



December 2018

# DODD-FRANK REGULATIONS

## Consumer Financial Protection Bureau Needs a Systematic Process to Prioritize Consumer Risks

Accessible Version

# GAO Highlights

Highlights of [GAO-19-158](#), a report to congressional addressees

## Why GAO Did This Study

The Dodd-Frank Act created CFPB to regulate the provision of consumer financial products and services. Congress included a provision in statute for GAO to study financial services regulations annually, including CFPB's related activities. This eighth annual report examines steps CFPB has taken to (1) identify, monitor, and report on risks to consumers in support of its rulemakings and other functions and (2) retrospectively assess the effectiveness of certain rules within 5 years of their effective dates.

GAO reviewed CFPB policies and procedures, internal and public reports, and memorandums documenting key decisions, assessment plans, and requests for public comment. GAO also interviewed officials from CFPB, three federal agencies with which it coordinated, and representatives of consumer and industry groups.

## What GAO Recommends

GAO recommends that CFPB implement a systematic process for prioritizing risks to consumers and considering how to use its available policy tools—such as rulemaking, supervision, enforcement, and consumer education—to address these risks. CFPB did not agree or disagree with the recommendation but agreed with the importance of having processes in place to prioritize and address consumer financial risks.

View [GAO-19-158](#). For more information, contact Michael Clements at (202) 512-8678 or [ClementsM@gao.gov](mailto:ClementsM@gao.gov).

December 2018

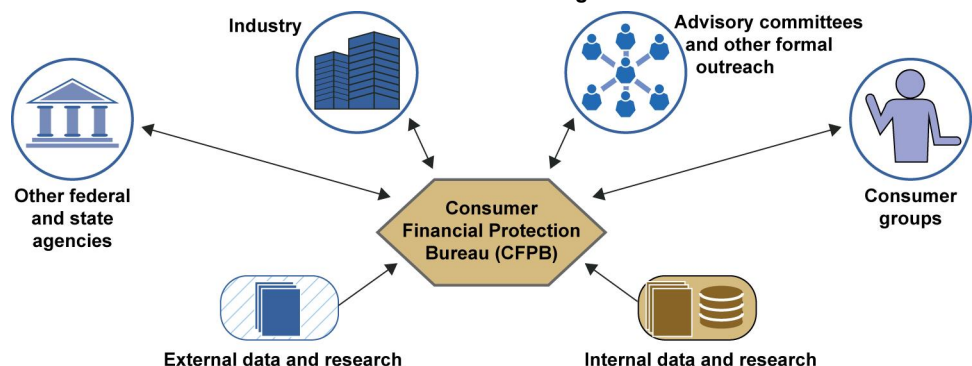
# DODD-FRANK REGULATIONS

## Consumer Financial Protection Bureau Needs a Systematic Process to Prioritize Consumer Risks

### What GAO Found

In accordance with the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), the Consumer Financial Protection Bureau (CFPB) has routinely monitored the consumer financial markets to identify potential risks to consumers related to financial products and services. CFPB monitors consumer complaints, analyzes market data, and gathers market intelligence from external groups (see figure for sources of CFPB's monitoring). CFPB has used risk-monitoring findings to inform its rulemakings, supervision, and other functions. In 2015, CFPB initiated a bureau-wide process for using market data and other information to set policy priorities related to addressing risks to consumers. However, CFPB has not yet decided whether it will continue to use this process to set priorities. CFPB currently lacks a systematic, bureau-wide process for prioritizing financial risks to consumers and considering how it will use its tools—such as rulemaking, supervision, and consumer education—to address them. Federal internal control standards state that management should use quality information to achieve agency objectives and that it should also identify, analyze, and respond to risks related to achieving those objectives. Implementing a bureau-wide prioritization process could help to ensure that CFPB effectively focuses its resources on the most significant financial risks to consumers and enhances its ability to meet its statutory consumer protection objectives.

### Information Sources for CFPB's Routine Risk Monitoring



Source: GAO analysis of CFPB information. | GAO-19-158

CFPB has taken steps to retrospectively assess its significant rules within 5 years of these rules becoming effective, as required by the Dodd-Frank Act. CFPB developed and applied criteria to identify three rules as significant and requiring a retrospective assessment. For these three rules, CFPB created assessment plans, issued public requests for comment and information, and reached out to external parties for additional data and evidence. In October 2018, CFPB issued its first assessment report on a rule related to cross-border money transfers. Among other things, the report found that certain trends, such as increasing volume of these transfers, continued after the rule took effect. CFPB expects to complete the other two assessments by the January 2019 deadline.

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## Abbreviations

ATR/QM Rule	Ability-to-Repay/Qualified Mortgage Rule
CFPB	Consumer Financial Protection Bureau
Dodd-Frank Act	Dodd-Frank Wall Street Reform and Consumer Protection Act
Federal Reserve	Board of Governors of the Federal Reserve System

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RESPA  
TILA

Real Estate Settlement Procedures Act  
Truth in Lending Act

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December 21, 2018

Congressional Addressees

The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) created the Bureau of Consumer Financial Protection (also known as the Consumer Financial Protection Bureau, or CFPB) to regulate the offering and provision of financial products or services under federal consumer financial laws.<sup>1</sup> The act consolidated many of the consumer financial protection authorities previously shared by seven federal agencies into one. It also provided CFPB additional authorities related to supervising for compliance with and enforcing federal consumer financial laws, handling consumer complaints, promoting financial education, and monitoring the functioning of consumer financial products markets for risks to consumers.

The Dodd-Frank Act set forth deadlines for CFPB to complete rulemakings in certain areas and also granted CFPB authority to take additional actions needed to carry out the purpose and objectives of federal consumer financial laws. Section 1022 of the act contained requirements related to CFPB's rulemaking authority. Among other requirements, it directed CFPB to monitor consumer financial markets for risks to consumers in the offering or provision of consumer financial products or services in support of its rulemaking and other functions. It also required CFPB to retrospectively assess, among other things, the effectiveness of its significant rules or orders and publish a report of such assessment within 5 years of the rule or order's effective date.

Section 1573(a) of the Department of Defense and Full-Year Continuing Appropriations Act of 2011 amended the Dodd-Frank Act and included a provision for us to annually review financial services regulations, including

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<sup>1</sup>See Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203 § 1011, 124 Stat.1376, 1955 (2010) (codified at 12 U.S.C. § 5491).

those of CFPB.<sup>2</sup> We have previously issued seven reports under this mandate.<sup>3</sup> This report examines steps CFPB has taken to (1) identify, monitor, and report on risks to consumers in support of its rulemakings and other functions and (2) retrospectively assess the effectiveness of certain rules within 5 years of their effective dates.<sup>4</sup>

To evaluate how CFPB identifies, monitors, and reports on risks to consumers, we reviewed CFPB policies, procedures, and other documentation of its processes. These documents included the values statement for the offices that conduct market monitoring and policies on data governance, information sharing, and advisory groups. We also reviewed CFPB's public reports, such as its semiannual reports to

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<sup>2</sup>Pub. L. No. 112-10, § 1573(a), 125 Stat. 38, 138-39 (codified at 12 U.S.C. § 5496b). We are to analyze (1) the impact of regulation on the financial marketplace, including the effects on the safety and soundness of regulated entities, cost and availability of credit, savings realized by consumers, reductions in consumer paperwork burden, changes in personal and small business bankruptcy filings, and costs of compliance with rules, including whether relevant federal agencies are applying sound cost-benefit analysis in promulgating rules; (2) efforts to avoid duplicative or conflicting rulemakings, information requests, and examinations; and (3) other matters related to the operations of financial services regulations deemed appropriate by the Comptroller General. The focus of our past reviews and this report is on the financial regulations promulgated pursuant to the Dodd-Frank Act.

<sup>3</sup>GAO, *Financial Services Regulations: Procedures for Reviews under Regulatory Flexibility Act Need to Be Enhanced*, [GAO-18-256](#) (Washington, D.C.: Jan. 30, 2018); *Dodd-Frank Regulations: Agencies' Efforts to Analyze and Coordinate Their Recent Final Rules*, [GAO-17-188](#) (Washington, D.C.: Dec. 29, 2016); *Dodd-Frank Regulations: Impacts on Community Banks, Credit Unions and Systemically Important Institutions*, [GAO-16-169](#) (Washington, D.C.: Dec. 30, 2015); *Dodd-Frank Regulations: Regulators' Analytical and Coordination Efforts*, [GAO-15-81](#) (Washington, D.C.: Dec. 18, 2014); *Dodd-Frank Regulations: Agencies Conducted Regulatory Analyses and Coordinated but Could Benefit from Additional Guidance on Major Rules*, [GAO-14-67](#) (Washington, D.C.: Dec. 11, 2013); *Dodd-Frank Act: Agencies' Efforts to Analyze and Coordinate Their Rules*, [GAO-13-101](#) (Washington, D.C.: Dec. 18, 2012); and *Dodd-Frank Act Regulations: Implementation Could Benefit from Additional Analyses and Coordination*, [GAO-12-151](#) (Washington, D.C.: Nov. 10, 2011).

<sup>4</sup>The Dodd-Frank Act authorized CFPB to exercise its authorities under federal consumer financial law to administer, enforce, and otherwise implement the provisions of federal consumer financial law. As part of this authority, the Director of CFPB was empowered to prescribe rules and issue orders and guidance as may be necessary or appropriate to carry out the purposes and objectives of the federal consumer financial laws and to prevent evasions thereof. See 12 U.S.C. § 5512.

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Congress; its rulemaking agendas; and more than 100 internal market intelligence reports from July 2016 through July 2018.<sup>5</sup>

To evaluate the steps CFPB has taken to retrospectively assess certain rules, we reviewed internal CFPB memorandums and presentations from early 2015 to mid-2018 documenting key decisions about the process, as well as the assessment plans and requests for public comment for the three rules CFPB has chosen to retrospectively assess. In addition, we reviewed CFPB's retrospective assessment report on its Remittance Rule—the only assessment report to be issued within our reporting time frames. For both objectives, we compared CFPB's efforts to Dodd-Frank Act requirements and federal internal control standards.<sup>6</sup> We also interviewed officials from CFPB and three federal agencies with which CFPB coordinated for its risk-monitoring or retrospective assessment efforts—the Federal Housing Finance Agency, Board of Governors of the Federal Reserve System (Federal Reserve), and Office of the Comptroller of the Currency. Finally, we interviewed representatives of three consumer groups and four industry groups about their communication with CFPB regarding these efforts.<sup>7</sup>

We conducted this performance audit from April 2018 to December 2018 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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<sup>5</sup>CFPB provided 118 reports in response to our request for all of its market intelligence reports from July 2016 through July 2018. According to CFPB, these reports reflected the vast majority of market intelligence reports the bureau had produced since 2016, although CFPB could not confirm that it was providing every report produced since 2016. We excluded from our analysis a total of four reports that fell outside of our scope of July 2016 through July 2018.

<sup>6</sup>GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: September 2014).

<sup>7</sup>We selected groups that had been engaged with issues related to CFPB's efforts to monitor risks to consumers and retrospectively assess rules, including groups that had provided written comments on CFPB's requests for information for its retrospective assessments and rulemakings.

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## Background

CFPB's Research, Markets, and Regulations Division has primary responsibility for CFPB's efforts to monitor market developments and risks to consumers and to retrospectively assess rules.<sup>8</sup> As shown in figure 1, the division is composed of the Office of Research, the Office of Regulations, and the following four offices (collectively known as the "Markets Offices"), which are focused on different consumer financial markets:

- The Office of Card, Payment, and Deposit Markets monitors credit cards, deposit accounts, prepaid cards, and remittances, as well as other emerging forms of payment and related technologies, such as mobile payments and virtual currencies. It also monitors data aggregation services.
- The Office of Consumer Lending, Reporting, and Collection Markets monitors debt collection, debt relief, and consumer reporting and scoring, as well as student, auto, and the small-dollar and personal lending markets.<sup>9</sup>
- The Office of Mortgage Markets monitors the mortgage markets, including originations, servicing, and secondary markets.
- The Office of Small Business Lending Markets monitors credit to small businesses, including traditional lenders, specialty financing, and emerging technologies.

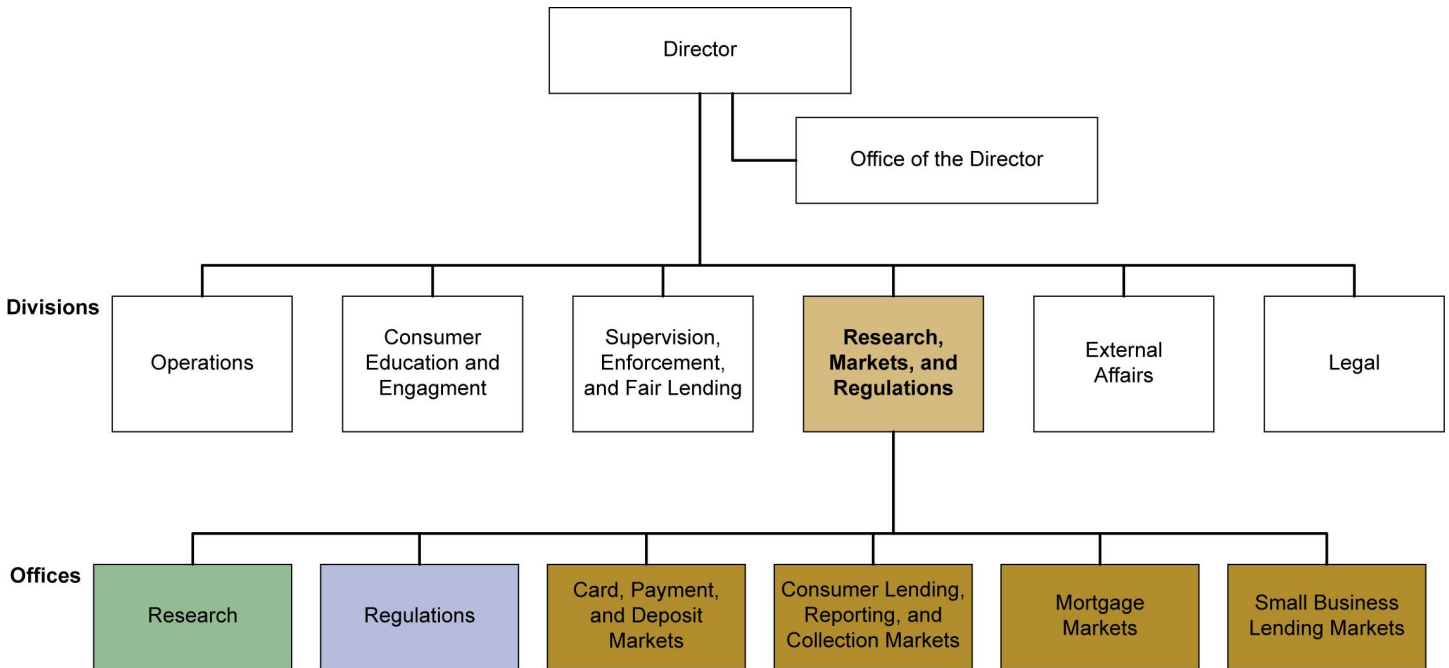
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<sup>8</sup>This report focuses on CFPB's monitoring authority under Section 1022 of the Dodd-Frank Act. While the Research, Markets, and Regulation Division plays a primary role in this monitoring, other CFPB divisions engage in monitoring of markets in the course of their responsibilities. For example, in the course of its work, the Supervision, Enforcement, and Fair Lending Division obtains information about activities by specific institutions that may relate to market developments and risks to consumers, but the activities of this division are not a focus of this report.

<sup>9</sup>While there is no single, universal definition of small-dollar loans, the term generally refers to unsecured, nonmortgage consumer loans that are generally less than \$5,000. These loans may include various fees, interest rates, and terms.



**Figure 1: Organizational Structure for the Consumer Financial Protection Bureau and Its Research, Markets, and Regulations Division**



Source: Consumer Financial Protection Bureau. | GAO-19-158

The four Markets Offices are responsible for collecting and sharing market intelligence, helping to shape CFPB policy (including through participation on rulemaking teams), and helping to inform the marketplace through research and outreach. The Office of Research is responsible for conducting research to support the design and implementation of CFPB’s consumer protection policies, including developing and writing any required cost-benefit analyses for rulemakings. Among other things, these offices research, analyze, and report on consumer financial markets issues. These offices also help inform the work of the Office of Regulations, which supports and provides strategic direction for CFPB’s rulemaking, guidance, and regulatory implementation functions.

The Markets Offices and the Office of Research contribute to CFPB’s efforts to address the Dodd-Frank Act requirement that CFPB monitor for certain risks to consumers in support of its rulemaking and other functions. This provision states that CFPB may consider a number of factors in allocating its resources for risk-monitoring efforts with regard to consumer financial products and the markets for those products, such as consumers’ understanding of a type of product’s risks, the extent to which existing law is likely to protect consumers, and any disproportionate

effects on traditionally underserved consumers. Further, the Dodd-Frank Act gives CFPB authority in connection with such monitoring to gather information from time to time regarding the organization, business conduct, markets, and activities of covered persons or service providers from a variety of sources, including several sources specified in the act.<sup>10</sup> Finally, this provision requires CFPB to issue at least one report of significant findings from its risk monitoring each calendar year.

The Office of Research has led CFPB's efforts to address the Dodd-Frank Act requirement that CFPB conduct assessments of each significant final rule or order it adopts and publish a report of the assessment no later than 5 years after the rule or order's effective date. Before publishing a report of its assessment, CFPB must invite public comment on whether the rule or order should be modified, expanded, or eliminated. In addition, the Dodd-Frank Act provides CFPB authority to require covered persons or service providers to provide information to help support these assessments, as well as to support its risk-monitoring activities.<sup>11</sup>

In addition to the Research, Markets, and Regulations Division, other CFPB divisions and offices conduct outreach to help inform CFPB policy making. For example, CFPB's External Affairs Division facilitates

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<sup>10</sup>12 U.S.C. § 5512(c)(4). As defined by the Dodd-Frank Act, "covered persons" include any person that engages in offering or providing a consumer financial product or service and any affiliate of such a person if such affiliate acts as a service provider to such person. 12 U.S.C. § 5481(6). "Service providers" include any person that provides a material service to a covered person in connection with the offering or provision by such covered person of a consumer financial product or service, including a person that participates in designing, operating, or maintaining the consumer financial product or service, or processes transactions relating to the consumer financial product or service. 12 U.S.C. § 5481(26).

<sup>11</sup>Section 1024 of the Dodd-Frank Act provided CFPB with authority to supervise entities, other than depository institutions or insured credit unions, that provide certain consumer financial products or services. This authority also extends to service providers. This section also charges CFPB with requiring reports and conducting examinations of the nondepository entities the section covers for purposes of detecting and assessing associated risks to consumers and markets for consumer financial products and services, among other things. See 12 U.S.C. § 5514(b)(1). Section 1025 of the Dodd-Frank Act also provided CFPB with additional authority to require reports from certain large banks and credit unions and other covered persons for the purpose of assessing compliance with federal consumer financial laws, obtaining information about the activities subject to such laws and the associated compliance systems or procedures of such covered persons, and detecting and assessing associated risks to consumers and markets for consumer financial products and services. See 12 U.S.C. § 5515; see also 12 U.S.C. § 5516. CFPB may also require a nondepository institution to provide certain information in order to assess whether the nondepository institution is a covered person. 12 U.S.C. § 5512(c)(5).

conversation with stakeholders, such as Congress, financial institutions, state governments, and the public. In addition, in the Consumer Education and Engagement Division, the Office of Consumer Response manages the intake of and response to complaints about consumer financial products and services. All of the divisions report to the Director. In November 2017, the President designated a new Acting Director of CFPB, and in December 2018, the Senate voted to confirm a new Director of the bureau.

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## CFPB Monitors Consumer Financial Markets to Inform Policy but Does Not Systematically Prioritize Consumer Risks

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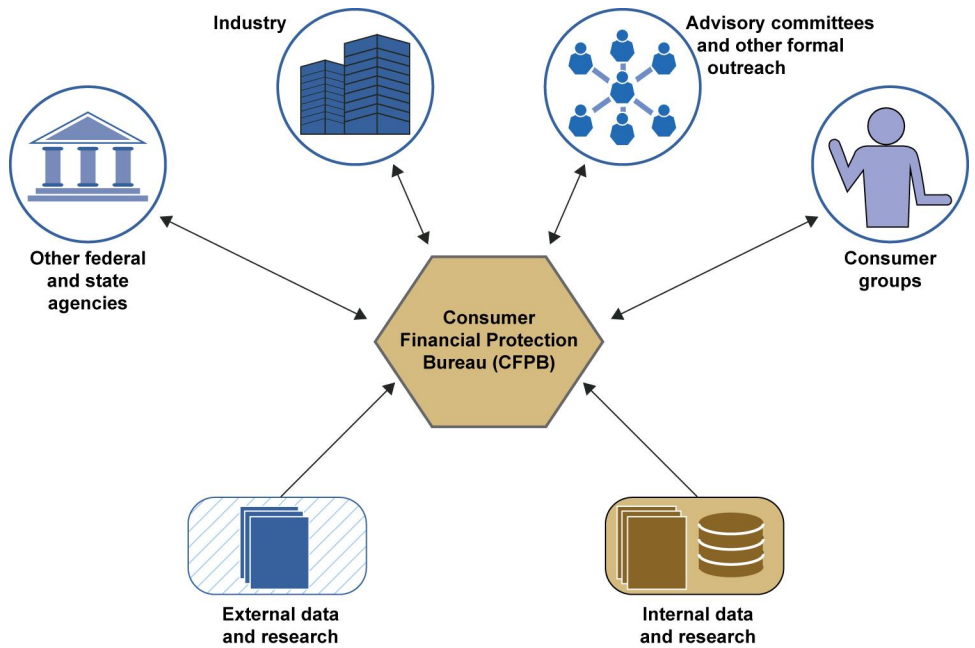
### CFPB Routinely Monitors Market Trends and Collects Targeted Information for Rulemaking and Other Purposes

To address the Dodd-Frank Act consumer risk-monitoring requirement, CFPB routinely monitors consumer financial markets through a variety of methods. It also conducts more targeted market monitoring to support rulemaking and other agency functions.

#### Routine Monitoring

CFPB collects and monitors routine market data and other market intelligence through a combination of internal and external data sources and outreach (see fig. 2). Markets Offices staff use information from these sources to analyze market trends and identify emerging risks that may require greater attention. Staff produce monthly and quarterly reports that summarize or analyze observed market developments and trends, and they distribute them bureau-wide.

**Figure 2: Information Sources for CFPB’s Routine Market Monitoring**



Source: GAO analysis of CFPB information. | GAO-19-158

**CFPB internal data and research.** Staff in CFPB’s Markets Offices use CFPB data and research to identify and monitor risks. For example, in our review of CFPB’s market intelligence reports from July 2016 through July 2018, we observed the following frequently cited internal CFPB data sources:

- **Consumer complaints submitted to CFPB.** Markets Offices staff monitor consumer complaints to track trends and potential problems in the marketplace. For example, monthly mortgage trend reports we reviewed cited changes in total numbers of mortgage complaints, as well as in complaints related to private mortgage insurance, escrow accounts, and other mortgage-related topics.
- **Consumer Credit Trends tool.** This tool is based on a nationally representative sample of commercially available, anonymized credit records. Markets Offices staff use this tool to monitor conditions and outcomes for specific groups of consumers in markets for mortgages, credit cards, auto loans, and student loans. For example, CFPB monthly auto market trend reports cited the tool as a source for information on changes in the volume of auto loans by neighborhood income.

- **Home Mortgage Disclosure Act data.** CFPB maintains loan-level data that mortgage lenders report pursuant to the Home Mortgage Disclosure Act.<sup>12</sup> According to CFPB, Markets Offices staff use the data for their market monitoring, which can include analysis to determine whether lenders are serving the housing needs of their communities and to identify potentially discriminatory lending patterns.

**External data and research.** In addition to its internal databases, CFPB obtains external market data from a number of public and proprietary data sources. The market intelligence reports we reviewed included the following commonly cited external sources, among others:

- federal databases and research, such as the Federal Reserve Bank of New York's Quarterly Report on Household Debt and Credit;
- publicly available information from sources such as industry websites, mainstream news publications, and publicly traded companies' financial statements.
- proprietary data from sources such as data analytics services and credit reporting agencies.<sup>13</sup>

**Engagement with industry representatives.** CFPB also gathers market intelligence from engagement with industry representatives. Market intelligence reports we reviewed cited several meetings with industry representatives and regular CFPB attendance at industry conferences. Representatives of two trade groups we interviewed told us that CFPB had sometimes proactively reached out to them regarding areas of potential risk. According to CFPB, in fiscal year 2018, Markets Offices staff conducted an average of about 50 meetings with industry per month and held intelligence-gathering meetings across various consumer financial markets throughout the year.

**Engagement with consumer organizations.** CFPB's External Affairs Division, which is responsible for engagement with the nonprofit sector,

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<sup>12</sup>The Home Mortgage Disclosure Act of 1975 requires certain financial institutions to collect, report, and disclose data about originations and purchases of mortgage loans as well as mortgage loan applications that do not result in originations. See Pub. L. No. 94-200, 89 Stat. 1124, 1125-26 (1975) (codified at 12 U.S.C. § 2803). CFPB issued Regulation C pursuant to the Home Mortgage Disclosure Act. See 12 C.F.R. pt. 1003.

<sup>13</sup>CFPB Markets Offices staff told us that beginning in fiscal year 2019, they would use fewer externally sourced data resources—such as certain syndicated datasets they used to support their market monitoring activities—as a result of budget decisions. However, staff stated that they did not expect the budget constraints to affect their market coverage.

facilitates most communication between Markets Offices staff and consumer organizations to help inform staff's risk monitoring efforts. According to CFPB, between January and September 2018, staff from the External Affairs and Research, Markets, and Regulation divisions held an average of about four meetings per month with consumer organizations and nonprofit stakeholders, and Markets Offices staff said these meetings provided information useful in monitoring markets. Two of the three consumer organizations we interviewed noted that their communication with CFPB had decreased since late 2017. However, one group noted that external engagement has typically been greater when CFPB is going through a rulemaking and that rulemaking activity had slowed in the last year.

**Advisory committees and other formal outreach.** CFPB obtains information on consumer financial issues and emerging market trends from various advisory groups and other formal outreach. In 2012, CFPB established a consumer advisory board, in accordance with a Dodd-Frank Act requirement. It also established three additional advisory councils (community bank, credit union, and academic) to obtain external perspectives on issues affecting its mission. The groups, which include subgroups focused on various consumer financial market areas or issues, met regularly through 2017. CFPB dismissed the existing members of the consumer advisory board and community bank and credit union advisory councils in June 2018 and reconstituted the groups with new, smaller memberships that resumed meeting in September 2018.<sup>14</sup> In addition, from July 2016 to mid-November 2018, CFPB solicited public input through public field hearings and town hall meetings on issues such as debt collection, consumer access to financial records, and elder financial abuse, among other issues.

**Coordination with other regulators.** CFPB engages with the federal prudential regulators and other federal and state agencies to inform its routine market-monitoring efforts. This engagement can occur through mechanisms such as working groups, task forces, and information-sharing agreements. For example, CFPB is a member of a working group

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<sup>14</sup>In addition to reconstituting the advisory groups, CFPB announced that it planned to increase its external outreach through additional town halls, roundtable discussions, and other tools. See Consumer Financial Protection Bureau, "Transforming the Way We Engage," June 6, 2018, accessed September 26, 2018, <https://www.consumerfinance.gov/about-us/blog/transforming-way-we-engage/>. CFPB did not alter the membership of the academic advisory council other than to replace members whose terms had expired.

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of federal housing agencies, whose members share market intelligence and discuss risks they have observed in the mortgage markets. Markets Offices staff also receive quarterly, publicly available bank and credit union call report data through the Federal Financial Institutions Examination Council and the National Credit Union Administration, with which it has information-sharing agreements.<sup>15</sup>

### Targeted Monitoring

CFPB has supplemented its routine monitoring by conducting targeted research and data collection to inform rulemaking efforts, meet statutory reporting requirements, and learn more about a particular market for consumer financial products. As noted earlier, the Dodd-Frank Act authorizes CFPB to collect certain data from covered persons and service providers.

Since July 2016, to support bureau rulemaking efforts, Markets Offices staff have augmented their routine monitoring with targeted use of supervisory data collected through CFPB's examinations of covered persons and service providers. The Research, Markets, and Regulations Division has a formal information-sharing agreement with CFPB's Supervision, Enforcement, and Fair Lending Division. Under this agreement, staff in the Office of Small Business Lending Markets used supervisory information on common data terminology used by business lenders to inform recommendations on data elements that should be included in a potential small business data collection rule.<sup>16</sup> In addition, as discussed below, Markets Offices staff reviewed aggregated and

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<sup>15</sup>Call reports are financial condition reports that institutions submit to regulators. The Federal Financial Institutions Examination Council is a formal interagency body empowered to prescribe uniform principles and standards, including report forms, for the federal examination of financial institutions. Its members include a Governor of the Board of Governors of the Federal Reserve System, the Chairman for the Board of Directors for the Federal Deposit Insurance Corporation, the Chairman of the National Credit Union Administration Board, the Comptroller of the Currency, and the Director of CFPB.

<sup>16</sup>Since 2015, CFPB has been conducting pre-rule efforts to inform a potential small business data collection rule to be issued pursuant to Section 1071 of the Dodd-Frank Act. Such a rule would clarify the requirement in Section 1071 for financial institutions to report information to CFPB concerning credit applications made by women-owned, minority-owned, and small businesses. The purpose of the Section 1071 requirement is to facilitate enforcement of fair lending laws and enable communities, governmental entities, and creditors to identify business and community development needs and opportunities for women-owned, minority-owned, and small businesses. In its fall 2018 rulemaking agenda, CFPB moved this rulemaking effort from the pre-rule stage to long-term actions.

anonymized supervisory information from CFPB's examinations of payday lenders for research that informed the November 2017 Payday, Vehicle Title, and Certain High-Cost Installment Loans Rule, also referred to as the Payday Rule.<sup>17</sup>

In addition to rulemaking, CFPB has conducted targeted risk-monitoring activities to support certain statutory reporting requirements. For its mandated biennial credit card study, CFPB used its data-collection authorities under the Dodd-Frank Act to make four mandatory information requests to a total of 15 credit card issuers.<sup>18</sup> According to CFPB officials, this study and other statutory reporting efforts—such as the bureau's annual report on the Fair Debt Collection Practices Act—also support their market-monitoring efforts under the Dodd-Frank Act. CFPB notified the relevant federal and state regulators of its impending requests to the credit card issuers under those regulators' supervision.

Finally, CFPB has sometimes engaged in targeted data collection to learn more about specific areas of potential consumer financial risk. In some cases, CFPB has used its Dodd-Frank Act data collection authority under Section 1022 to require a company to provide data. For example, to understand developments with respect to person-to-person payments, CFPB required a payment processing company to provide certain information regarding its system. In other cases, CFPB has obtained targeted data through voluntary agreements with other regulators. For instance, in January 2018, CFPB reached an agreement with the Federal Reserve to obtain supervisory data on bank holding companies' and intermediate holding companies' mortgage and home equity loan portfolios. According to CFPB officials, they plan to use the data to monitor trends and risks in the mortgage market and inform bureau policy making.

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<sup>17</sup>The Payday Rule regulates the underwriting of certain personal loans with short term or balloon-payment structures, as well as lenders' payment withdrawal practices for those loans and certain additional installment loan products. See Payday, Vehicle Title, and Certain High-Cost Installment Loans, 82 Fed. Reg. 54472 (Nov. 17, 2017) (codified at 12 C.F.R. pt. 1041).

<sup>18</sup>The Dodd-Frank Act transferred the biennial credit card study from the Board of Governors of the Federal Reserve to CFPB. See Credit Card Accountability Responsibility and Disclosure Act, Pub. L. No. 111-24 § 502(a), 123 Stat. 1734, 1755 (2009) (codified at 15 U.S.C. § 1616); The Dodd-Frank Act, Pub. L. No. 111-203 § 1061(b)(1), 124 Stat. 1376, 2036 (2010) (codified at 12 U.S.C. § 5581). According to CFPB, 15 credit card issuers received at least one such request, although CFPB did not send any one request to more than 9 issuers.



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## Monitoring of Consumer Risks Has Informed CFPB's Rulemaking and Other Efforts

The market monitoring conducted by CFPB's Markets Offices staff contributes to bureau rulemaking and other functions, such as supervision, guidance to industry, consumer education, and reporting.

**Rulemaking.** Since July 2016, CFPB's market-monitoring efforts have informed certain rulemaking efforts. For example, Markets Offices analysis of the small-dollar lending market informed CFPB's November 2017 Payday Rule, according to staff and the proposed and final rules.<sup>19</sup> Staff said they had found that some borrowers were caught in a cycle of using payday loan products without the ability to repay the loans. Under the final rule, lenders for certain loans must reasonably determine up front that borrowers can afford to make the payments on their loans without needing to re-borrow within 30 days, while still meeting their basic living and other expenses. In addition, CFPB's November 2016 Prepaid Accounts Rule reflected market-monitoring information and other research that staff helped collect on prepaid accounts.<sup>20</sup> The rule incorporated findings from CFPB's 2014 analysis of prepaid account agreements, which CFPB conducted to understand the potential costs and benefits of extending existing regulatory provisions—such as error

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<sup>19</sup>CFPB announced in January 2018 that it intended to reconsider the Payday Rule through the rulemaking process. See Consumer Financial Protection Bureau, "CFPB Statement on Payday Rule," January 16, 2018, accessed September 12, 2018, <https://www.consumerfinance.gov/about-us/newsroom/cfpb-statement-payday-rule/>. In October 2018, CFPB announced that it expected to issue proposed rules in January 2019 that would reconsider the Payday Rule's ability-to-repay provisions and address the rule's compliance date. See Consumer Financial Protection Bureau, "Public Statement Regarding Payday Rule Reconsideration and Delay of Compliance Date," October 26, 2018, accessed October 26, 2018, <https://www.consumerfinance.gov/about-us/newsroom/public-statement-regarding-payday-rule-reconsideration-and-delay-compliance-date/>.

<sup>20</sup>According to CFPB, prepaid accounts are among the fastest growing consumer financial products in the United States. Consumers generally can use these accounts to make payments, store funds, or withdraw cash at automated teller machines, among other uses. The Prepaid Accounts Rule created consumer protections for prepaid accounts under Regulation E, which implemented the Electronic Fund Transfer Act, and Regulation Z, which implemented the Truth in Lending Act. In February 2018, after outreach to industry regarding the rule's implementation, CFPB issued a final amended rule that included changes intended to facilitate compliance and reduce burden on issuers. It also extended the overall effective date to April 1, 2019. See Rules Concerning Prepaid Accounts Under the Electronic Fund Transfer Act (Regulation E) and the Truth in Lending Act (Regulation Z), 83 Fed. Reg. 6364 (Feb. 13, 2018).

resolution protections—to such agreements.<sup>21</sup> Further, CFPB’s market intelligence reports we reviewed from 2017 and 2018 reflected Markets Offices staff’s communication with industry regarding a debt-collection rule—a topic that has been on CFPB’s public rulemaking agenda since 2013, based in part on market-monitoring findings.

**Industry supervision and policy positions.** Markets Offices staff’s market-monitoring findings have informed CFPB’s efforts to supervise institutions and communicate policy positions to industry participants. Staff assist the Supervision, Enforcement, and Fair Lending Division in its annual risk-based prioritization process. In 2018, for example, staff provided information on market size and risk for more than a dozen market areas, which helped the supervision division prioritize its coverage of those market areas in its examination schedule. Markets Offices staff told us they also have met frequently with supervision staff to share issues identified through monitoring and determine whether supervisory guidance or related actions would be appropriate to address them. Further, according to CFPB, market-monitoring information supported bureau leadership’s public statements on selected market developments and informed policy documents, such as consumer protection principles on financial technology.<sup>22</sup>

**Consumer education.** CFPB’s risk monitoring has informed its broader consumer education efforts. CFPB’s Consumer Education and Engagement Division provides financial education tools, including blogs and print and online guides on financial topics such as buying a home, choosing a bank or credit union, or responding to debt collectors. Markets Offices staff provided us with several examples of consumer education materials for which they had contributed subject-matter expertise since July 2016. Examples included a consumer advisory on credit repair services and blog posts on mortgage closing scams and tax refund advance loans.

**Public reports.** CFPB’s market-monitoring findings have informed several of its public reports since July 2016. According to CFPB officials, when Markets Offices staff identify risks they think could be mitigated by

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<sup>21</sup>See Consumer Financial Protection Bureau, *Study of Prepaid Account Agreements* (Washington, D.C.: November 2014).

<sup>22</sup>Consumer Financial Protection Bureau, *Consumer Protection Principles: Consumer-Authorized Financial Data Sharing and Aggregation* (Washington, D.C.: October 2017).

public communications to consumers, they work with the Consumer Education and Engagement Division, as well as other divisions, to publish relevant material.<sup>23</sup> As noted earlier, the Dodd-Frank Act requires CFPB to issue at least one report annually of significant findings from its monitoring of risks to consumers in the offering or provision of consumer financial products or services. CFPB officials stated that this requirement is addressed by the first section of CFPB's semiannual reports to Congress, which discusses significant problems consumers face in shopping for or obtaining consumer financial products and services.<sup>24</sup> CFPB officials further noted that other public CFPB reports include information related to risks to consumers and may also respond to the annual Dodd-Frank Act reporting requirement. For example, CFPB's December 2017 biennial report on the consumer credit card market discussed credit card debt collection and persistent indebtedness faced by some consumers, among other consumer financial risks. In addition, CFPB's quarterly consumer credit trend reports have discussed risks related to consumers financing auto purchases with longer-term loans.

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### CFPB Lacks a Systematic Bureau-Wide Process for Prioritizing Which Consumer Financial Risks to Address

CFPB currently lacks a systematic, bureau-wide process for prioritizing financial risks facing consumers—using information from its market monitoring, among other sources—and for considering how it will use its tools to address those risks. In 2015, CFPB initiated such a process, but CFPB officials said that the most recent round of this process was completed in 2017 and that its leadership has not yet decided whether to continue using the process. In a February 2016 public report, CFPB described this process (which CFPB refers to internally as “One Bureau”) for deploying shared bureau-wide resources to address some of the most

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<sup>23</sup>As part of its strategic planning process, CFPB sets annual performance goals related to the number of reports it will publish on consumer decision making, consumer financial products and markets, and the effects of consumer financial regulations and policies. For fiscal years 2018 and 2019, CFPB set targets of six reports. CFPB told us that as of June 2018, it had published eight reports for fiscal year 2018.

<sup>24</sup>Section 1016 of the Dodd-Frank Act requires semiannual reports to Congress, which must include—among other information—a discussion of the significant problems faced by consumers in shopping for or obtaining consumer financial products or services. See Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203 § 1016, 124 Stat. 1376, 1974 (2010) (codified at 12 U.S.C. § 5496). For example, this section of CFPB's April 2018 report highlighted two topics: challenges faced by consumers who lack a credit record and CFPB's work on financial education.

troubling problems facing consumers.<sup>25</sup> According to the report, through this One Bureau process, CFPB prioritized problems that pose risks to consumers based on the extent of the consumer harm CFPB had identified and its capacity to eliminate or mitigate that harm.<sup>26</sup> The report identified near-term priority goals in nine areas where CFPB hoped to make substantial progress within 2 years.<sup>27</sup> It provided evidence of the nature or extent of risks facing consumers and described how CFPB planned to use its tools—such as rulemaking, supervision, enforcement, research, and consumer education—to address the priority goals.

As part of the One Bureau process, CFPB created several cross-bureau working groups, which were focused on specific market areas and tasked with helping ensure progress toward CFPB's near-term priority goals, among other responsibilities. The bureau revisited its stated priorities in June 2017 to guide its work through fiscal year 2018. However, officials said that while the working groups continue to facilitate communication, informal collaboration, and strategy-setting across the bureau, CFPB has not decided whether to engage in a third round of prioritization under the One Bureau process. The bureau was without a permanent Director from November 2017 until December 2018, when the Senate confirmed a new Director. CFPB officials told us that CFPB may revise its approach to prioritization under new leadership.

Federal internal control standards state that management should use quality information to achieve agency objectives, such as by using quality information to make informed decisions. In addition, the standards state that management should identify, analyze, and respond to risks related to

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<sup>25</sup>Consumer Financial Protection Bureau, *Policy Priorities over the Next Two Years* (Washington, D.C.: Feb. 25, 2016).

<sup>26</sup>The report defined four types of industry-wide problems that pose risks to consumers: (1) deception, or situations where the costs and risks of a financial decision are obscured or opaque; (2) debt traps, or practices that trigger a cycle of debt where consumers rack up substantial costs over time; (3) dead ends, or situations where people cannot “vote with their feet” when they are treated unfairly; and (4) discrimination, or unequal treatment based on characteristics such as race, gender, or other biases prohibited by law.

<sup>27</sup>These areas were arbitration (a way to resolve disputes outside the court system); consumer reporting; debt collection; demand-side consumer behavior (which addressed how to empower consumers in making decisions); household balance sheets; mortgages; open-use credit (defined by CFPB as any credit product that is offered without an expectation that the loan will be used for a specific purpose); small business lending; and student lending.

achieving the defined objectives.<sup>28</sup> Through One Bureau, CFPB had a process to use the large amount of data and market intelligence it collected on consumer risks to make informed decisions about its bureau-wide policy priorities and how it would address them. CFPB has mechanisms in place for the Markets Offices to inform the work of individual divisions. For example, as noted, Markets Offices staff contribute to rulemaking efforts (including through participation on rulemaking teams) and to the annual setting of supervisory priorities. However, although the Markets Offices continue to collect market intelligence and contribute to cross-bureau working groups, CFPB currently lacks a process for systematically prioritizing risks or problems facing consumers and identifying the most effective tools to address those risks.

CFPB officials noted that the bureau issued 12 requests for information in early 2018 to seek public input to inform its priorities. Topics covered by these requests for public input have included the bureau's rulemaking process and its inherited and adopted rules.<sup>29</sup> In an October 2018 statement, CFPB announced that it expected to publish an updated statement of rulemaking priorities by spring 2019 based on consideration of various activities, including its ongoing market monitoring and its analysis of the public comments from the requests for information.<sup>30</sup> However, this prioritization effort focuses on setting rulemaking priorities and does not incorporate all of CFPB's other tools to respond to consumer financial risks.

While CFPB has continued to take steps to consider information to inform its policy priorities, a systematic, bureau-wide process to prioritize risks to consumers and consider how CFPB will use its full set of tools to address them could help to ensure that CFPB effectively focuses its resources on the most significant risks to consumers. This, in turn, could enhance CFPB's capacity to meet its statutory consumer protection objectives.

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<sup>28</sup>GAO-14-704G.

<sup>29</sup>See Consumer Financial Protection Bureau, "Call for Evidence," April 17, 2018, accessed November 6, 2018, <https://www.consumerfinance.gov/policy-compliance/notice-opportunities-comment/archived-closed/call-for-evidence/>.

<sup>30</sup>See Consumer Financial Protection Bureau, "Fall 2018 Rulemaking Agenda," October 17, 2018, accessed October 31, 2018, <https://www.consumerfinance.gov/about-us/blog/fall-2018-rulemaking-agenda/>.

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## CFPB Has Taken Steps to Meet Statutory Requirements for Retrospectively Assessing Significant Rules

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### CFPB Developed Criteria to Identify and Assess Relevant Rules

In two internal memorandums, CFPB documented an initial process for meeting the Dodd-Frank Act requirement to retrospectively assess significant rules or orders and issue reports of such assessments within 5 years of the rule or order's effective date.<sup>31</sup> According to CFPB officials, the bureau may modify the process for future work after it has completed its first three assessments. The assessments will be in addition to other regulatory reviews conducted by CFPB.<sup>32</sup>

To determine which of its final rules were significant for purposes of the Dodd-Frank Act retrospective assessment requirement, CFPB created a four-factor test.<sup>33</sup> In applying this test, CFPB analyzes the rule's

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<sup>31</sup>CFPB described its plan for retrospective assessments in a March 2016 memorandum and further details for its assessment process in a September 2017 decision memorandum.

<sup>32</sup>For example, Section 610 of the Regulatory Flexibility Act requires agencies to have a plan to review, within 10 years of a final rule's publication, those rules assessed as having a significant economic impact on a substantial number of small entities. The reviews are to determine if the rules should be continued without change, amended, or rescinded, consistent with stated statutory objectives, to minimize any significant economic impact of the rules on a substantial number of such small entities. 5 U.S.C. § 610(a). In addition, Executive Order 13579 encourages independent regulatory agencies to comply with Executive Order 13563, which, among other things, directs executive agencies to conduct periodic retrospective analyses of existing significant regulations. Executive Order 13777, issued by the President in February 2017, also reaffirms the objectives of previous executive orders and directs agency task forces to identify regulations that, among other criteria, are outdated, unnecessary, or ineffective.

<sup>33</sup>CFPB considered leveraging the Congressional Review Act's criteria for "major" rule determinations but decided to develop its own criteria. Similar to the "major" rule criteria, CFPB's four-factor test considers the dollar effects of rules. CFPB added consideration of some qualitative market effects.

1. cumulative annual cost to covered persons of over \$100 million,
2. effects on the features of consumer financial products and services,
3. effects on business operations of providers that support the product or service, and
4. effects on the market, including the availability of consumer financial products and services.

The memorandums recommended weighing the first factor more heavily and considering factors two through four cumulatively, so that high-cost rules tend to be considered significant. If a rule's cumulative annual costs exceed \$100 million, CFPB may consider the rule to be significant even if the cumulative effect from factors two through four is small. If the rule's costs do not exceed \$100 million, there must be a large cumulative effect from factors two through four for the rule to be considered significant.

After applying the test to nine rules in early 2017, CFPB determined that three were significant for retrospective assessment purposes:<sup>34</sup>

- **Remittance Rule.** This rule covers remittances, which are a cross-border transfer of funds.
- **Ability-to-Repay/Qualified Mortgage Rule (ATR/QM Rule).** This rule covers consumers' ability to repay mortgage loans and categories of mortgage loans that meet the ability-to-repay requirement (qualified mortgages).

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<sup>34</sup>CFPB told us that, given resource constraints, it applied its four-factor test only to the nine rules that qualified as "major" rules for Congressional Review Act purposes. Other rules were promulgated before February 2014 that, in a preliminary review, CFPB did not find significant. CFPB plans to document the findings from applying the four-factor significance test to those rules.

- **Real Estate Settlement Procedures Act (RESPA) Servicing Rule.**  
This rule covers loan servicing requirements under RESPA.<sup>35</sup>

CFPB staff told us that in the future they plan to apply the four-factor test to rules not already subject to an assessment within 3 years of the rules' effective dates, pending new leadership's review of the test. As of November 2018, staff told us they had not yet formally applied the test to any additional rules. However, they told us that they plan to apply the test to the TILA-RESPA Integrated Disclosure Rule in 2019.<sup>36</sup> If CFPB determines that the rule is significant, CFPB officials said they plan to complete an assessment in late 2020.

In addition to outlining the four-factor test, a March 2016 memorandum documented CFPB's decision to generally focus any significant new data collection efforts on a rule's effects on consumer and market-wide outcomes rather than effects on businesses. In the memorandum, CFPB noted that the objectives of many of its rules focus on improved consumer experiences and outcomes, such as reductions in loan-default risk and improved access to financial product information and credit. However, the memorandum also noted that CFPB would assess outcomes for businesses when data were available at minimal cost. In addition, the memorandum explained that CFPB would consider spending additional resources to collect data on business outcomes under certain conditions, such as when unfavorable outcomes for businesses could meaningfully affect significant numbers of consumers. Although CFPB stated in its March 2016 memorandum that it did not plan to formally assess the previously mentioned three rules' costs or benefits to providers, it stated in its October 2018 Remittance Rule Assessment Report that it may reconsider that decision for future rule assessments.

In the March 2016 memorandum, CFPB also documented a decision to not make specific policy recommendations in the final reports for the

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<sup>35</sup>See Request for Information Regarding Remittance Rule Assessment, 82 Fed. Reg. 15009 (Mar. 24, 2017); Request for Information Regarding Ability-to-Repay/Qualified Mortgage Rule Assessment, 82 Fed. Reg. 25246 (June 1, 2017); Request for Information Regarding 2013 the Real Estate Settlement Procedures Act Servicing Rule Assessment, 82 Fed. Reg. 21952 (May 11, 2017).

<sup>36</sup>The rule, published in December 2013, amended RESPA and the Truth in Lending Act (TILA) to establish new disclosure requirements and forms in TILA for most mortgages. Integrated Mortgage Disclosures Under the Real Estate Settlement Procedures Act (Regulation X) and the Truth In Lending Act (Regulation Z), 78 Fed. Reg. 79730 (Dec. 31, 2013).



retrospective assessments. CFPB expects the findings from its final assessment reports to inform its policy development process, through which it makes decisions about future rulemaking efforts. In the March 2016 memorandum, CFPB explained that separating the assessments from policy recommendations would keep the assessments focused on evidence-based descriptions. As previously described, CFPB also issued requests for information to obtain public input on effects of its inherited and adopted rules, in addition to the required retrospective assessments.

CFPB staff stated that they plan to use the lessons learned from the initial assessment process to inform their procedures for future assessments. According to CFPB, a future procedures document is to outline its process for the retrospective assessments required by the Dodd-Frank Act as well as for similar assessments CFPB may conduct pursuant to other statutes or executive orders.<sup>37</sup>

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### CFPB Has Made Progress toward Completing Its First Three Assessments

For each of the three rules it determined to be significant, CFPB created detailed assessment plans and a timeline for completion (see table 1). Each plan

- defined which aspects of the rules the assessment would focus on;
- outlined the scope and methodology, including challenges for the assessment and potential limitations of methodology; and

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<sup>37</sup>As noted above, CFPB may conduct other retrospective reviews of its rules, such as those under Section 610 of the Regulatory Flexibility Act. In addition, CFPB noted in 2017 that it planned to conduct additional reviews of individual rules—or portions of large rules—to identify opportunities to clarify ambiguities, address developments in the marketplace, or modernize or streamline provisions. In February 2018, GAO recommended that CFPB should issue public information on its plans for reviewing regulations applicable to banks and credit unions, including information describing the scope of regulations, the timing and frequency of the reviews, and the extent to which the reviews will be coordinated with the federal depository institution regulators as part of their periodic reviews under the Economic Growth and Regulatory Paperwork Reduction Act of 1996. CFPB agreed with the recommendation but had not implemented it as of November 2018. See GAO, *Community Banks and Credit Unions: Regulations Could Take Additional Steps to Address Compliance Burdens*, [GAO-18-213](#) (Washington, D.C.: Feb. 13, 2018).

- identified data CFPB planned to gather and compile, including CFPB’s own and third-party data, and explained how the data will be used to evaluate the effects of the rule.<sup>38</sup>

**Table 1: Selected Information on the Consumer Financial Protection Bureau’s Retrospective Assessment Plans for Rules Determined to Be Significant**

Rule	Selected feature of rule	Plan to measure effect	Report deadline
Remittance <sup>a</sup>	New regulations on cross-border money transfers	Use data on money-transferring firms before and after the rule to analyze the effects on dollar volume, number, and process of remittance transfers.	October 2018
Ability-to-Repay/Qualified Mortgage <sup>b</sup>	Minimum debt-to-income ratio for borrowers	Compare loan delinquencies for borrowers above and below the 43 percent debt-to-income threshold to analyze the effect of the minimum requirements on access to credit and loan performance.	January 2019
Real Estate Settlement Procedures Act Servicing <sup>c</sup>	New rules on how servicers interact with delinquent borrowers	Use loan-servicing data obtained from servicers and vendors to analyze trends in delinquency, foreclosure, and foreclosure alternatives. Conduct survey of housing counselors and legal aid attorneys to understand how the rules have affected their clients. Conduct interviews with servicers to understand changes for them and consumers.	January 2019

Source: GAO analysis of Consumer Financial Protection Bureau information. | GAO-19-158

<sup>a</sup>The Remittance Rule refers to the February 2012 rule related to cross-border consumer money transfers under the Electronic Fund Transfer Act (subpart B of Regulation E) and certain related amendments, including certain exceptions to the rule and a delay in the original effective date. See Electronic Fund Transfers (Regulation E), 77 Fed. Reg. 6194 (Feb. 7, 2012) (codified as amended in 12 C.F.R. pt. 1005).

<sup>b</sup>The Ability-to-Repay/Qualified Mortgage Rule refers to the January 2013 Ability-to-Repay and Qualified Mortgage Standards under the Truth In Lending Act (Regulation Z) and certain related amendments, including clarifications and revisions. See Ability-to-Repay and Qualified Mortgage Standards Under the Truth in Lending Act, 78 Fed. Reg. 6408 (Jan. 30, 2013) (codified as amended at 12 C.F.R. pt. 1026).

<sup>c</sup>The Real Estate Settlement Procedures Act Servicing Rule refers to the 2013 standards for mortgage servicers under the Real Estate Settlement Procedures Act (Regulation X) and certain related amendments, including compliance clarifications. See Mortgage Servicing Rules under the Real Estate Settlement Procedures Act (Regulation X), 78 Fed. Reg. 10696 (Feb. 14, 2013) (codified as amended at 12 C.F.R. pts. 1024 and 1026).

<sup>38</sup>CFPB implemented two recommendations from prior GAO reports by creating assessment plans for its ATR/QM Rule and RESPA Servicing Rule in 2017. In June 2015, we recommended that CFPB complete a plan to retrospectively review its qualified mortgage regulations. See GAO, *Mortgage Reforms: Actions Needed to Help Assess Effects of New Regulations*, GAO-15-185 (Washington, D.C.: June 25, 2015). In June 2016, we recommended that CFPB complete a plan to identify the outcomes it would examine to measure the effects of its mortgage servicing regulations. See GAO, *Mortgage Servicing: Community Lenders Remain Active under New Rules, but CFPB Needs More Complete Plans for Reviewing Rules*, GAO-16-448 (Washington, D.C.: June 23, 2016).

CFPB issued requests for information between March and June of 2017 to collect public input on each assessment and created plans for incorporating the comments in each assessment report. As required by the Dodd-Frank Act, these requests solicited comments on modifying, expanding, or eliminating the rules. In addition, CFPB requested comments on the assessment plans and invited suggestions on other data that might be useful for evaluating the rules' effects. In a document provided to us, CFPB described its preliminary plan to summarize comments received from the public and use the information received. CFPB staff told us they adjusted their research questions and data sources on all three assessments in response to comments. For example, based on comments, they added a question to an industry survey about a provision of the Remittance Rule and incorporated a new data source into the ATR/QM Rule and RESPA Servicing Rule assessments.

Other data sources used for the assessments include federal and state agencies, voluntary surveys of providers of consumer financial products, and loan data from servicers. For example, for the Remittance Rule assessment, CFPB sent a voluntary industry survey to 600 money transmitters, banks, and credit unions on how the rule has affected their business practices and costs, as well as potential problems in specific market segments. For the RESPA Servicing Rule assessment, CFPB conducted qualitative structured interviews with mortgage servicers to learn about changes servicers had to make in response to the rule.

CFPB published its Remittance Rule Assessment Report in October 2018.<sup>39</sup> The report analyzed trends in the volume of remittance transfers, the number of providers, and the price of transfers. For example, CFPB found that declining remittance prices and an increase in the volume of remittances—trends that had begun before the rule's effective date—continued afterward. However, CFPB was unable to conclude whether these trends would have changed without the rule. In addition, the report noted that new technology has increased access to remittances but has also complicated CFPB's attempts to measure the effects of the Remittance Rule on consumers. The report also estimated the rule's initial and continued compliance costs for businesses, estimating that they added between 30 and 33 cents for the one-time cost in 2014 and

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<sup>39</sup>Consumer Financial Protection Bureau, *Remittance Rule Assessment Report* (Washington, D.C.: October 2018). Because CFPB published the Remittance Rule assessment report in late October 2018, our reporting time frames did not allow us to review it comprehensively.

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between 7 and 37 cents in continuing costs per remittance in 2017. In addition, the report summarized comments and information CFPB received from a request for information in March 2017.

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## Conclusions

In monitoring risks of financial products and services to consumers, CFPB has drawn from a wide range of sources, and its findings have informed its key consumer protection tools, such as rulemakings and consumer education materials. In 2016 and 2017, CFPB's One Bureau process allowed it to consider the market information it collected to prioritize the most important risks to consumers and determine how to most effectively address those risks on a bureau-wide basis. However, CFPB has not yet decided whether to use the One Bureau process to reexamine its priorities and has instead relied on prioritization mechanisms that focus on its use of individual policy tools, such as its processes for setting rulemaking and supervision priorities. Putting a systematic bureau-wide prioritization process in place could help CFPB ensure that it focuses on the most significant risks to consumers and effectively meets its statutory consumer protection objectives.

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## Recommendation for Executive Action

The Director of CFPB should implement a systematic process for prioritizing risks to consumers and considering how to use the bureau's available policy tools—such as rulemaking, supervision, enforcement, and consumer education—to address these risks. Such a process could incorporate principles from the prior One Bureau process, such as an assessment of the extent of potential harm to consumers in financial markets, to prioritize the most significant risks. (Recommendation 1)

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## Agency Comments and Our Evaluation

We provided a draft of this product to CFPB for comment. We also provided the relevant excerpts of the draft report to the Federal Housing Finance Agency, the Federal Reserve, and the Office of the Comptroller of the Currency for their review and technical comments. CFPB provided oral and written comments, which are summarized below. CFPB's written comments are reproduced in appendix I. In addition, CFPB and the Federal Housing Finance Agency provided technical comments, which we

incorporated as appropriate. The Federal Reserve and the Office of the Comptroller of the Currency had no comments.

In oral comments provided on November 29, 2018, CFPB's Acting Deputy Director and other CFPB officials clarified the status of the One Bureau process. The officials clarified that while CFPB officials had previously told us that the One Bureau process was on hold, work on One Bureau priorities has continued with support from a set of cross-bureau working groups. The officials noted that CFPB had not yet determined whether to engage in another round of the One Bureau priority-setting process. In addition, in its written comments, CFPB highlighted the role of the cross-bureau working groups in its market monitoring and other efforts. In response to these comments, we made edits to clarify the status of the One Bureau process and describe the role of the cross-bureau working groups.

In its written comments, CFPB did not agree or disagree with our recommendation but stated that it will endeavor to improve its processes for identifying and addressing consumer financial risks. CFPB stated that it recognizes the importance of having processes in place to prioritize and address risks to consumers in the financial marketplace. CFPB cited examples of existing processes—such as its processes for setting its rulemaking agenda and supervisory priorities—that were designed to ensure that its risk monitoring informs its work. In the oral comments, CFPB officials expressed concern that the draft report's characterization of a lack of a systematic process for prioritizing risks to consumers might suggest that CFPB entirely lacks processes in this regard. We note that the draft report described CFPB's existing processes for setting rulemaking and supervisory priorities. While we agree that these processes help CFPB to prioritize work in these areas, we maintain that these processes do not reflect a systematic, bureau-wide process for prioritizing risks to consumers and determining how to most effectively address them. We made minor edits to the report to clarify that the process CFPB lacks is a bureau-wide process that considers how it will use its full set of tools to address risks to consumers. We maintain that having such a process would help to ensure that CFPB focuses its resources on the most significant consumer risks and is well positioned to meet its consumer protection objectives.

We are sending copies of this report to CFPB, the Federal Housing Finance Agency, the Federal Reserve, the Office of the Comptroller of the Currency, the appropriate congressional committees and members, and

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other interested parties. In addition, the report is available at no charge on the GAO website at <http://www.gao.gov>.

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If you or your staff have any questions concerning this report, please contact me at (202) 512-8678 or [clementsm@gao.gov](mailto:clementsm@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made major contributions to this report are listed in appendix II.



Michael Clements  
Director, Financial Markets and Community Investment

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*List of Congressional Addressees*

The Honorable Mitch McConnell  
Majority Leader  
The Honorable Charles E. Schumer  
Minority Leader  
United States Senate

The Honorable Paul Ryan  
Speaker  
The Honorable Nancy Pelosi  
Minority Leader  
House of Representatives

The Honorable Pat Roberts  
Chairman  
The Honorable Debbie Stabenow  
Ranking Member  
Committee on Agriculture, Nutrition and Forestry  
United States Senate

The Honorable Richard C. Shelby  
Chairman  
The Honorable Patrick Leahy  
Vice Chairman  
Committee on Appropriations  
United States Senate

The Honorable Michael Crapo  
Chairman  
The Honorable Sherrod Brown  
Ranking Member  
Committee on Banking, Housing, and Urban Affairs  
United States Senate

The Honorable John Thune  
Chairman  
The Honorable Bill Nelson  
Ranking Member  
Committee on Commerce, Science, and Transportation  
United States Senate

The Honorable Mike Conaway



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Chairman  
The Honorable Collin C. Peterson  
Ranking Member  
Committee on Agriculture  
House of Representatives

The Honorable Rodney Frelinghuysen  
Chairman  
The Honorable Nita Lowey  
Ranking Member  
Committee on Appropriations  
House of Representatives

The Honorable Greg Walden  
Chairman  
The Honorable Frank Pallone  
Ranking Member  
Committee on Energy and Commerce  
House of Representatives

The Honorable Jeb Hensarling  
Chairman  
The Honorable Maxine Waters  
Ranking Member  
Committee on Financial Services  
House of Representatives

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# Appendix I: Comments from the Consumer Financial Protection Bureau

Bureau of Consumer Financial Protection  
1700 G Street NW  
Washington, D.C. 20552



December 12, 2018

Michael E. Clements  
Director, Financial Markets and Community Investment  
Government Accountability Office  
441 G Street, NW  
Washington DC, 20548

Dear Mr. Clements,

Thank you for the opportunity to review and comment on the Government Accountability Office's (GAO) draft report, titled *Dodd-Frank Regulations: Bureau of Consumer Financial Protection Needs a Systematic Process to Prioritize Consumer Risks* (GAO-19-158). We greatly appreciate GAO's work over the course of this engagement and believe the report provides the public important insight into the Bureau's efforts to both monitor the consumer financial marketplace for risks to consumers and retrospectively assess the effectiveness of significant rules. The report also provides the Bureau with an opportunity to evaluate and improve upon its work as the Bureau carries out its statutory mission.

GAO makes one recommendation to the Bureau: "The Acting Director of the Bureau of Consumer Financial Protection should implement a systematic process for prioritizing risks to consumers and considering how to use the bureau's available policy tools—such as rulemaking, supervision, enforcement, and consumer education—to address these risks. Such a process could incorporate principles from the prior One Bureau process, such as an assessment of the extent of potential harm in consumer financial markets, to prioritize the most significant risks."

The Bureau recognizes the importance of having processes in place to prioritize and address risks to consumers in the financial marketplace. As described in the report, the Bureau has conducted such processes, including the One Bureau process, which was first completed in 2015 and revisited and validated in 2017. As part of the One Bureau, the Bureau established the

[consumerfinance.gov](http://consumerfinance.gov)

Cross-Bureau Working Groups program, the purpose of which is to advance the Bureau's market monitoring efforts and facilitate communication and strategy setting across the Bureau. Each working group focuses on a specific consumer financial market and consists of representatives from across the Bureau's functions, including the Markets Offices. While created as part of the One Bureau process, the working groups program operates independently of One Bureau and its work continues to this day.

Additionally, as the report notes, the Bureau's Research, Markets, and Regulations Division—and specifically, the Markets Offices—continuously monitor market developments and risks to consumers. The Bureau has a number of processes currently in place designed to ensure that the Markets Offices efforts to monitor risks to consumers inform the Bureau's work.

For instance, the Markets Offices play a vital role in the Bureau's rulemaking and supervision activities. In addition to the Markets Offices work informing the Bureau's rulemaking agenda, each rulemaking team includes a representative from the Markets Offices. With respect to the Bureau's Supervision program, the Markets Offices contribute to the annual prioritization process. The Bureau relies on a risk-based annual prioritization process to determine which product lines, institutions, and compliance issues to examine. The Bureau assesses the risk at the market and institutional levels and examines those that it determines pose the greatest risk to consumers. Each year, the Markets Offices provides essential information on market size and risk for the various product markets the Bureau supervises.

The Bureau has been and remains committed to ensuring that the Markets Offices maintain the expertise necessary to inform the Bureau's decision-making as the Bureau prioritizes risks to consumers and utilizes its consumer protection tools. The Bureau also recognizes that it can always improve its processes, and will endeavor to improve its processes for identifying risks to consumers and considering the policy tools available to address those risks.

The Bureau looks forward to continuing to work with GAO as it monitors the Bureau's progress in implementing this recommendation.

Sincerely,



Brian Johnson  
Acting Deputy Director

consumerfinance.gov

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# Appendix II: GAO Contact and Staff Acknowledgments

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## GAO Contact

Michael E. Clements, (202) 512-8678, [clementsm@gao.gov](mailto:clementsm@gao.gov)

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## Staff Acknowledgments

In addition to the contact above, John Fisher (Assistant Director), Lisa Reynolds (Analyst-in-Charge), Bethany Benitez, Joseph Hackett, Marc Molino, Jennifer Schwartz, and Tyler Spunaugle made key contributions to this report.

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# Appendix III: Accessible Data

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## Agency Comment Letter

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Accessible Text for Appendix I Comments from the  
Consumer Financial Protection Bureau

Page 1

December 12, 2018

Michael E. Clements

Director, Financial Markets and Community Investment

Government Accountability Office

441 G Street, NW

Washington DC, 20548

Dear Mr. Clements,

Thank you for the opportunity to review and comment on the Government Accountability Office's (GAO) draft report, titled Dodd-Frank Regulations: Bureau of Consumer Financial Protection Needs a Systematic Process to Prioritize Consumer Risks (GAO-19-158). We greatly appreciate GAO's work over the course of this engagement and believe the report provides the public important insight into the Bureau's efforts to both monitor the consumer financial marketplace for risks to consumers and retrospectively assess the effectiveness of significant rules. The report also provides the Bureau with an opportunity to evaluate and improve upon its work as the Bureau carries out its statutory mission.

GAO makes one recommendation to the Bureau: "The Acting Director of the Bureau of Consumer Financial Protection should implement a systematic process for prioritizing risks to consumers and considering how to use the bureau's available policy tools—such as rulemaking, supervision, enforcement, and consumer education—to address these risks. Such a process could incorporate principles from the prior One

Bureau process, such as an assessment of the extent of potential harm in consumer financial markets, to prioritize the most significant risks.”

The Bureau recognizes the importance of having processes in place to prioritize and address risks to consumers in the financial marketplace. As described in the report, the Bureau has conducted such processes, including the One Bureau process, which was first completed in 2015 and revisited and validated in 2017. As part of the One Bureau, the Bureau established the

## Page 2

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Additionally, as the report notes, the Bureau's Research, Markets, and Regulations Division- and specifically, the Markets Offices-continuously monitor market developments and risks to consumers. The Bureau has a number of processes currently in place designed to ensure that the Markets Offices efforts to monitor risks to consumers inform the Bureau's work.

For instance, the Markets Offices play a vital role in the Bureau's rulemaking and supervision activities. In addition to the Markets Offices work informing the Bureau's rulemaking agenda, each rulemaking team includes a representative from the Markets Offices. With respect to the Bureau's Supervision program, the Markets Offices contribute to the annual prioritization process. The Bureau relies on a risk-based annual prioritization process to determine which product lines, institutions, and compliance issues to examine. The Bureau assesses the risk at the market and institutional levels and examines those that it determines pose the greatest risk to consumers. Each year, the Markets Offices provides essential information on market size and risk for the various product markets the Bureau supervises.

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The Bureau looks forward to continuing to work with GAO as it monitors the Bureau's progress in implementing this recommendation.

Sincerely,

Brian Johnson

Acting Deputy Director



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