"/> Intermittent |
| <input type="checkbox"/> On appointment in a Federal agency       |  |

## 20. Period of Assignment (Month, Day, Year)

From	To
01/29/2020	01/29/2021

**PART 6 - REASON FOR MOBILITY ASSIGNMENT**

21. Indicate the reasons for the mobility assignment and discuss how the work will benefit the participating governments. In addition, indicate how the employee will be utilized at the completion of this assignment.

This position is located in the Consumer Financial Protection Bureau, Office of the Director. The CFPB's mission is to regulate the offering and provision of consumer financial products or services under the Federal consumer financial laws and to educate and empower consumers to make better informed financial decisions.

This position is a time-limited temporary position established to serve as the Chair of the Taskforce on Federal Consumer Financial Law. The Taskforce will produce new research and analysis of consumer financial laws in the United States, focusing specifically on harmonizing, modernizing, and updating the enumerated consumer credit laws – and their implementing regulations – and identifying gaps in knowledge that should be addressed through research, ways to improve consumer understanding of markets and products, and potential conflicts or inconsistencies in existing regulations and guidance. The incumbent applies significant breadth and depth of understanding to conduct difficult and complex theoretical, quantitative, and policy relevant research and decision making.

**PART 7 - POSITION DESCRIPTION**

22. List the major duties and responsibilities to be performed while on the mobility assignment.

Works with the members of the Taskforce on Federal Consumer Financial Law to:

- Examine the existing legal and regulatory environment facing consumers and financial services providers;
- Report recommendations for ways to improve and strengthen consumer financial laws and regulations;

(See attached position description for full list of duties.)

**PART 8 - EMPLOYEE BENEFITS**

## 23. Rate of Basic Pay During Assignment

(b)(6) of fully burden salary at estimated at \$141.84/hour

## 24. Special Pay Conditions (Indicate any conditions that could increase the assigned employee's compensation during the assignment period)

Increase in salary possible due to increase funding by state

25. Leave Provisions (Indicate the annual and sick leave benefits for which employee is eligible. Specify the procedures for reporting, requesting and recording such leave.)

Assignee will continue to earn and use leave in accordance with George Mason University policies.



**PART 9 - FISCAL OBLIGATIONS**

Identify, where appropriate, the office to which invoices and time and attendance records should be sent.

26. Federal Agency Obligations (If paying more than 50 percent of a Federal employee's salary beyond a 6-month period, specify rationale for cost-sharing decision.)

The Bureau will reimburse GMU for Mr Zywicki's labor at the Bureau. Mr Zywicki will be on an intermittent schedule and is anticipated to work approximately 200 days at 8 hours each day, for a total of 1600 hours. This is approximately (b)(6) of a full-time schedule of 2080 working hours in a year.

CFPD20GMU0036

27. State or Local Government agency Obligations

Salary and benefits will continue to be provided directly to the assignee by GMU. GMU will provide invoices to CFPB for the amounts agreed to in this document. Instructions for submitting invoices to CFPB will be provided under separate cover.

**PART 10 - CONFLICTS OF INTEREST AND EMPLOYEE CONDUCT**

- ☒ 28. Applicable Federal, State or local conflict-of-interest laws have been reviewed with the employee to assure that conflict-of-interest situations do not inadvertently arise during this assignment.
- ☒ 29. The employee has been notified of laws, rules and regulations, and policies on employee conduct which apply to him/her while on this assignment.

**PART 11 - OPTIONS**

30. Indicate coverage "N/A", if not applicable.

A. Federal Employees Group Life Insurance

☐ Covered ☒ N/A

B. Federal Civil Service Retirement system or federal Employees Retirement System

☐ Covered ☒ N/A

C. Federal employee Health Benefits

☐ Covered ☒ N/A

31. State or Local Agency Benefits (Indicate all State employee benefits that will be related by the State or local agency employee being assigned to a Federal agency. Also include a statement certifying coverage in all State and local employee benefit programs that are elected by Federal employee on leave without pay from the Federal agency to a State or local agency.)

Full benefits coverage at GMU will continue uninterrupted while on assignment.

32. Other Benefits (Indicate any other employee benefits to be made part of this agreement)

CFPB will not pay the cost of any external training or conferences requested by detailee unless written justification is provided by the CFPB supervisor that the training is to the benefit of CFPB and not for personal advancement.

**PART 12 - TRAVEL AND TRANSPORTATION**

33. Indicate: (1) Whether the Federal agency or State or local agency will pay travel and transportation expenses to, from, and during the assignment as specified in Chapter 3344 of the Federal Personnel Manual, and (2) which travel and relocation expenses will be included.

Assignee's duty station will be Washington, DC. Assignee will travel to DC on an occasional and as-needed basis. When in DC, assignee will work out of hoteling space at 1700 G Street, NW.

Assignee will be considered an invitational traveler under CFPB policies. Trips may include transportation (e.g. airfare, train, personal vehicle, cab costs) and lodging. Travel expenses will be subject to the Federal Travel Regulations and CFPB policies. CFPB will be responsible for securing travel reservations and assignee is responsible for submitting receipts and other documentation for reimbursement.

**PART 13 - APPLICABILITY OF RULES, REGULATIONS AND POLICIES**

34. Check Appropriate Boxes.

- ☒ A. The rules and policies governing the internal operation and management of the agency to which my assignment is made under this agreement will be observed by me.
- ☒ B. I have been informed that my assignment may be terminated at any time at the option of the Federal agency or the State or local government.
- ☒ C. I have been informed that any travel and transportation expenses covered from Federal agency appropriations may be recoverable as a debt due the United States, if I do not serve until the completion of my assignment (unless terminated earlier by either employer) or one year, whichever is shorter.
- ☒ D. I have been informed of applicable provisions should my position with my permanent employer become subject to a reduction-in-force procedure.
- ☐ E. I agree to serve in the Civil Service upon the completion of my assignment for a period equal to that of my assignment. Should I fail to serve the required time, I have been informed that I will be liable to the United States for all expenses (except salary) of my assignment. (For Federal Employees only).

**PART 14 - CERTIFICATION OF ASSIGNED EMPLOYEE**

In signing this agreement, I certify that I understand the terms of this agreement and agree to the rules, regulations and policies as indicated in Part 13 above.

35. Location of Assignment (*Name of Organization*)

Consumer Financial Protection Bureau (CFPB)

36. Date (*Month, Day, Year*)

From	To
01/20/2020	01/22/2021

37. Signature of Assigned Employee

38. Date of Signature (*Month, Day, Year*)**PART 15 - CERTIFICATION OF APPROVING OFFICIALS**

In signing this agreement, we certify that;

- the description of duties and responsibilities is current and fully and accurately describes those of the assigned employee;
- this assignment is being entered in to to serve a sound, mutual public purpose and not solely for the employee's benefit;
- at the completion of the assignment, the participating employee will be returned to the position he or she occupied at the time this agreement was entered into or a position of like seniority, status pay.

State or Local Government Agency

Federal Agency

39. Signature of Authorizing Officer

40. Signature of Authorizing Officer

41. Date of Signature (*Month, Day, Year*)42. Date of Signature (*Month, Day, Year*)

43. Typed Name and Title

44. Typed Name and Title

Jeffrey A. Sumberg, Chief Human Capital Officer, CFPB

**PRIVACY ACT STATEMENT**

Sections 3373 and 3374, Assignment of Employees To or From State or Local Governments, of Title 5, U.S. Code, authorizes collection of this information. The data will be used primarily to formally document and record your temporary assignment to or from a State or local government, institution of higher education, Indian tribal government, or other eligible organization. This information may also be used as the legal basis for personal and financial transactions, to identify you when requesting information about you, e.g., from prior employers, educational institutions, or law agencies, or by State, local, or Federal income taxing agencies.

Solicitation of your Social Security Number (SSN) is authorized by Executive Order 9397, which permitted by use of the SSN as an identifier of individual records maintained by Federal agencies. Furnishing your SSN or any other data requested is voluntary. However, failure to provide any of the requested information may result in your being ineligible for participation in the Intergovernmental Assignment Program.

# EXHIBIT C-1



## Fwd: INVITATION: March 10 Listening Session on Taskforce on Federal Consumer Financial Law

----- Forwarded message -----

From: **PublicEngagement** <[PublicEngagement@cfpb.gov](mailto:PublicEngagement@cfpb.gov)>

Date: Tue, Feb 25, 2020 at 4:05 PM

Subject: INVITATION: March 10 Listening Session on Taskforce on Federal Consumer Financial Law

To: PublicEngagement <[PublicEngagement@cfpb.gov](mailto:PublicEngagement@cfpb.gov)>

Dear Colleague:

In January 2020, Director Kraninger announced the appointment of five members to serve on the Consumer Financial Protection Bureau's (Bureau) Taskforce on Federal Consumer Financial Law (Taskforce). The Taskforce is charged with examining ways to harmonize and modernize federal consumer financial laws and must submit a report to the Director with recommendations within a one-year period.

The Taskforce will be hosting a listening session with Bureau stakeholders to seek input on their work ahead. Please note that this listening session is closed press, off the record, not for attribution in social media, and open to invitees only. Please do not forward this invitation outside of your organization.

**Date:** Tuesday, March 10, 2020

**Time:** 3:00 - 5:00 p.m. Eastern

**Location:** CFPB Headquarters ([1700 G St NW; Washington, DC 20552](#)), 6th Floor Lunchroom

**RSVP Deadline:** Please RSVP to [PublicEngagement@cfpb.gov](mailto:PublicEngagement@cfpb.gov) by end of day Wednesday, March 4, 2020

**Note:** Upon receipt of your RSVP, a discussion outline with some suggested questions will be shared in advance to help you prepare for the listening session. Please be sure to arrive 15 minutes early and bring a photo ID for security.

For more information about the Taskforce, please visit:

<https://www.consumerfinance.gov/about-us/taskforce-federal-consumer-financial-law/>

Sincerely,

Office of Public Engagement and Community Liaison

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-  
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 **03.10.20 - Listening Session - Discussion Outline (2).pdf**  
173K

## EXHIBIT C-2



# Taskforce on Federal Consumer Financial Law

## Listening Session

### I. Summary:

The Taskforce on Federal Consumer Financial Law (Taskforce) will examine the existing legal and regulatory environment facing consumers and financial services providers and report to Director Kraninger its recommendations for ways to improve and strengthen consumer financial laws and regulations. The Taskforce will produce new research and legal analysis of consumer financial laws in the United States, focusing specifically on harmonizing, modernizing, and updating the enumerated consumer credit laws—and their implementing regulations—and identifying gaps in knowledge that should be addressed through research, ways to improve consumer understanding of markets and products, and potential conflicts or inconsistencies in existing regulations and guidance.

During today's discussion, the Taskforce is interested hearing the ideas and perspectives from key Bureau stakeholders on innovation, inclusion, competition, and modernizing the financial regulatory framework.

### II. Discussion Questions:

*Below are a few questions to help facilitate the discussion but should not limit the discussion to these questions.*

- **On Innovation:** What trends in financial technology or FinTech are you seeing today. How could these trends impact the marketplace ten to fifteen years from now? What might be the impact for consumers as the market evolves?
- **On Inclusion:** Do you believe there are regulatory issues that should be addressed at the federal level to promote greater access to consumer financial products or services to underserved individuals and/or communities?
- **On Competition:** Do you believe that promoting competition, innovation, and efficient markets can enhance consumer choice in the marketplace? Does the Bureau have a role in promoting competition while at the same time furthering its mission of consumer protection? Are there examples of state, Federal, or foreign regulators that have successfully balanced these goals?
- **On Regulatory Modernization:** Do you believe there are gaps or conflicts in financial regulations; redundancies in financial regulations; or areas of financial regulation where additional clarity is needed. If so, what are they? And where are there opportunities for improved coordination between federal and state regulators, specifically from the perspective of regulated entities and consumers?
- **On Research:** Are there new areas of research that the Bureau should consider undertaking or expanding on in the consumer financial marketplace?

FOR OFFICIAL USE ONLY

# EXHIBIT D-1



## UNIVERSITY OF MINNESOTA

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*Twin Cities Campus*

*The Law School  
Walter F. Mondale Hall*

*Room 285  
229-19th Avenue South  
Minneapolis, MN 55455  
612-625-1000  
Fax: 612-625-2011  
<http://www.law.umn.edu/>*

October 25, 2019

Consumer Financial Protection Bureau  
Washington, D.C.

Re: Task Force on Federal Consumer Financial Law

Dear Consumer Financial Protection Bureau:

The Task Force on Federal Consumer Financial Law is a long overdue effort. I am writing to seek consideration for appointment to the Task Force. I have extensive experience with the full range of federal consumer financial protection laws from numerous perspectives, including public enforcement, private enforcement, legislative-regulatory drafting and the legal academy.

As an Assistant Attorney General in the Minnesota Attorney General's Office, I was lead or supervising attorney in federal court cases using state public enforcement authority under many of these laws, including precedent-setting cases applying the Fair Credit Reporting Act (FCRA) to bank sharing of personal financial information and the application of the Telemarketing Sales Rule (TSR) to nonbank subsidiaries of national banks. In multistate enforcement actions prior to the financial crisis against major subprime mortgage lenders, I was a lead attorney or in the leadership group of enforcement actions employing potential Truth in Lending Act (TILA) and Home Ownership Equity Protection Act (HOEPA) claims in negotiating settlements with hundreds of millions of dollars of relief. Public enforcement of these and other enumerated consumer finance laws provided an opportunity to learn the usefulness-- and limits-- of these laws in addressing systemic market problems.

As a law professor who runs a consumer protection clinic, I have supervised student attorneys in cases employing literally all of the enumerated federal consumer financial protection laws. For example, within the last two months our clinic has filed a federal district court case alleging Fair Debt Collections Practices Act (FDCPA) violations in collection of student loans, has sent a demand letter to a national bank seeking reversal of account charges under the Electronic Funds Transfer Act (EFTA) for an elderly client that discusses the relationship of the TSR and EFTA, and is working on a FCRA claim

related to tenant screening reports. This clinic work provides an opportunity to understand the importance of these laws to individual consumers, often elderly and lower income, who struggle to resolve problems in circumstances or transactions governed under the enumerated consumer credit laws.

As a law professor who writes in the area of consumer protection and civil law enforcement, I am familiar with the academic literature on federal consumer finance laws. I have published pieces ranging from empirical research on state public enforcement of these laws, *State Attorneys General Use of Concurrent Public Enforcement Authority in Federal Consumer Protection Laws*, 33 Cardozo L. Rev. 53 (2011), to practical advice for practitioner on using these laws to assist clients, *Foreclosure Equity Stripping: Legal Theories and Strategies to Attack a Growing Problem*, Clearinghouse Review Journal of Poverty Law and Policy (March-April 2006).

In all of these roles I have participated in the drafting of legislation and regulation in the area of consumer finance. I was the primary drafter of the Minnesota anti-predatory lending law enacted in 2007, which was an early regulatory use of ability to repay standards. I also was the primary drafter of a Minnesota law restricting foreclosure rescue and equity stripping scams which became a model for state legislation, testified before a U. S. Senate Committee on these issues, and worked as a consultant with the Federal Trade Commission in drafting of the Mortgage Assistance Relief Services rule. I have been involved in the drafting of numerous state laws on consumer finance, including in the areas of small dollar lending, debt management, mortgage lending and foreclosure, debt collection and other matters.

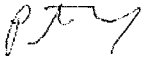
I also would bring to the Task Force an understanding of the CFPB. I testified before the United States House of Representatives Committee on Energy and Commerce, Subcommittee on Consumer Protection on the proposed creation of what would become the Bureau. I also served on the inaugural Consumer Advisory Board.

On some issues, my work in all of these spheres has intersected in a way that allowed me to participate in the development of the law from numerous perspective in different fora. For example, I brought a series of public enforcement cases from 1999 through 2005 that highlighted the sharing of account information and access that involved a problem I labeled as preacquired account marketing. I then participated in FT proceedings that led to the enactment of the preacquired account provisions in the TSR, 16 C.F.R. §310.4. I testified before the U. S. Senate Committee on Commerce, Science and Technology in 2009 on the internet presentation of this issue, and worked with the staff of that committee on the investigations that led to the development of the Restore Online Shoppers confidence Act (ROSCA). I then published a law review piece setting forth the market problem with this sales practice, *The Invisible Hand of Preacquired Account Marketing*, 47 Harv. J. on Legislation 425 (2010). I also spoke with CFPB officials about this practice at a “lunch and learn” and in other settings related to the many early CFPB enforcement actions resulting from bank participation in selling account access as part of this practice.

Finally, I approach the issues from the perspective of an advocate of consumer rights, and proudly consider myself a consumer advocate. I have never been an ideological person, however. And I do not rigidly defend every existing regulation as currently constructed, especially when costly disclosures produce little value in terms of consumer understanding. I also go where the facts lead regardless of whether that position aligns with advocacy group positions or industry position. For instance, I took an early position in alignment with the mortgage industry in opposing property assessed clean energy (PACE) financing. *See Keeping PACE?: The Case Against Property Assessed Clean Energy Financing Programs*, 83 U. Colo. L. Rev. 83 (2011).

Let me know if you would like more information about my application for participation on the Task Force.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Prentiss Cox', with a stylized, cursive script.

Prentiss Cox  
Professor of Law

## EXHIBIT D-2

**PRENTISS COX**

University of Minnesota Law School  
229 19<sup>th</sup> Avenue South; Minneapolis, Minnesota 55455  
coxxx211@umn.edu  
(612) 625-6810

**EMPLOYMENT**

**University of Minnesota Law School, Minneapolis, Minnesota**

Professor of Law (2019-present); Associate Professor of Law- tenured (2012-2019); Vaughan G. Papke Professor of Clinical Law (2010-2012); Associate Professor of Clinic Law (2005-2010).

Primary Course Teaching: Consumer Protection Clinic; Civil Procedure I, Law in Practice.

Other Courses Taught: Civil Procedure II; Consumer Protection/Transactions; Comparative Consumer Protection Law; Environmental Sustainability Clinic; Pretrial Skills.

Committee Work: Tenure and Promotions Committee (2014-2018; Chair, 2016-2017); Clinic Continuous Appointment & Promotion Committee (2017-2019); Clinic VAP Appointment (Chair, 2016-2017); Faculty Recognition Committee (2015-present; Chair, 2015-2016); Clinic Teaching Credits Special Committee (2017); Educational Policy Committee (2013-2014); Clinic Appointments (Chair, 2006-2007); Adjunct Appointments; Honor Code Council; Admissions; Career Development; Faculty Advisor, *Minnesota Law Review* Alumni Association (2014-present).

University Awards: University of Minnesota Outstanding Community Service Award (2008); Stanley V. Kinyon Clinical Teacher of the Year (2009 and 2015).

**Minnesota Attorney General's Office, Saint Paul, Minnesota**

Manager, Consumer Enforcement Division (2001-05); Assistant Attorney General (1991-2005). Special Assistant Attorney General (2019-present). See below for representative litigation.

**United States District Court for the Northern District of Illinois, Chicago, Illinois**

Judicial Clerk, Honorable P. H. Marshall (1990-1991).

**PUBLICATIONS**

Books and Book Contributions

LAW IN PRACTICE (West Publishing 2014 and 2d Ed. 2018) (with Laura Thomas).

CONSUMER FRAUD AND DECEPTIVE TRADE PRACTICES IN MINNESOTA (M.S.B.A. 2007 and 2d Ed. 2009) (principal author and editor).

*Statutory Fraud*, chapter in MINNESOTA BUSINESS TORTS (2011).

Contributor, FORECLOSURES and COST OF CREDIT (National Consumer Law Center).

Contributor (Teacher's Manual), Haydock, Herr and Stempel, FUNDAMENTALS OF PRETRIAL LITIGATION (West Publishing 2010).

Law Review Articles

*Fractured Justice: An Experimental Study of Pretrial Judicial Decision-making*, U. OF CINCINNATI L. REV. (forthcoming 2020).

*Borrower-Centered Student Loan Servicing* (forthcoming, with Kathleen Engel)  
*Strategies of Public UDAP Enforcement*, 55 HARV. J. ON LEGISLATION 37 (2018) (with Amy Widman and Mark Totten).

*Public Enforcement Compensation and Private Rights*, 100 MINN. L. REV. 2313 (2016)  
*State Attorneys General Use of Concurrent Public Enforcement Authority in Federal Consumer Protection Laws*, 33 CARDOZO L. REV. 53 (2011) (with Amy Widman).

*Keeping PACE?: The Case Against Property Assessed Clean Energy Financing Programs*, 83 U. COLO. L. REV. 83 (2011).

*The Invisible Hand of Preacquired Account Marketing*, 47 HARV. J. ON LEGISLATION 425 (2010).

*The Importance of Deceptive Practice Enforcement in Financial Institution Regulation*, 30 PACE L. REV. 279 (2009) (symposium contribution).

*Foreclosure Reform Amid Mortgage Lending Turmoil: A Reasonably Radical Proposal*, 45 U. HOUSTON L. REV. 683 (October 2008).

*Goliath Has the Slingshot: Public Benefit and Private Enforcement of Minnesota Consumer Protection Laws*, 33 WM. MITCHELL L. REV. 163 (2006).

*Foreclosure Equity Stripping: Legal Theories and Strategies to Attack a Growing Problem*, CLEARINGHOUSE REVIEW JOURNAL OF POVERTY LAW AND POLICY (March-April 2006).

Other Publications

*Keeping the Baby- If Not The Bathwater: Learning the Right Lessons from the Subprime Crisis*, Communities & Banking Magazine, Federal Reserve Bank of Boston (Spring 2011) (article on state FHA mortgage loan programs).

*Will Consumer Protection Actually, if Partially, Prevail?*, American Bar Association Antitrust Section, 15 Consumer Protection Update (Spring 2010) and Insurance and Financial Services Committee Newsletter (Spring 2010) (article on legislation to create the Consumer Financial Protection Bureau).

Op-Eds, StarTribune: *Why We Must Not Gut Consumer Protections* (June 12, 2017) (with Jose Quinonez and William Bynum); *Hillary Clinton's VP Pick Should Be Rich Cordray*, (June 14, 2016); *Help Banks, One Last Time, And Help Us All*, Op-Ed, StarTribune (December 4, 2010) (with Claire Hill).

*Preacquired Account Marketing and the OCC*, The Advocate (National Association of Consumer Advocates) (January 2010).

*Regulatory Perspectives & Initiatives: State Attorney General Case Selection and Investigation*, Practising Law Institute, Vol. 2 Consumer Financial Services Litigation Institute 379 (2006); Vol. 2 Consumer Financial Services Litigation Institute 491 (2005).

Lead Author, Comments to CFPB (Legal Academic Comments on Civil Investigative Demands RFI, 2018; Consumer Clinic Professor Comments on Arbitration Rule, 2017).

## **LEGISLATIVE AND POLICY WORK**

### Statutory and Regulatory Reform

Primary drafter of Minnesota anti-predatory lending law. This law was recognized as a model for federal legislation in an editorial by the *New York Times* (“Common Sense Lending,” March 7, 2009), and noted by the *Huffington Post* as a Top Ten Legislative Initiative of 2007.

Primary drafter of Minnesota law restricting foreclosure rescue and equity stripping scams, Minnesota Statutes chapter 325N. This law has been substantially adopted in over twenty other states, including Illinois, Maryland and New York.

Drafted and advocated for legislative bill passed by the 2008 Minnesota Legislature (but vetoed) that would have allowed certain homeowners in foreclosure to defer foreclosure while making partial monthly payments. *See* Amy Merrick, *Foreclosure Bill Puts Governor on Heat Seat*, Wall Street Journal, May 28, 2008.

Substantially participated in and consulted on F.T.C. proceedings to amend Telemarketing Sales Rule, 16 C.F.R. part 310.4 (2002) to regulate preacquired account marketing transactions, and on F.T.C. Mortgage Assistance Relief Services rule, 16 C.F.R. part 322 (2010).

Led multi-state attorneys general effort to reform interstate compact proposal of the National Association of Insurance Commissioners.

Drafted and advocated for other state consumer protection legislation, including laws relating to private mortgage insurance cancellation, regulation of deceptive travel club offers, payday lending regulation, state debt collection, enforcement authority of commerce commissioner, and numerous other laws. Supervised student attorneys in Consumer Clinic in drafting overhaul of state debt management law.

Drafted consumer protection legislative reform proposals for African nations, including Namibia, Gambia and Swaziland.

### Legislative Testimony

Written and Oral Testimony, United States Senate Committee on Commerce, Science and Technology, “Unauthorized Charges on Internet by Membership Club Sellers” (Nov. 2009).

Written and Oral Testimony, United States House of Representatives Committee on Energy and Commerce, Subcommittee on Consumer Protection, “The Proposed Consumer Financial Protection Agency: Implications for Consumers and the FTC” (July 2009).

Written and Oral Testimony, United States Senate Committee on Commerce, Science and Technology, “Consumer Protection and the Credit Crisis” (Feb. 2009).

Oral Testimony, FTC Regulatory Forum on Telemarketing Sales Rule (2002)

Testified at Minnesota Legislature hearings on more than twenty occasions regarding mortgage lending, payday lending, public enforcement authority, debt collection and other matters.

## EDUCATION

J.D., University of Minnesota, 1990  
*Magna Cum Laude*  
Articles Editor, *Minnesota Law Review*

B.A., Oberlin College, 1980  
*Phi Beta Kappa*  
Harry S. Truman Scholar (1978)

## PRESENTATIONS

### Academic and Teaching

“Complicity and Accountability in the Great Recession,” Kluge Center- Library of Congress (2019)  
Discussant, *The New Qui Tam*, Berkeley Consumer Law Scholars Conference (2019).  
“A Year of UDAP Public Enforcement,” Teaching Consumer Law Conference by University of Houston (2018)  
“Attorney Fee Awards in Clinic Cases,” Consumer Clinic Teacher’s Conference (2017).  
“An Empirical Analysis of Public UDAP Enforcement,” Teaching Consumer Law Conference by University of Houston (2016)  
“Making Do or Doing Over: Old Law and New Online Markets,” Loyola (Chicago) Consumer Law Symposium (2016)  
“1L Curricular Reform and Faculty Integration,” AALS Clinical Legal Education Conference (2015)  
“Increasing the Prominence of Consumer Law,” Teaching Consumer Law Conference by University of Houston (2014)  
“Case Law and Statutes,” Symposium on Case Method, Renmin Law School (2010)  
“View from the Clinics,” Teaching Consumer Law conference by University of Houston (2010)  
“The Past: Did Capitalism Fail?,” (Moderator), Minnesota Law Review Symposium (2010)  
“Consumer Protection and Financial Institution Regulation,” Pace University Symposium (2009)  
“Housing Forum,” Center for Urban and Regional Affairs, University of Minnesota (2007)

### Government and Elected Officials/ United States

External Keynote Speaker, CFPB Leadership Summit (2017)  
Convener-Presenter, State Attorney General Workshop on Student Loan Servicing Practices (2017 and 2019)  
“Preacquired Account Marketing Regulation,” Consumer Financial Protection Bureau- Staff Lunch and Learn (2013) and Consumer Advisory Board (2014)  
“Law School for Legislators” (2013)  
“Town Hall Forum Panel” Consumer Financial Protection Bureau (2011); Community Meeting with officials of Consumer Financial Protection Bureau (Moderator) (2011)  
“Effects of Financial Crisis,” Field Hearing by U. S. Senator Al Franken (2010)



“Current State of Foreclosures,” Hennepin County Foreclosure Task Force (2010)  
“Preacquired Account Marketing Enforcement Actions,” National Association of Attorneys General Consumer Protection Section (2010)  
“Foreclosure Law Reform,” American Association of Residential Mortgage Regulators (2008)  
“Forum on False Advertising,” (Moderator) Federal Trade Commission (2008)  
“State Foreclosure Laws: The Meaning of Difference” and “Ideas for Reform,” Federal Reserve Board Forum: Fixing the Foreclosure System (2007)  
*Presentations on Foreclosure Crisis to Municipal Elected Officials:* Mortgage Mediation, Saint Paul City Council (2012); Hennepin Board of Commissioners (2007); Ramsey Board of Commissioners (2007); Anoka County Local Government Officers (2008)  
*Press Conferences with U. S. Senator Amy Klobuchar—* Credit Repair (2013); Deceptive Cell Phone Charges (2010); Unfair Charges by E-Merchants (2009); Unsafe Toys Imported From China (2007)  
*Policy Forums with U. S. Representative Keith Ellison:* “Financial Regulatory Reform” (2010); “Credit Justices Issues” (2007)

#### Government and Elected Officials/ International

Consumer Protection Workshop, Officials of the Competition Commission for the Economic Community of West African States (2019)  
Gambian Consumer Protection Act, Gambian Government Officials and Stakeholders (2017)  
Swaziland Fair Trading Act Reform, Swaziland Government Officials and Stakeholders (2016)  
“The Development of A Legal Framework for A Namibia National Consumer Protection Policy,” Namibian Government Officials and Stakeholders (2015)  
“Consumer Protection Regulation,” Officials from Competition and Consumer Protection Commission of the Gambia (2011)  
“Competition and Consumer Protection Regulation,” Training for Caribbean Competition Commission, Suriname (2010)

#### Bar, Practice and Public

“CFPB Current Status,” HCBA (2017)  
“CFPB- Consumer Industry Watchdog,” American Bankruptcy Institute (2015)  
“Perspectives on the CFPB,” MSBA Business and Consumer Litigation Sections (2013)  
“CFPB Actions Involving Debt Collectors,” Debtor-Creditor Conference (2013)  
“Current State of Residential Foreclosures in Minnesota,” Minnesota Foreclosure Conference Plenary Session (2012)  
“The 50-State AG Settlement,” MSBA Consumer Litigation Section (2012)  
“Consumer Finance Reform Strategy Meeting,” Pew Charitable Trusts (2011)  
“The Consumer Financial Protection Agency Act,” ABA Antitrust Section (2010)  
“New Wall Street Reform Act,” U. of Minnesota Law School Summer CLE Program (2010)  
“Taking the Mystery Out of the Mortgage Mess,” “New Wall Street Reform Act,” University of Minnesota Law School Summer CLE Program (2009)  
“State and Local Responses to the Mortgage Meltdown,” National Consumer Law Center (2008)  
“The Foreclosure Crisis Hits Home,” Featured Speaker, University of Minnesota Headliners Program, (2008)  
“State and Local Responses to the Mortgage Meltdown,” National Consumer Law Center (2008)  
“Mortgage Foreclosures: The Recent Bloody Past and Possible Future,” Minnesota Real Estate Institute Plenary Session (2008)

“Identifying Mortgage Fraud,” Minnesota Real Estate Institute (2007)  
 “Foreclosure and Subprime Lending,” American Constitutional Society (2007)  
 “Privacy and Law: The Road So Far and Ahead,” U. of Minnesota Food Industry Center (2007)  
 “Regulatory Perspectives & Initiatives: State Attorney General Case Selection and Investigation,” Practising Law Institute (2005-2007)  
 “State of the Foreclosure Crisis,” Hennepin County Bar Association (2007), Minnesota Mortgage Foreclosure Prevention Association (2007), Sensible Land Use Coalition (2007), Jewish Community Action Forum (2007), Foreclosure Funders Council (2007) and Ramsey County Bar Association (2008).  
 “Foreclosure Equity Stripping,” California Legal Services Corporations (2006), Volunteer Lawyer’s Network (2006 and 2007), National Association of Consumer Advocates (2007 and 2008), the Institute for Foreclosure Legal Assistance (2008).  
 “Understanding the FDCPA,” Minnesota Legal Services Corporation (2006) and Volunteer Lawyer’s Network (2006)  
 “Consumer Protection Beyond the Feds: Lessons Learned from State Enforcement Actions,” American Conference Institute on Consumer Financial Services (2005 and 2006)  
*Numerous Minnesota CLE (Minnesota State Bar Association) presentations* include the following: “Wall Street Reform Act” (2010) (with former U. S. Senator Norm Coleman), “Advising the Disadvantaged” (2007 and 2008); “Foreclosures in Minnesota” (2006 and 2007); “Consumer Fraud and Deceptive Trade Practices” (2007 and 2009) (Course Chair); “Bankruptcy Institute” (2007)

## SELECTED LITIGATION

Initiated and served as lead attorney in multi-state attorneys general actions against Ameriquest Mortgage Corporation. Participated in leadership (negotiating committee) of case against Household International. Total recovery of over \$840 million in two cases. Prosecuted first state attorney general predatory lending lawsuit against First Alliance Mortgage Corporation (“FAMCO”) in 1998. My work on subprime mortgage issues has been described in two books about the mortgage crisis (Mike Hudson, *The Monster*; and Joe Nocera and Bethany McLean, *All the Devils Are Here: The Hidden History of the Financial Crisis*) and in “The Financial Crisis Inquiry Report” of the National Commission on the Causes of the Financial and Economic Crisis in the United States.

Led attorneys general actions to limit abuses with preacquired account marketing practices, including action against Fleet Mortgage Corp that raised novel issues of F.T.C. jurisdiction over non-bank operating subsidiaries of national banks. *State v. Fleet Mortgage Corp.*, 158 F.Supp.2d 962 and 181 F.Supp.2d 995 (D. Minn. 2001).

Directed and served as lead attorney in a series of high profile cases against companies and individuals engaged in practices that stripped the equity from homeowners in foreclosure. Assisted numerous homeowners who had lost legal ownership of their properties to recover title.

Initiated, supervised or litigated cases involving a wide range of consumer transactions. Notable cases include first public enforcement actions on the following matters: credit card issuer default rate re-pricing (Capitol One Bank); liability of a payment processor for aiding and abetting liability with respect to fraudulent transactions (First Premier Bank); public agency use of

invasion of privacy tort (Cross Country Bank); and violations of firm offer requirements of federal Fair Credit Reporting Act (Brookdale Motors).

Represented Minnesota Commissioner of Commerce in complex matters related to insurance, securities regulation and banking, 1991-1995. Litigated a series of inter-related administrative, state court and federal court cases to restrain entities offering workers' compensation and health insurance from evading state insurance regulation under federal ERISA multiple employer welfare arrangement provisions. *See, e.g., Fuller v. Ulland*, 76 F.3d 957 (8<sup>th</sup> Cir. 1994); *State by Ulland v. Intl. Assn. of Entrepreneurs of America*, 858 F.Supp. 937 (D.Minn.1994); *State by Ulland v. Intl. Assn. of Entrepreneurs of America*, 527 N.W.2d 133 (Minn.App.1995).

Supervised law clinic cases resulting in decisions on novel legal issues and with public policy implications. *See Hagen v. Messerli & Kramer, P.A.*, 85 F. Supp. 3d 1028, 1029 (D. Minn. 2015); *Wall Street Journal* ("Automatic Payments Make Cancelling Charges Difficult", February 22, 2006); *RESPA News* ("Coldwell Banker Burnet: The Broader Implications Of A Big Picture Case," March 27, 2007); and *City Pages* ("Seward Residents: Xcel's Smelly Poles," March 9, 2009).

## SELECTED MEDIA

*New York Times*: "Letting the Banks off the Hook," "Talking Business: An Advocate Who Scares Republicans;" "The States Take on Foreclosures"

*Wall Street Journal*. "Global Finance: New York Spars in Foreclosure Talks;" "States to Probe Mortgage Mess;" "Countrywide's Pressures Mount;" "Mortgage Brokers" Friend or Foe?"

National Public Radio (NPR): "Proposed Minnesota Law Would Delay Foreclosures," Morning Edition; "Protecting Yourself from Fraud Protection," Marketplace

Other Print/Internet Publications: *Atlantic*, *American Banker*, *New Republic*, *Business Week*, *Daily Beast*, *Forbes*, *USA Today*, *Mother Jones*, *Money*, *National Journal*, *Governing*, *The Hill*, *Bloomberg*, *Huffington Post*, *Los Angeles Times*, *Philadelphia Inquirer*, *Seattle Post-Intelligencer*, *Milwaukee Journal Sentinel*, *Houston Press*, *Houston Chronicle*, *Denver Post*, *Kansas City Star*, *Portland Oregonian*, *Newsday*, *Quartz*, *Christian Science Monitor*, *Omaha World-Herald*, *Detroit Free Press*, and *Miami Herald*.

Other National Broadcast Media: ABC-TV, Canadian Broadcasting Corporation (radio call-in and television documentary), Fox Business News and MSNBC.

## Minnesota Media

Quoted in dozens of stories and editorials on Minnesota Public Radio (MPR), *StarTribune* and *Pioneer Press*.

Recurring guest on *Almanac*, a Twin Cities Public Television public affairs show, and MPR public affairs shows "Daily Circuit" and Mid-Morning.

Appeared in news stories or public affairs shows on all major television stations, many radio stations and regional newspapers.

## **VOLUNTEER PROFESSIONAL SERVICE AND AWARDS**

Inaugural Member and Consumer Lending Committee Chair, Consumer Advisory Board,  
United States Consumer Financial Protection Bureau (CFPB)  
Member, Board of Directors, State Center for Antitrust and Consumer Protection Enforcement  
National Advisory Board Member, Institute for Foreclosure Legal Assistance  
National Advisory Board Member, Public Health Law Center  
Lutheran Social Services Consumer Financial Advocate Award

## **SELECTED CONSULTING ACTIVITIES**

Special Assistant Attorney General, Minnesota Attorney General's Office  
Program Evaluation Consultant, Pew Charitable Trusts  
Consultant on Rulemaking, Federal Trade Commission  
*Pro Bono* Attorney, National Assn of Consumer Advocates and Tobacco Control Legal Consortium  
Consulting Expert, Minneapolis Legal Aid Society  
Consulting Expert, Housing Preservation Project  
Expert Witness, U. S. Attorney's Office for the District of Minnesota  
Expert Witness, Southern Minnesota Regional Legal Services  
Consultant, Namibian Competition Commission  
Consultant, Swaziland Competition Commission  
Consultant, Gambian Consumer Protection and Competition Commission

# EXHIBIT E

Kathleen C. Engel  
Suffolk University Law School  
120 Tremont St.  
Boston, MA. 02108-4977

November 26, 2019

Director Kathleen Kraninger  
Consumer Financial Protection Bureau

BY EMAIL

Dear Director Kraninger,

I am writing to express concern about my recent interview with Chris Mufarrige and Lora McCray for a position on the CFPB's Taskforce on Federal Consumer Law.

Mr. Mufarrige spent minimal time asking about my qualifications and experience and, instead, posed questions in an inquisitorial manner and on subjects that I found inappropriate. It appeared that his goal in questioning me was to determine my stance on deregulation.

My understanding was that the purpose of the Task Force was to identify CFPB rules that needed modernization and to propose rule changes. Nothing in the announcement indicated that applicants' views on deregulation were a criterion.

Given the ongoing concern that the Bureau's RFI's were a pretext for dismantling rules that were adopted in response to wrongdoing in the mortgage market, I expected that the Task Force would be composed of knowledgeable and objective scholars who understand the ways in which some of the rules are outdated and who appreciate the challenging balance between protecting the market and protecting consumers.

In closing, I want to note that Lora McCray's questions seemed appropriate and in line with the announcement about the Task Force.

Sincerely,

Kathleen Engel

# EXHIBIT F



June 4, 2020

Matt Cameron  
Staff Director  
Taskforce on Federal Consumer Financial Law  
Consumer Financial Protection Bureau  
1700 G Street NW  
Washington, DC 20552  
matt.cameron@cfpb.gov

Dear Mr. Cameron,

As you are aware, on October 11, 2019, the Consumer Financial Protection Bureau (“Bureau”) announced its intent to establish the Taskforce on Federal Consumer Financial Law (“Taskforce”). On January 8, 2020, Director Kraninger signed the Taskforce’s Charter, which states that the Taskforce will provide the Bureau with “recommendations for ways to improve and strengthen consumer financial laws and regulations” in the form of a final report to be submitted in January 2021.<sup>1</sup> As a “taskforce . . . established [and] utilized by [the Bureau] in the interest of obtaining advice or recommendations,” the Taskforce is subject to the Federal Advisory Committee Act (“FACA”).<sup>2</sup>

The Taskforce has thus far held at least one meeting on March 10, 2020. During the Bureau’s semi-annual report to Congress, which occurred on the same day, Director Kraninger testified that the March 10 meeting was the “first” of such meetings and that the Taskforce was scheduled to meet with the Bureau’s other advisory committees that same week.<sup>3</sup>

Advisory committees, like the Taskforce, must meet certain obligations imposed by FACA. Among other things, advisory committees must provide “timely notice” of their meetings to the public and allow interested persons to “attend, appear before, or file statements with [the] committee, subject to such reasonable rules or regulations as the Administrator [of General Services] may prescribe.”<sup>4</sup> Advisory committees must also provide the public with all “records,

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<sup>1</sup> CFPB, *Charter of the Bureau’s Taskforce on Federal Consumer Financial Law* (Jan. 8, 2020), [https://files.consumerfinance.gov/f/documents/cfpb\\_taskforce-charter.pdf](https://files.consumerfinance.gov/f/documents/cfpb_taskforce-charter.pdf).

<sup>2</sup> 5 U.S.C. App. 2 § 3(2)(c).

<sup>3</sup> Consumer Financial Protection Bureau’s Semi-Annual Report to Congress: Hearing Before the U.S. S. Comm. on Banking, Hous., and Urban Aff. (Mar. 10, 2020), <https://www.banking.senate.gov/hearings/02/21/2020/the-consumer-financial-protection-bureaus-semi-annual-report-to-congress>.

<sup>4</sup> 5 U.S.C. App. 2 § 10(a)(2), (3).



reports, transcripts, minutes, appendixes, working papers, drafts, studies, agenda [and] other documents . . . made available to or prepared for or by” the advisory committee.<sup>5</sup>

To date, however, the Taskforce has not provided public notice of, or allowed for public participation in, any of its meetings. Nor has it has made publicly available *any* of its records.<sup>6</sup>

Thus, among other issues with its formation and operation, it does not appear that the Taskforce is in compliance with its obligations to hold its meetings open to the public and to make all material “made available to or prepared for or by” the Taskforce “available for public inspection and copying.”

For the reasons set forth above, the National Association of Consumer Advocates and Professor Kathleen Engel respectfully request that the Bureau and Taskforce make available all documents thus far prepared for or by the Taskforce. They also request that the Bureau and Taskforce provide notice of future Taskforce meetings, hold those meetings open to the public, and make Taskforce records publicly available in a timely manner moving forward.

Sincerely,

/s/ Kristen P. Miller

Kristen Miller  
John Lewis  
Democracy Forward Foundation

*On behalf of*

*National Association of Consumer Advocates  
Kathleen Engel*

CC:

Mary McLeod  
General Counsel  
Consumer Financial Protection Bureau  
1700 G Street NW  
Washington, DC 20552  
mary.mcleod@cfpb.gov

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<sup>5</sup> *Id.* § 10(b).

<sup>6</sup> *See generally* CFPB, *Taskforce on Federal Consumer Financial Law* (last visited June 3, 2020), <https://www.consumerfinance.gov/about-us/taskforce-federal-consumer-financial-law/>.

# EXHIBIT G-1



June 1, 2020

Hon. Kathleen L. Kraninger  
Director  
Consumer Financial Protection Bureau  
1700 G Street NW  
Washington, DC 20552

Re: Docket No. CFPB-2020-0013, Request for Information: Taskforce on Federal Consumer Financial Law

Dear Director Kraninger:

The National Association of Consumer Advocates (NACA), a nonprofit organization actively engaged in promoting a fair and open marketplace that forcefully protects the rights of consumers, particularly those of modest means, submits its response to the Consumer Financial Protection Bureau's (bureau or CFPB) Request for Information (RFI) related to "the Taskforce on Federal Consumer Financial Law (taskforce)," established to examine "the legal and regulatory environment facing consumers and providers of consumer financial products and services."<sup>1</sup>

NACA is a long time and ardent supporter of the CFPB's creation, its mission, and its efforts to make the financial marketplace fair for consumers and to ensure that financial products and services work better for ordinary people. Moreover, NACA's community, chiefly made up of advocates who represent consumers with financial disputes, including advocates who provide free, civil legal assistance to low-income people, regularly interacts with the bureau on behalf of and for the benefit of their consumer-clients.<sup>2</sup>

These comments will not respond directly to the substantive inquiries in the RFI. Instead, it sets forth the following reasons to support NACA's request for suspension of the activities of the CFPB's newly formed taskforce:

1) The taskforce's announcement, its creation, and subsequent activities have occurred at a rapid pace. The bureau first announced creation of the taskforce on October 11, 2019, and subsequently launched an application process for taskforce members. Three months later, in January 2020, the bureau published its selection of the taskforce's five members. On March 27, 2020, the taskforce posted its Request for Information to the public, two weeks after the country entered and remains in a virtual shut down and Americans were ordered to quarantine at home to combat the spread of the coronavirus. The RFI, which contemplates broad and wide-ranging issues related to consumer protection law and regulation, and invites responses to sweeping questions about possibly

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<sup>1</sup> Bureau of Consumer Financial Protection, *Request For Information To Assist the Taskforce on Federal Consumer Financial Law, Notice and request for information*, 85 Fed. Reg. 18214, April 1, 2020.

<sup>2</sup> Nat'l Assoc. of Consumer Advocates, *CFPB in Our Communities, Advocates Reflect on the Consumer Bureau's Role in Achieving Justice for Consumers: An Online Survey*, Feb. 2018, <https://www.consumeradvocates.org/media/news/naca-survey-cfpb-fully-immersed-key-resource-and-partner-for-distressed-consumers>.

comprehensive changes to the law, afforded a mere two-month period – until June 1 – in which interested stakeholders could respond to the taskforce’s request.

2) Meanwhile, the extraordinary circumstances of the COVID-19 pandemic forced stakeholders to urgently re-prioritize their activities to respond to the crisis’ impact on consumers and the consumer finance market, leaving little time to respond to the RFI. The bureau itself has received record numbers of COVID-19 related complaints and is charged with assisting tens of millions of Americans devastated by the financial impact of the crisis and overseeing regulated entities’ responses to the unprecedented event.<sup>3</sup> Stakeholders submitted requests to the bureau urging it to extend the deadline and provide a more reasonable time period in which the public can respond to the taskforce inquiries. The bureau denied multiple requests from stakeholders and members of Congress<sup>4</sup> to extend the time period for public comments.

3) None of the members of the five-person taskforce has a history of supporting consumer protection. Instead, their past comments and associations all indicate affinity to financial industry priorities, including deregulation and restrictions on consumers’ access to justice.

The members of this taskforce have described regulations in the financial services context, using terms, such as “paternalistic” and “onerous.” Taskforce members who have spoken of regulation relating to consumer credit have called such regulations “restrictive.” Taskforce members have decried additional regulations to protect consumers who were victims of subprime mortgages during the financial crisis. Taskforce members have opposed expansion of federal agency authority to include consumer redress in certain contexts when tackling fraud, and have opposed monetary penalties against wrongdoers in other contexts. When they have contemplated privacy of unfair and deceptive advertising, taskforce members have minimized the importance of safeguards for consumers and advocated for limited enforcement. And most notably, publications have often quoted taskforce members’ unrelenting criticism of the CFPB and the Dodd-Frank Wall Street Reform and Consumer Protection Act, the 2010 financial reform law that created the agency.<sup>5</sup>

4) The bureau is already equipped to carry out the responsibilities granted to a taskforce. The bureau asserts that the taskforce is inspired by the National Commission on Consumer Finance a commission established in 1968 by the Consumer Credit Protection Act (CCPA), but the two are distinct. The CFPB’s five-member taskforce was not created or authorized by Congress, but by the director. The 12-member 1968 commission was bipartisan with members representing different interests, while the CFPB’s taskforce members hold similar views, including a clear lack of support for stronger consumer protection laws and regulation.

<sup>3</sup> Sylvan Lane, *Coronavirus drives record number of complaints to consumer bureau*, THE HILL, May 1, 2020, <https://thehill.com/policy/finance/495705-coronavirus-drives-record-number-of-complaints-to-consumer-bureau>

<sup>4</sup> Brown Urges CFPB Director Kraninger to Extend Taskforce Deadline, May 28, 2020, <https://www.brown.senate.gov/newsroom/press/release/brown-cfpb-kraninger-extend-taskforce-deadline>

<sup>5</sup> Rob Seal, *Subprime Mortgages: A Good Thing?*, UNIVERSITY OF VIRGINIA SCHOOL OF LAW NEWS AND MEDIA, April 3, 2008, [https://www.law.virginia.edu/news/2008\\_spr/zywicki.htm](https://www.law.virginia.edu/news/2008_spr/zywicki.htm); Todd Zywicki, *The Consumer Financial Protection Bureau and the Return of Paternalistic Command-and-Control Regulation*, THE FEDERALIST SOCIETY, Sept. 8, 2015; Todd J. Zywicki and Thomas A. Durkin, *Why Everything Elizabeth Warren Told You About Consumer Credit Is Wrong*, FORBES, Oct. 10, 2014, <https://www.forbes.com/sites/realspin/2014/10/10/why-everything-elizabeth-warren-told-you-about-consumer-credit-is-wrong/#45b08fed301f>; Bob Sullivan, *Five years after financial reform, new consumer agency still hasn’t won over critics*, BOBSULLIVAN.NET, RED TAPE CHRONICLES, July 23, 2015, <https://bobsullivan.net/gotchas/five-years-after-financial-reform-new-consumer-agency-still-hasnt-won-over-critics/>; Testimony of J. Howard Beales III, Before the Subcomm. on Commerce, Manufacturing, and Trade Comm. on Energy and Commerce, House of Representatives on *The FTC at 100: Views from the Academic Experts*, Feb. 28, 2014, <https://docs.house.gov/meetings/IF/IF17/20140228/101812/HHRG-113-IF17-Wstate-BealesH-20140228.pdf>; L. Jean Noonan, *Love Triangle or Bermuda Triangle?*, HUDSON COOK INSIGHTS, February 2012; Kelley Drye, <https://www.kelleydrye.com/Our-People/William-C-MacLeod> (“In his work with trade associations and their members, he has resolutely fought onerous regulations...”).

The establishment of the 1968 commission has more in common with the CFPB, than it does with the taskforce. The commission and the CFPB were both authorized by acts of Congress and granted clear mandates. The commission was created “to study and make recommendations to the Congress and to the President on the functions and structure of the consumer finance industry, as well as consumer credit transactions generally.” The CFPB, established by the Dodd-Frank Act, is charged with overseeing and enforcing federal financial laws that specifically protect consumers.

5) The taskforce could benefit from the CFPB’s legitimate and authoritative position, potentially using it to push harmful, deregulatory principles on the financial marketplace. As previously mentioned, the taskforce membership is entirely composed of individuals whose policy positions are in sync with the traditional positions of the financial industry. According to the RFI, the taskforce is “charged with (1) examining the existing legal and regulatory environment facing consumers and providers of consumer financial products and services; and (2) reporting its recommendations for ways to improve and strengthen Federal consumer financial laws, including recommendations for resolving conflicting requirements or inconsistencies, reducing unwarranted regulatory burdens in light of market or technological developments, improving consumer understanding of markets and products and services, and identifying gaps in knowledge that the Bureau should address through future research.” Any report from this taskforce no matter how dangerous or risky its recommendations could retain an air of legitimacy, which will potentially harm the honest development of consumer law and regulation.

It is always a useful activity to examine existing law and inquire about unexplored ways to achieve the purpose that Congress has set up as CFPB goals in its oversight of the financial marketplace. Legal and regulatory examination can and has been pursued within the CFPB’s current structure, through its ongoing research, rulemaking, and rule reviews. However, it is risky and inappropriate for CFPB leadership to deploy agency resources to hire outside parties who have a clear one-sided ideology to achieve ends that may be contrary to the agency’s mission and the statutory mandates of Title X of the Dodd-Frank Act.

The sudden creation of the CFPB taskforce, its predisposed policy positions, and its ill-timed and limited call for public comments during a national health and economic crisis, raises red flags about its legitimacy and purpose. Whether the taskforce was created in an effort to topple well-established consumer protection laws and regulation or not, the evidence so far in these early stages shows that the taskforce is not needed for the bureau to fulfill its statutory mandate. Accordingly, the bureau should suspend any further taskforce actions, and redirect its attention to critical work that it is already authorized to exercise in protection of American consumers and the safeguarding of the financial marketplace.

Sincerely,

Christine Hines  
Legislative Director

## EXHIBIT G-2

June 1, 2020

*Submitted to eRulemaking Portal*

Director Kathleen L. Kraninger  
Consumer Financial Protection Bureau  
1700 G Street NW  
Washington, DC 20552

Re: Request for Information from Taskforce on Federal Consumer Financial Law, Docket No.  
CFPB-2020-0013

Dear Director Kraninger,

The 27 undersigned consumer, community, and civil rights groups write in response to the request for information from Taskforce on Federal Consumer Financial Law (Taskforce).<sup>1</sup>

We view this Taskforce as illegitimate, one-sided, and highly inappropriate during a pandemic. The Taskforce consists solely of five outside conservative academics and industry lawyers, including those who have represented payday lenders or others in CFPB enforcement actions and consumer litigation, and has no consumer representatives.<sup>2</sup> We are aware of several well-qualified academics who have a track record of working to advance consumer protections who were rejected, some after hostile interrogations. The absence of anyone to hold the Taskforce accountable makes it especially concerning that it was created in apparent evasion of the Federal Advisory Committee Act, even though Congress explicitly mandated that the CFPB follow FACA.<sup>3</sup>

At a time when the Bureau and all of our organizations should be focused on protecting consumers – and our own organizations and staff – from the impacts of the COVID-19 economic and health crisis, the Bureau has asked the public to comment on broad, far-reaching questions that go to fundamental questions about how to protect consumers. The Bureau has also provided a short 60-day comment window, even though the Bureau recently extended a separate, much narrower, comment request on time-barred debt disclosures because “the pandemic makes it difficult to respond to the [proposed rule]

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<sup>1</sup> CFPB, Request for Information: Assist the Taskforce on Federal Consumer Financial Law, 85 Fed.Reg.18214 (Apr. 1, 2014), <https://www.regulations.gov/document?D=CFPB-2020-0013-0001>.

<sup>2</sup> Evan Weinberger, Bloomberg Law, Financial Watchdog’s Conflicted Task Force Earning Top Dollar (May 11, 2020) (“E. Weinberger, Conflicted Task Force”), <https://news.bloomberglaw.com/banking-law/financial-watchdogs-conflicted-task-force-earning-top-dollar> (noting that the Taskforce has no consumer representation and “consists of five outside conservative academics and industry lawyers who have represented payday lenders in CFPB enforcement actions and consumer litigation, as well as banks and other companies in regulatory matters.”).

<sup>3</sup> Congress passed 12 U.S.C. § 5493(h) specifically mandating that CFPB advisory committees be subject to the Federal Advisory Committee Act (FACA) after Republicans on the House Financial Services Committee criticized the CFPB for not holding public meetings. See Trey Garrison, Hensarling calls on CFPB to open closed meetings (March 17, 2014), <https://www.housingwire.com/articles/29332-hensarling-calls-on-cfpb-to-open-closed-meetings/>; Trey Garrison, Bill would force full transparency at CFPB (March 19, 2014), <https://www.housingwire.com/articles/29366-bill-would-open-cfpb-regulators-advisors-to-full-transparency/>. Yet the CFPB Taskforce is styled as an intra-governmental committee not subject to FACA “a CFPB spokesperson confirmed.” E. Weinberger, Conflicted Task Force, *supra*.

thoroughly and to determine when stakeholders will be able to do so.”<sup>4</sup> Yet even a time extension would not make this an appropriate endeavor. The CFPB should focus on preventing harm to consumers during the pandemic, rather than on an effort to rethink its mission and promote ideas to undo consumer protections.

Many of the questions the Taskforce poses hint at deeply disturbing ideological preconceptions that focus more on undoing consumer protections than enhancing them. Contrary to the subtext of the Bureau’s questions, education, disclosures and competition are not enough to protect consumers. Enforcement must be more than a backstop that is limited to only the most abusive practices. The amount of industry profits or skewed industry cost estimates should not be used to block rules that provide important protection to consumers, even if the consumer benefits are not always quantifiable. Access to credit does not justify preserving predatory lending or destructive practices that leave consumers worse off. States are important backstops against inaction at the federal level. Indeed, Congress already made decisions about how to balance the competing interests on many of the questions the Bureau has posed, such as the important role of states in enforcing CFPB rules.

Moreover, the CFPB already consumed thousands of hours of our organizations’ time by posing many of these same questions in the 12 requests for information that Acting CFPB Director Mick Mulvaney put out in 2018 on a wide range of aspects of the Bureau’s operations and the laws and regulations it oversees:

- Civil investigative demands;<sup>5</sup>
- Administrative adjudications;<sup>6</sup>
- Enforcement processes;<sup>7</sup>
- Supervision program;<sup>8</sup>
- External engagements;<sup>9</sup>

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<sup>4</sup> CFPB, Supplemental notice of proposed rulemaking; extension of comment period, 85 Fed. Reg. 30890, 30891 (May 21, 2020).

<sup>5</sup> See, e.g., Americans for Financial Reform et al., <https://www.nclc.org/images/pdf/rulemaking/coalition-cid-rfi-2018.pdf> (April 26, 2018) (coalition overview comments); Americans for Financial Reform et al., <https://www.nclc.org/images/pdf/rulemaking/cfpb-crl-cfa-rfi-2018.pdf> (April 26, 2018) (longer comments); Public Citizen, <https://www.regulations.gov/document?D=CFPB-2018-0001-0074> (April 25, 2018); Legal Academics, <https://ourfinancialsecurity.org/wp-content/uploads/2018/06/Legal-Academic-on-Civil-Investigatory-Demands.pdf> (April 25, 2018); Applesseed Network, <https://www.regulations.gov/document?D=CFPB-2018-0001-0081> (April 26, 2018); National Association of Consumer Advocates, <https://www.regulations.gov/document?D=CFPB-2018-0001-0073> (April 26, 2018).

<sup>6</sup> See, e.g., Center for Responsible Lending et al., <https://www.regulations.gov/document?D=CFPB-2018-0002-0027> (May 7, 2018); Financial Services Scholars, <https://www.regulations.gov/document?D=CFPB-2018-0002-0024> (May 7, 2018).

<sup>7</sup> See, e.g., Allied Progress, et al., <https://www.nclc.org/images/pdf/rulemaking/coalition-34-cfpb-enforcement.pdf> (May 14, 2018) (coalition overview comments); Americans for Financial Reform, et al., <https://www.nclc.org/images/pdf/rulemaking/cfpb-enforcement-rfi-group.pdf> (May 14, 2018) (longer comments).

<sup>8</sup> See, e.g., National Consumer Law Center, et al., <https://www.nclc.org/images/pdf/legislation/43-group-comments-cfpb-superv.pdf> (May 21, 2018) (coalition overview comments); Americans for Financial Reform, et al., <https://www.nclc.org/images/pdf/legislation/natl-group-detailed-comments-cfpb-superv.pdf> (longer comments).

<sup>9</sup> See, e.g., Allied Progress, et al., <https://www.nclc.org/images/pdf/rulemaking/group-comm-rfi-external-engagements.pdf> (May 29, 2018). CAB: Consumer Lending Subcommittee, <https://ourfinancialsecurity.org/wp-content/uploads/2018/06/CAB-Comment-on-External-Engagement.pdf> (April 18, 2018); Consumers Union, <https://ourfinancialsecurity.org/wp-content/uploads/2018/06/Consumer-Union-Comment-on-External-Engagement.pdf> (May 25, 2018); Legal Academics, <https://ourfinancialsecurity.org/wp->



- Consumer complaint information;<sup>10</sup>
- Rulemaking process;<sup>11</sup>
- Adopted regulations;<sup>12</sup>
- Inherited regulations;<sup>13</sup>

[content/uploads/2018/06/Legal-Academic-on-External-Engagements.pdf](https://ourfinancialsecurity.org/wp-content/uploads/2018/06/Legal-Academic-on-External-Engagements.pdf) (May 29, 2018); Appleseed, <https://ourfinancialsecurity.org/wp-content/uploads/2018/06/Appleseed-Comment-on-External-Engagements.pdf> (May 29, 2018); Consumer Action, <https://ourfinancialsecurity.org/wp-content/uploads/2018/06/Consumer-Action-Comment-on-External-Engagements.pdf> (May 29, 2018); National Association of Consumer Advocates, <https://ourfinancialsecurity.org/wp-content/uploads/2018/06/NACA-Comment-on-External-Engagements.pdf> (May 29, 2018).

<sup>10</sup> See, e.g., Alaska Public Interest Research Group, et al., [https://www.nclc.org/images/pdf/regulatory\\_reform/cfpb-complaint-db-rfi-sign-on-2018.pdf](https://www.nclc.org/images/pdf/regulatory_reform/cfpb-complaint-db-rfi-sign-on-2018.pdf) (June 4, 2018); Veterans and Military Service Leaders, <https://ourfinancialsecurity.org/wp-content/uploads/2018/06/Veterans-and-Military-Leaders-comment-on-RFI.pdf> (June 4, 2018); National Consumers League, <https://ourfinancialsecurity.org/wp-content/uploads/2018/06/National-Consumers-League-comments-on-RFI-regarding-public-reporting-practices.pdf> (June 4, 2018); AARP, <https://ourfinancialsecurity.org/wp-content/uploads/2018/06/AARP-Comment-on-RFI-regarding-public-reporting-practices-and-consumer-complaint-information.pdf> (June 4, 2018); Legal Academics, <https://ourfinancialsecurity.org/wp-content/uploads/2018/06/Legal-Academic-on-Complaint-Reporting.pdf> (June 4, 2018); The Indiana Assets & Opportunity Network, <https://ourfinancialsecurity.org/wp-content/uploads/2018/06/The-Indiana-Assets-Opportunity-Network-.pdf> (June 4, 2018).

<sup>11</sup> See, e.g., Americans for Financial Reform et al., <https://www.nclc.org/images/pdf/rulemaking/letter-group-cfpb-rfi-2018.pdf> (June 7, 2018) (coalition overview comments); <https://www.nclc.org/images/pdf/rulemaking/comment-afr-crl-nclc-cfpb-rulemaking-rfi.pdf> (June 7, 2018) (longer comments); Appleseed, <https://ourfinancialsecurity.org/wp-content/uploads/2018/06/Appleseed-Comment-on-Rulemaking-processes.pdf> (June 7, 2018); Woodstock Institute, <https://ourfinancialsecurity.org/wp-content/uploads/2018/06/Woostock-Comment-on-Rulemaking-Processes.pdf> (June 7, 2018); Consumers Union, <https://ourfinancialsecurity.org/wp-content/uploads/2018/06/Consumers-Union-Comment-on-Rulemaking-Processes.pdf> (June 7, 2018); Public Citizen, <https://ourfinancialsecurity.org/wp-content/uploads/2018/06/Public-Citizen-Comment-on-Rulemaking-Processes.pdf> (June 7, 2018); Legal Academics, <https://ourfinancialsecurity.org/wp-content/uploads/2018/06/Legal-Academic-on-Rulemaking-Processes.pdf> (June 7, 2018).

<sup>12</sup> See, e.g., Americans for Financial Reform et al., <https://www.nclc.org/images/pdf/rulemaking/comments-adopted-regulations-coalition-rfi-cfpb.pdf> (June 19, 2018) (overarching comments); National Consumer Law Center et al., [https://www.nclc.org/images/pdf/regulatory\\_reform/comments-cfpb-rfi-housing-rulemaking.pdf](https://www.nclc.org/images/pdf/regulatory_reform/comments-cfpb-rfi-housing-rulemaking.pdf) (June 19, 2018) (mortgages); National Consumer Law Center et al., <https://www.nclc.org/images/pdf/rulemaking/comm-cfpb-rfi-adopted-rules-prepaid-cards.pdf> (June 19, 2018) (prepaid accounts); National Consumer Law Center et al., <https://www.nclc.org/images/pdf/rulemaking/comm-cfpb-rfi-adopted-rules-remittances.pdf> (June 19, 2018) (remittances and credit cards); National Consumer Law Center et al., <https://www.nclc.org/images/pdf/rulemaking/comm-cfpb-rfi-adopted-rules-debt-coll.pdf> (June 19, 2018) (upcoming debt collection regulations); Legal Academics, <https://ourfinancialsecurity.org/wp-content/uploads/2018/06/Legal-Academic-on-Adopted-Regulations.pdf> (June 19, 2018).

<sup>13</sup> See, e.g., Americans for Financial Reform, et al. <https://www.nclc.org/images/pdf/rulemaking/cfpb-inherited-regs-all-regs.pdf> (June 25, 2018) (overarching comments); National Consumer Law Center et al., <https://www.nclc.org/images/pdf/rulemaking/cfpb-inherited-regs-and-non-lending.pdf> (June 25, 2018) (Regulation E, overdraft fees and bank account issues); Americans for Financial Reform, et al., <https://www.nclc.org/images/pdf/rulemaking/cfpb-inherited-regs-disparate-impact.pdf> (June 25, 2018) (fair lending); National Consumer Law Center, et al. <https://www.nclc.org/images/pdf/rulemaking/cfpb-inherited-regs-electronic-communications.pdf> (June 25, 2018) (electronic communications); National Consumer Law Center, et al., <https://www.nclc.org/images/pdf/rulemaking/cfpb-inherited-regs-pace.pdf> (June 25, 2018) (Property Assessed Clean Energy (PACE) loans); National Consumer Law Center, et al.,

- Guidance materials;<sup>14</sup>
- Financial education programs<sup>15</sup>
- Consumer complaints and inquiries.<sup>16</sup>

We have attached over 500 pages of comments that our groups and others submitted – on top of hundreds of additional pages of comments on other Bureau rulemakings and information requests – in response to those 2018 requests for information. Yet the Bureau appears to have largely ignored the lengthy and detailed responses that our organizations submitted. We urge you to review those comments and others by the multitude of other organizations, academics, and members of the public who provided suggestions on things that the CFPB can do, within its jurisdiction, to improve the protection of consumers.

We do not intend to spend more time rebutting the implications in the Taskforce’s questions; in many cases, even a single question – such as whether we can count on disclosures and consumer “choice” to protect people – has been the subject of extensive research, commentary and debate over decades. Nor do we intend to embark on a project to justify the entire federal statutory consumer protection framework. Our organizations have thin resources that have already been severely strained by the need to respond to the coronavirus crisis. While some organizations and members of the public may submit brief responses to Taskforce questions, the Taskforce should not view those responses – or the absence of rebuttals to those who support weakening consumer protections – as legitimizing this enterprise.

The Taskforce claims to be inspired by the National Commission on Consumer Finance created in 1968. But the CFPB’s Taskforce has only five members, all with a track record of pushing for de-regulation – and, in some cases, conflicts of interests in the clients they have represented and may represent in the future.<sup>17</sup> In contrast, the National Commission on Consumer Finance was specifically authorized and funded by Congress; its work was bipartisan; a majority of its 12 members, supported by dozens of staff and student researchers, were members of Congress accountable to the public; its work spanned four years and drew on multiple public hearings with hours of testimony from leading consumer advocates as well as individual consumers and lenders.<sup>18</sup> Whereas the National Commission concerned itself with problems in the consumer financial market, the Taskforce asks about the burdens of compliance with consumer protections.

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<https://www.nclc.org/images/pdf/rulemaking/cfpb-inherited-regs-tila-respa-mortg.pdf> (June 25, 2018) (Regulation Z (TILA) and Regulation X (RESPA); National Consumer Law Center, et al.,

<https://www.nclc.org/images/pdf/rulemaking/cfpb-inherited-regs-tila-respa-mortg.pdf> (June 25, 2018) (FTC mortgage rules); Legal Academics, <https://ourfinancialsecurity.org/wp-content/uploads/2018/06/Legal-Academic-on-Inherited-Regulations.pdf> (June 25, 2018).

<sup>14</sup> See, e.g., Alabama Appleseed Center for Law & Justice, et al.,

<https://www.nclc.org/images/pdf/rulemaking/coalition-comm-guidance-cfpb-rfi.pdf> (July 2, 2018).

<sup>15</sup> See, e.g., Allied Progress, et al., [https://www.nclc.org/images/pdf/regulatory\\_reform/Comments-CFPB-on-Financial-Education-RFIs.pdf](https://www.nclc.org/images/pdf/regulatory_reform/Comments-CFPB-on-Financial-Education-RFIs.pdf) (July 9, 2018).

<sup>16</sup> See, e.g., Allied Progress, et al., <https://www.nclc.org/images/pdf/rulemaking/grp-comments-rfi-cfpb-cons-inquiry-process.pdf> (July 16, 2018); California Reinvestment Coalition (July 13, 2018), <https://californiareinvestmentcoalition.app.box.com/s/i31q75dgg7o4k12ualcxqz504zbxexph>.

<sup>17</sup> E. Weinberger, Conflicted Task Force, *supra* (noting that the Taskforce has no consumer representation and “consists of five outside conservative academics and industry lawyers who have represented payday lenders in CFPB enforcement actions and consumer litigation, as well as banks and other companies in regulatory matters.”).

<sup>18</sup> See National Commission on Consumer Finance, Consumer Credit in the United States (December 1972), <https://babel.hathitrust.org/cgi/pt?id=uc1.31822024338451&view=1up&seq=1>.

Even responsible industry players will be harmed by this diversion. Banks and other companies are overwhelmed trying to assist their customers seeking help due to the COVID-19 crisis. That's where their attention needs to be, not on this academic exercise, opining on the theoretical virtues of principle-based versus prescriptive regulation or on regulation versus deregulation. And if the CFPB actually implements any recommendations of the Taskforce, companies will face the prospect of see-sawing regulatory frameworks that, in light of the illegitimacy of this Taskforce, may well be undone by the next change of leadership.

The CFPB has received record-setting numbers of complaints by consumers crying out for help in dealing with abusive companies and the impacts of the coronavirus economic crisis. The CFPB should listen to and respond to those cries, not spend time proposing harmful changes to the consumer protection framework that protects the American public.

Yours very truly,

Allied Progress  
Americans for Financial Reform Education Fund  
Arkansans Against Abusive Payday Lending  
California Reinvestment Coalition  
Center for Digital Democracy  
Center for Economic Integrity  
Center for Responsible Lending  
Consumer Action  
Consumer Federation of America  
Interfaith Center on Corporate Responsibility  
Jacksonville Area Legal Aid, Inc.  
Kentucky Equal Justice Center  
Maryland Consumer Rights Coalition  
Mississippi Center for Justice  
NAACP  
National Association of Consumer Advocates  
National Consumer Law Center (on behalf of its low income clients)  
National Fair Housing Alliance  
National Housing Law Project  
North Dakota Economic Security and Prosperity Alliance  
Public Citizen  
Public Counsel  
Reinvestment Partners  
Texas Appleseed  
U.S. PIRG  
Virginia Citizens Consumer Council  
Virginia Poverty Law Center

## EXHIBIT G-3



120 Tremont Street  
Boston, MA 02108

617.573.8000

[www.law.suffolk.edu](http://www.law.suffolk.edu)

June 1, 2020

Consumer Financial Protection Bureau  
Request For Information To Assist the  
Taskforce on Federal Consumer Financial Law  
Docket No. CFPB-2020-0013  
May 29, 2020

Dear Director Kraninger:

I am responding to your Request for Information to Assist the Taskforce on Federal Consumer Financial Law.

It is deeply concerning that you have elected to issue an RFI when the country is in the middle of a serious pandemic that has killed over 100,000 and sickened almost two million. There are parents who cannot feed their children. Hard-working people who love this country are being evicted from their homes. Forty million have lost their jobs.

This is a time when American families need the CFPB to protect them from fraud and to help craft solutions to the financial crisis for which they bear no responsibility. It is not the time for your Task Force of questionable legality to embark on an effort to dismantle consumer protection.

I helped coordinate legal scholars' responses to the CFPB's 2018 RFIs related to the Bureau's consumer protection activities. In lieu of asking these scholars to write responses to the current RFI, which duplicates the 2018 RFIs, I have provided the URL for the twelve responses legal academics made in 2018:

<https://lawdigitalcommons.bc.edu/cfpb-comments/>.

Sincerely,

Kathleen C. Engel,  
Research Professor of Law  
Suffolk University Law School

UNITED STATES DISTRICT COURT

for the

District of Massachusetts



National Association of Consumer Advocates, et al.

*Plaintiff(s)*

v.

Civil Action No. 1:20-cv-11141

Kathleen L. Kraninger, in her official capacity as Director  
of the Consumer Financial Protection Bureau, et ano.

*Defendant(s)*

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

Kathleen L. Kraninger, in her official capacity as Director of the Consumer Financial Protection Bureau; Consumer  
Financial Protection Bureau  
c/o William Barr, Attorney General of the United States  
Office of the Attorney General of the United States  
950 Pennsylvania Avenue NW  
Washington, DC 20530

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

David A. Nicholas  
Wolf Popper LLP  
20 Whitney Road  
Newton, MA

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: \_\_\_\_\_

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE***(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
 was received by me on *(date)* \_\_\_\_\_ .

☐ I personally served the summons on the individual at *(place)* \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
 \_\_\_\_\_, a person of suitable age and discretion who resides there,  
 on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* \_\_\_\_\_, who is  
 designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

☐ I returned the summons unexecuted because \_\_\_\_\_ ; or

☐ Other *(specify)*: \_\_\_\_\_

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ 0.00 .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

UNITED STATES DISTRICT COURT

for the

District of Massachusetts



National Association of Consumer Advocates, et al.

*Plaintiff(s)*

v.

Civil Action No. 1:20-cv-11141

Kathleen L. Kraninger, in her official capacity as Director  
of the Consumer Financial Protection Bureau, et ano.

*Defendant(s)*

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

Consumer Financial Protection Bureau  
1700 G Street NW  
Washington, DC 20552

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

David A. Nicholas  
Wolf Popper LLP  
20 Whitney Road  
Newton, MA

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: \_\_\_\_\_

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*



Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE***(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
 was received by me on *(date)* \_\_\_\_\_ .

☐ I personally served the summons on the individual at *(place)* \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
 \_\_\_\_\_, a person of suitable age and discretion who resides there,  
 on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* \_\_\_\_\_, who is  
 designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

☐ I returned the summons unexecuted because \_\_\_\_\_ ; or

☐ Other *(specify)*: \_\_\_\_\_

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ 0.00 .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

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UNITED STATES DISTRICT COURT

for the

District of Massachusetts



National Association of Consumer Advocates, et al.

*Plaintiff(s)*

v.

Civil Action No. 1:20-cv-11141

Kathleen L. Kraninger, in her official capacity as Director of  
the Consumer Financial Protection Bureau, et ano.

*Defendant(s)*

**SUMMONS IN A CIVIL ACTION**

To: *(Defendant's name and address)*

Kathleen L. Kraninger, in her official capacity as Director of the Consumer Financial Protection Bureau  
1700 G Street NW  
Washington, DC 20552

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

David A. Nicholas  
Wolf Popper LLP  
20 Whitney Road  
Newton, MA

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

*CLERK OF COURT*

Date: \_\_\_\_\_

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE***(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
 was received by me on *(date)* \_\_\_\_\_.

☐ I personally served the summons on the individual at *(place)* \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
 \_\_\_\_\_, a person of suitable age and discretion who resides there,  
 on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* \_\_\_\_\_, who is  
 designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I returned the summons unexecuted because \_\_\_\_\_; or

☐ Other *(specify)*:

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

UNITED STATES DISTRICT COURT

for the

District of Massachusetts



National Association of Consumer Advocates, et al.

*Plaintiff(s)*

v.

Civil Action No. 1:20-cv-11141

Kathleen L. Kraninger, in her official capacity as Director  
of the Consumer Financial Protection Bureau, et ano.

*Defendant(s)*

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

Kathleen L. Kraninger, in her official capacity as Director of the Consumer Financial Protection Bureau; Consumer  
Financial Protection Bureau  
c/o Civil Process Clerk  
U.S. Attorney's Office for the District of Massachusetts  
1 Courthouse Way, Suite 9200  
Boston, MA 02210

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

David A. Nicholas  
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Newton, MA

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CLERK OF COURT

Date: \_\_\_\_\_

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*

Civil Action No. \_\_\_\_\_

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 \_\_\_\_\_, a person of suitable age and discretion who resides there,  
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My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ 0.00 .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc: