

Halfway to the CFPB:

An AFR Progress Report on

“Standing Up” the New Consumer Financial Protection Bureau

Summary:

CFPB Implementation Team staff are making significant progress in their efforts to both build an effective agency and be ready to perform required functions by the transfer date (July 21, 2011). Based on our analysis of several key metrics, on the date halfway between passage and startup, the CFPB Implementation Team is properly focusing on key goals and outcomes. Moreover, the high-quality of its early hires will give it the CFPB the ability to significantly broaden and accelerate its activities over the next six months.

At the same time, the CFPB has some major challenges before it. It must defend itself against ongoing special interest attacks and one-sided Congressional inquiries. To achieve its full potential on the transfer date, it must have a director confirmed by the Senate who is committed to strong consumer protection. While the CFPB enabling legislation gives the Treasury Secretary authority to run the agency in the absence of a director after July 21, the confirmation of a director provides additional new powers current regulators do not have.

Introduction:

Friday, January 21st marks the halfway point in the year between the enactment and startup of the new Consumer Financial Protection Bureau (CFPB). On July 21, 2010 President Obama signed into law the Dodd-Frank Wall Street Reform and Consumer Protection Act, which made substantial reforms in the wake of the monumental financial crisis and recession caused by reckless Wall Street bank practices.

Among those reforms was establishment of the landmark CFPB, the first federal agency with only one job, protecting consumers in the financial marketplace. The CFPB has broad jurisdiction over both banks and non-bank financial firms. The broad and diverse membership of Americans for Financial Reform -- including consumer, senior, labor, civil rights, small business and other constituencies -- made establishment of the CFPB a priority among our Wall Street reform goals because the current regulatory system was

broken and did not serve the needs of average, let alone at-risk, consumers in the financial marketplace.

On September 20, Treasury Secretary Tim Geithner fulfilled a requirement of the law by choosing a “transfer date” of July 21, 2011 for the CFPB to assume the consumer rulemaking, supervision and enforcement functions currently divided between myriad federal regulators.

Just a few days before, on September 17, the President had appointed Professor Elizabeth Warren to “stand up” the new agency.¹ Her job: hire the staff and get the systems running so that the CFPB would be ready to protect consumers, starting July 21, 2011.

This Americans for Financial Reform Progress Report summarizes the status of the bureau’s efforts so far to become an effective, fully functioning consumer protection agency as of July 21.

An AFR Progress Report: Standing Up The CFPB

Key Metrics: Staff, Systems, Organization Model, Outreach and Early Priorities

Metric 1: Hiring Essential, Well-Qualified Staff: Professor Warren and her team are moving quickly to hire top senior staff and have made numerous key appointments.

The selection of Massachusetts Banking Commissioner Steve Antonakes as director of bank supervision, Ohio Attorney General Richard Cordray as director of enforcement and Holly Petraeus to establish the office of Servicemember Affairs are a few examples among many other well-qualified hires. These senior hires also demonstrate that a strong effort is being made to bring on staff with diverse perspectives and backgrounds. Leonard Chanin, for example, who will head rulemaking, has experience both at the Federal Reserve Board and as an industry lawyer.

Metric 2: Building Key Systems

The CFPB has taken major steps to build key systems.

- **Internet:** Warren has often said that the CFPB was “born digital” and that she intends for the agency to use modern communications and Internet tools. The

¹ Warren, who had proposed the idea of the CFPB, was given two hats: Assistant to the President & Special Adviser to the Secretary of the Treasury on the Consumer Financial Protection Bureau.

Web and Online Engagement team, headed by Dan Munz and David Forrest², is expected to roll out the bureau's proto-web site within the month.

- **Complaint-Handling:** The CFPB will have the responsibility to address consumer complaints about nearly any financial transaction. Last week it issued a Federal Register notice describing its complaints database. AFR has urged the CFPB Implementation Team to ensure that the final complaint database system provides broad access to consumers, has the capability to handle all consumer complaints and inquiries – including the ability to take follow-up steps (e.g., provide advice or mediation to consumers, track patterns, refer to enforcement, etc.) and further limit the collection of personal information such as Social Security Numbers.³

Metric 3: Building A Solid Organizational Structure:

The CFPB Implementation Team has proposed an organizational structure, based on the statute, that will allow the bureau's offices to effectively conduct research, implement policy and educate the public.

Metric 4: Starting Early Priority Projects

Congress and the American people have every right to expect the CFPB to be visible, effective and efficient from the moment it opens its doors. Therefore, it is essential that that CFPB begin taking steps to consider and shape key consumer protection activities now. The CFPB implementation team has made several key strides in this area:

- **Proposals for Rulemakings:** The Treasury Department and the CFPB Implementation Team have stated their intent that the CFPB will begin filing Advanced Notices of Proposed Rulemaking (ANPRs) soon, to obtain comments from consumers and industry to ensure that key rules can be considered as soon as possible after the transfer date.
- **The Simplified Contracts:** Under the law, the bureau has several important jobs. One is making it easier for consumers to navigate the financial marketplace.

² Forrest spent 15 years at the Motley Fool, one of the earliest financial education websites, founded in 1993.

³ The CFPB Implementation Team filed a Federal Register Notice requesting comments on the privacy-related elements of the system, which qualifies as a "System of records" under the Privacy Act. <http://www.gpo.gov/fdsys/pkg/FR-2011-01-10/pdf/2011-217.pdf>

Warren has said that the CFPB will be proposing simplified mortgage closing documents (which it is required to do) and credit card contracts soon.

- **Key Enforcement Activities:** The CFPB Implementation Team has already negotiated a Memorandum of Understanding with state bank supervisors. This will help ensure that federal and state officials are working effectively and efficiently together, and that financial institutions face uniform, coordinate enforcement efforts that are not unduly burdensome.

Metric 4: Reaching Out and Talking to the Public:

Over the last few months, Professor Warren has been out talking to the public, including consumer and community groups in Ohio, California and Texas, big bankers, small bankers in Maine and Oklahoma and military families in Texas.

Work Still To Be Done: CFPB's Challenges

1) Monumental Task of Staffing the Agency, Housing Personnel and Building Systems

AFR is pleased with progress to date in this area. However, there is still much work to be done. Just hiring or transferring from other agencies up to 1,000 people requires significant effort. The CFPB also needs to house these staff. It is important to note that, under the law, the systems discussed above, including complaint handling, consumer communication, industry communication and monitoring and other technology systems, must be built in only one year. Many similar agencies have taken several years merely to upgrade or modify such systems.

On the positive side, the bureau has an opportunity, since it will be "born digital", to build many of these systems at a current-state-of-the-art level, while existing agencies that undertake such projects are often burdened with replacing or upgrading archaic legacy systems.

2) Non-Bank Enforcement:

No federal agency has ever been required to conduct the essential function of supervising and examining non-banks. The CFPB is building this capability from scratch under the direction of Peggy Twohig, a longtime senior enforcement official at the Federal Trade Commission. Non-banks are more diverse than banks and include non-bank mortgage companies, payday lenders, credit bureaus and others.

3) Defending Itself Against Political Threats:

Many special interest groups have made no secret of their hostility to the mission and independence of the CFPB. While Congress has a legitimate oversight function to perform regarding all administration activities, that authority can be used appropriately or inappropriately. Initial oversight efforts by some leaders of the House Financial Services Committee, for example, seem largely designed to discredit the CFPB and slow down efforts to make it run effectively, rather than to ask legitimate questions about initial efforts to organize the agency.

4) The Need For A Permanent Director:

The President should nominate and the Senate should confirm a qualified director of the Bureau as soon as possible. This will ensure that the bureau gains its full authorities to protect the public by the transfer date of July 21. Any nominee must have a demonstrated deep commitment to protecting consumers as well as detailed knowledge of the financial services marketplace and of the problems facing consumers of financial services, especially those who are most vulnerable. Elizabeth Warren is certainly one potential nominee who meets these qualifications.

Conclusion

To achieve its mission we believe that the CFPB must change the culture of consumer protection. In addition to the rules needed to prevent deception and abuse, and help create a level playing field, the CFPB can provide clear guidance and principles for industry to align its products with the needs of consumers – the ability to build assets, to avoid wealth-depleting products, to have clear and fair choices in the marketplace. The CFPB can also provide a consumer with the tools she needs to make those choices and help drive consumer friendly financial innovation.

Steps taken by the CFPB Implementation Team so far are positive. The Administration is on track at the halfway point to putting in place an agency that could dramatically improve the financial services marketplace for tens of millions of families.

Americans for Financial Reform (AFR) is an unprecedented coalition of over 250 consumer, civil rights, investor, retiree, community, labor, religious and business groups and academics that fought together for Wall Street reform. This report was prepared by members of the AFR CFPB Task Force.

AFR is on the web at ourfinancialsecurity.org