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Prepared Remarks of CFPB Director Richard Cordray at the Consumer Bankers Association

BY RICHARD CORDRAY

Good morning and thank you for inviting me today. For the past four years, we have had a vigorous and productive dialogue with the Consumer Bankers Association about the role and effects of financial regulation in the consumer marketplace. In many respects, those discussions have improved the work we are doing at the Consumer Financial Protection Bureau.

Take, for example, our supervision program. It was only a fledgling when we first started meeting and talking with one another. We were facing the challenge of embarking on an entirely new effort in two important respects. First, we were authorized for the first time

ever to examine both the larger banks and nonbank firms at the federal level, to provide comprehensive coverage and a level playing field across entire markets. Second, we were authorized to focus primarily on compliance with federal consumer financial laws and regulations, which was never the case before our agency was created. Many of your comments over the years have raised the bar for our efforts, and we have been quite open to iterating our processes accordingly. As a result, our supervision tool has now grown into a rigorous, data-driven program based on sound analytics. Our processes have become more thoughtful, more complete, more consistent, more transparent, and more prompt. Our dialogue with CBA and others has materially assisted these objectives.

Another important way that our sometimes pointed discussions have helped refine our work is in the area of publication of information. Certainly the CBA has never been a fan of our public consumer complaint database. Some of your feedback has led to adjustments, as you know. Others have not, but we are always listening. Despite all of that lively debate back and forth, your member institutions have very much caught the spirit of the whole enterprise. Companies have come to realize that if they are going to make sure they are treating their customers fairly, it is not enough to rely solely on their own subjective impressions. Instead, they have to listen closely to what consumers are telling them, think carefully about what they are hearing, and act accordingly.

Companies have worked with us to improve the automated portal system of processing complaints, which has been a great operational success. They have responded to the complaints in a timely and consistent manner, which often leads to relief and explanations for the consumer. They have recognized our emphasis on prioritizing our complaint data in our supervision and enforcement work. They have increasingly embraced our advice to analyze and address the patterns revealed both by our consumer complaint data and by their own customer complaint data, as a guide to changing business practices that consumers find harmful. We even have seen them using the public database to research complaints made about others in the same markets, which is valuable information that is not available from any other sources.

Another key element of transparency in our oversight program has been to make public specific information about the problems we are identifying and addressing as we go about supervising institutions and enforcing the law. You have provided helpful feedback as we have refined our publication known as *Supervisory Highlights*, which discloses to all players in the marketplace the major issues we address in our

examination work. Without undermining the confidentiality of the supervision process, we are providing this de-identified information so that everyone can see and respond immediately to violations and remedial actions being taken elsewhere.

Likewise, our public enforcement actions have been marked by orders, whether entered by our agency or by a court, which specify the facts and the resulting legal conclusions. These orders provide detailed guidance for compliance officers across the marketplace about how they should regard similar practices at their own institutions. If the same problems exist in their day-to-day operations, they should look closely at their processes and clean up whatever is not being handled appropriately. Indeed, it would be "compliance malpractice" for executives not to take careful bearings from the contents of these orders about how to comply with the law and treat consumers fairly.

Some have criticized this approach as regulation by enforcement, but I think that criticism is badly misplaced. Certainly *any* responsible official or agency charged with enforcing the law is bound to recognize that they should develop a thoughtful strategy for how to deploy their limited resources most efficiently to protect the public. That means working toward a pattern of actions that conveys an intelligible direction to the marketplace, so as to create deterrence that can be readily understood and implemented. The alternative is just a random series of actions that takes a few wild swipes at the bad actors without systematically cleaning up the practices that harm consumers across the marketplace.

Others have framed this criticism as a suggestion that law enforcement officials should think through and explicitly articulate rules for every eventuality before taking any enforcement actions at all. But that aspiration would lead to paralysis because it simply sets the bar too high. Particularly in an area like consumer financial protection, the vast majority of our enforcement actions involve some sort of deception or fraud. And courts have long noted that trying to craft specific rules to root out fraud or untruth is a hopeless endeavor, as they would likely fail to cabin "the ingenuity of the dishonest schemer." For these reasons, we strive to present specific enforcement orders that meticulously catalogue the facts we have found in our very thorough investigations and set out the legal conclusions that follow from those facts. These specific orders are also intended as guides to all participants in the marketplace to avoid similar violations and make an immediate effort to correct any such improper practices.

So yes, we are pushing you – hard – to become more consumer-focused and consumer-friendly institutions. And when you push back, we welcome your input. We welcome it because we realize that your input can make us a better and more effective agency. Indeed, that is exactly what everyone should want us to be, in order to improve the financial marketplace for all responsible businesses as well as for consumers.

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Let me describe a success story of a consumer financial market that has greatly improved for both consumers and financial providers alike. I am talking about the credit card market. Here, notably, the consequences of recent reforms can be clearly studied. And the credit for positive change belongs to improved regulation, improved industry practices, and more cautious consumer behavior – a true trifecta of progress in financial well-being for American families.

As you recall, the CARD Act was enacted in 2009. The specific goal of this legislation was to make the credit card market fairer and more transparent for consumers. As the state treasurer in Ohio just a few years before this new law took effect, I heard frequent horror stories from people about what they saw as unfair and abusive treatment. Today, by contrast, we find the J.D. Power surveys of consumers have shown steadily improved levels of trust and confidence and overall satisfaction in the credit card market. No doubt the key consumer protections in the CARD Act deserve much of the credit for this dramatic change. And the Consumer Bureau's authority to enforce the CARD Act and other federal consumer financial laws has put teeth into these provisions and improved the marketplace. One of our first set of enforcement actions was to pursue unfair and deceptive practices in the sale of credit card add-on products, which has put billions of dollars back into the pockets of consumers and prevented even more harm in the future.

To monitor all of these effects, the Bureau is required to conduct a study every two years to review further developments in this market. According to our most recent report, so far the CARD Act has helped consumers avoid at least $16 billion in "gotcha" credit card fees, such as back-end fees for exceeding an available credit limit. The choices available to consumers have become much more transparent and understandable, and they are gaining confidence now that many bad practices have been eliminated.

At the same time, we found that credit is now cheaper and more available and the business remains attractive and profitable. In total, consumers had access to nearly $3.5

trillion in credit as of early 2015 – an increase of nearly $325 billion since early 2012. And new account openings are growing, with more than 100 million credit card accounts opened in 2014 – faster than the growth in the population. This is a sign of a healthy market – where credit card companies are making the decision to extend credit to responsible customers – and it is being reinforced by unusually low consumer credit card defaults.

In short, more effective regulation has created a safer, more affordable credit card market with more opportunities available to consumers. Responsible lenders are now doing business on better, more sustainable terms. That is a remarkable achievement, and it refutes much of what was said at the time the CARD Act was passed. Critics worried that restricting back-end pricing would make it harder for consumers to get credit by forcing companies to issue fewer cards at higher cost, but instead it has led to a sturdier and more robust market.

But the credit here does not belong to these reforms alone. We also see financial providers doing a better job of serving their customers and treating them well. The banks had to embrace and implement the reforms, and they did. They did not have to improve the way their call centers address customer complaints, but many did, by moving to adopt new metrics and processes and financial incentives for their employees to focus more intensively on customer satisfaction. They might have resisted our approach to handling consumer complaints, but instead they are responding consistently and promptly, often providing welcome relief to their customers.

At the same time, consumers themselves have modified their behavior, becoming more careful and responsible in how they manage their credit card debt. Economists have been noting how American households, coming out of the Great Recession, have consciously sought to deleverage their debt loads. This has been especially true in this market, where the average consumer with a credit card is now carrying ten percent less debt than he or she did before the financial crisis. Indeed, we may find that lasting changes have occurred in the mindset of this generation of consumers, similar to the lasting effects of the Great Depression on the people who lived through it, like my father. Surely if consumers have better experiences with a financial product, their overall satisfaction will increase accordingly. Thus we have the trifecta of progress noted earlier – a better regulated market, better institutional behavior, and better consumer performance.

We still have some concerns, most notably around consumer harm from deferred interest programs, from certain practices of subprime card specialists, and from problems with debt collection. And we are interested in learning more about how rewards programs are disclosed to and work for consumers. But credit cards have always offered many potential benefits for consumers. A convenient means of payment that extends credit for small transactions at reasonably affordable rates, it can be a truly great product once stripped of the confusing and abusive practices that were never core to the product. Seeing what has happened in this market shows us what can be done in other markets if we can create conditions that enable people to find greater opportunity on sustainable and responsible terms.

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The single largest consumer finance market in the world is the American mortgage market, worth about $10 trillion at any given time. Notably, it was the highly irregular and irresponsible practices in this market that blew up the U.S. economy and brought on the financial crisis. So it is important to consider how this most critical market is faring these days. Have the same positive effects we see in the credit card market occurred in the mortgage market as well? Why or why not?

First, it is important to recognize that Congress, in combination with the Consumer Bureau, has imposed dramatic reforms in the mortgage market. Because of the complexity of this vast and sprawling market, the entire reform program has taken several years, with the Bureau finalizing the last of nine required mortgage rules only late last year. Just as important, we have broad authority to supervise both mortgage originators and mortgage servicers – bank and nonbank alike – and to enforce the law against those that violate it. We have been active in exercising this authority, which levels the playing field for all market participants.

Mortgage lending practices have also improved since the onset of the financial crisis. The market crash itself led to many changes, with bad actors and bad practices no longer feasible in a marketplace that had all-too-belatedly exposed the risks inherent in irresponsible and often predatory lending. Indeed, if anything, the market meltdown produced an overreaction, marked by very tight credit and historically low levels of consumer demand and available supply. For those of us engaged in the important work of protecting consumers, these developments posed a very tricky task in implementing reforms. We were well aware of the concerns many had raised that the cost of protecting

consumers would constrict the availability of credit and even drive many financial service providers out of business altogether.

We thought carefully about those concerns when we adopted our Ability-to-Pay mortgage rule, which defined a new universe of “Qualified Mortgages” to help ensure that consumers would not be put into loans that set them up to fail. We recognized that we could draw up the greatest consumer protections ever devised, but if consumers cannot get access to credit, then there would be nothing to protect. You cannot have responsible lending unless you have lending in the first place. But at the same time, we needed to uproot the kinds of predatory practices that had distorted and undermined the mortgage market, which is why we banned no-documentation loans and the underwriting of mortgages over teaser rates that did not reflect the true cost of the loan. We also faced the difficult problem of gauging the appropriate scope of reform in the face of continuing uncertainty about when GSE reform might occur and what shape it might take – a profound uncertainty that remains to this day.

What has the effect of these rules been so far? Some predicted that lending would be suffocated by the common-sense rules that we finalized in January 2013. On the contrary, the mortgage market is thriving. In 2014, the number of home purchase mortgages was up by almost 5 percent over the prior year, and preliminary data indicates that this trend accelerated last year. When our Know Before You Owe mortgage disclosure rule took effect in October, some again asserted that its implementation would paralyze the market. We are keeping a close eye on many transitional issues that lenders and others have faced in the past five months, but home purchase mortgages remain on the rise, and the housing market now is finally making a positive contribution to the ongoing recovery of the American economy.

Let me say plainly, from my standpoint as the Director of the Consumer Financial Protection Bureau, that is welcome news. It means more opportunity for more consumers, and a renewed pathway to the American dream in a mortgage market that has been strengthened by the changes we have made. And while we saw minor consolidation in some parts of the mortgage market, there is no evidence of any mass exodus, as doomsayers had predicted. In fact, after adjusting for merger activity, the latest data indicates that the number of lenders originating mortgages has been increasing.

There is no reason to be surprised at this outcome, because our rules merely imposed the kind of common-sense requirements that lie at the heart of all responsible lending. In addition, we took pains to create special rules to protect community banks and credit unions, which had amassed the lowest default rates right through the wreckage of the financial crisis. Reasonable regulation of financial markets, which includes evenhanded oversight and enforcement of the law, should always tend to benefit the most responsible providers. The Consumer Bureau is supporting responsible lenders by taking on and rooting out methods of unfair competition that gobbled up market share by driving down sound underwriting standards. The market leaders of today are those that have remained focused on providing sustainable homeownership rather than just making a quick buck, no matter how.

Reflect on this for a moment. Rules that have brought more marketplace fairness have meant more opportunity for more consumers, and opened a wider avenue to the American dream. Consider the positive benefits of a safer mortgage market that is not distorted by “no-doc” loans, or loans underwritten with misleading teaser rates, which is policed with the evenhanded authority to make these new rules stick. That market is now better protected from a destructive race to the bottom.

At the same time, sensible regulation that includes substantial consumer protections has begun to foster greater trust by consumers in the financial marketplace. If people believe they will be treated fairly rather than becoming victims of predatory lending, they can develop a renewed sense of consumer confidence. And in the past few years, as consumers have improved their own balance sheets and seen their home values stabilize in many parts of the country, those sentiments are gradually returning. Steady and prepared consumers, along with sound lending, are the key ingredients in the recipe for an improved housing market.

What is now happening is that even the millennial generation, which had put off homeownership until somewhat later in life, seems to be making more of a move into the mortgage market. Credit is still too tight, at least in my view, but we can now look in the rear-view mirror and see that some of the undue fears people had about legal liability under the QM rule, or market paralysis due to streamlining the mortgage disclosure forms, can be put in healthier perspective. There is ample opportunity in the mortgage market as it continues to heal, and you should be doing what you do best: serving your customers through great deals and great customer service. Homeownership still remains the most effective engine of wealth accumulation for the American middle

class, and you are the ones who are making that happen and rebuilding a key marketplace that failed this country so brutally less than a decade ago.

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For the rest of this year and the next, our rulemaking agenda at the Consumer Bureau will remain quite active. For instance, financial services companies are increasingly devising products that cut across existing regulatory frameworks. Leveling the playing field by treating all competitors equally, regardless of their corporate structure or choice of charter, is a fresh approach that benefits both consumers and providers. Many thousands of nonbank companies offer consumer financial products and services – though unlike banks, they do not take deposits. They all should be subject to the same oversight and enforcement as the banks if they are competing in the same marketplace for the same customers.

Soon we will be finalizing a rule to provide basic consumer protections for prepaid accounts for the first time ever, which many consumers would be surprised to learn they lack currently. In the coming months, we will issue our notice of proposed rulemaking on small-dollar loans such as payday loans, car title loans, and certain installment loans. We will also issue a notice of proposed rulemaking on the use of arbitration clauses in consumer finance contracts, advancing a process that Congress first set in motion in the Dodd-Frank Act.

We are also looking at the incidence and transparency of overdraft fees, including the opt-in process for overdraft coverage of electronic transactions. In our ongoing work on a potential overdraft rulemaking, we are giving careful consideration to when and how overdraft fees are charged and how well consumers can anticipate those charges. We have already issued two reports on the subject. Our 2013 report found that overdraft is a costly service with the potential to force involuntary account closures, with complex processes that can make it hard for consumers to anticipate and manage those costs. In 2014, we issued a further report showing that a small number of consumers are paying large amounts for overdraft, often so that they can be advanced small amounts of money for short periods of time.

Another focus is on debt collection practices – still the most-complained-about activity affecting consumers in the financial marketplace – including the practices of third-party debt collectors, first-party creditors, debt sellers, and debt buyers. And we have begun

work on another project required by Congress, which is to establish a rule governing the collection and publication of data on small business lending – as well as determining how to organize and manage that data collection and publication. We are moving forward with this project now that we have completed our statutory task to update the framework for collecting similar data on mortgage lending under the Home Mortgage Disclosure Act.

We also have other work underway that is of great interest to the CBA and its members. We continue to pursue our continuing project, in partnership with the Department of Justice, to identify and stamp out discrimination in auto lending practices. Our recent resolutions with two of the largest captive auto lenders have introduced new constraints on the extent to which interest rates can be marked up and point a way forward to addressing disparities in the rates consumers pay for these loans. And we remain engaged in our work to improve the credit reporting market, concentrating not only on the credit reporting companies themselves but also on the data furnishers and the credit scoring companies.

Last month, we announced that we are looking at ways to enhance checking account access and the accuracy of the screening process used by depository institutions. About 10 million households lack any checking or savings account, which can lead these consumers to turn to costly financial services that can take a big bite out of their earnings. I wrote a letter to the top executives of the largest banks encouraging them to offer lower-risk account options broadly and routinely, such as a checking or prepaid account that will not authorize a consumer to overdraw. Bringing in those stuck outside the banking system can open the door to basic financial services, a safer place to keep their money, and more convenient and affordable payment mechanisms. That is the right thing to do, and it offers a new customer base that can grow into greater prosperity and business opportunities over time (including millennials, who are showing keen interest in such lower-risk products). It would also have the beneficial effect of strengthening consumers and, through them, ultimately the U.S. economy as well.

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Finally, I do not like to speak to a group of banking leaders, such as this one, without saying a few words about financial education. This is a task that we all should feel the responsibility to bear together. We will all be better off in a world where consumers can understand their options, weigh their choices more carefully, and make sound decisions.

A more educated consumer is a better and stronger customer, and so we should pursue this mission together. We want people to be more comfortable and more confident as they navigate the opportunities available to them in the consumer financial marketplace.

To these ends, we are doing several things.

First, we are working to help young people increase their financial capability. We are regularly and persistently advocating that financial education should be a mandatory part of the high school curriculum in all fifty states, which is not the case today. If you and your banking colleagues were to do the same, my sense is that much progress could be made. I urge all of you who want to improve economic life in America to push to make financial education a topic of required learning just like math and science and civics. It is, in fact, one area that will be relevant to all young people as they become adults and must manage their own financial affairs.

Second, we are providing workplace financial education to our own employees and encouraging others in the public and private sectors to do the same. People make many important financial decisions on the job. Indeed, financial educators note that the workplace is the *only* place most adults will ever receive any financial education at all. Consumer banks can help lead the development of financial wellness programs in the workplace. After all, your institutions employ millions of people, at all levels of income and sophistication, who can benefit by such initiatives. In the past year, we have already seen certain companies stepping up to take the lead and building the business case for such benefits to enhance life for their own employees and their families.

Third, we are helping educate older Americans and those who care for them about the new and more acute financial challenges they will face as they age. Fifty-seven million Americans are 62 or older, and another 10,000 join them every day. They increasingly face financial issues that pose risks for the unprepared and unprotected. This is a personal matter for me; a month ago my Dad turned 98. He lost his first savings account in a bank failure during the Depression. And as Tennessee Williams said, "You can be young without money, but you can't be old without it." For this reason, the Bureau has developed resources for caregivers who are managing an aging relative's money, so they can help protect loved ones against financial scams and abuse. Many of your banks already make efforts to look out for their older customers, and we are asking you to enhance those efforts by sharing our CFPB materials widely with your members. None

of our materials is copyrighted, and we are eager for your help in distributing them all over the country.

In closing, let me say that consumer bankers are in a position to do much to enhance and improve life for all Americans. When you serve your customers well, and perform effectively in ensuring compliance with the law, you make a huge difference for the positive trajectory of this country. We all recognize that life, liberty, and the pursuit of happiness are integral elements of our national creed. But without a solid financial foundation, this pursuit can be frustrating and even fruitless for so many people. Knowing how to manage the ways and means of our lives instills a sense of control, ownership, and peace of mind that adds up to financial well-being.

We all deserve that, and so we should keep in mind these broader goals as we engage in our daily work. Together, we are building a more solid framework that allows both consumers and their financial providers to thrive in a sustainable and enduring manner. We can and will enable our nation’s families to get the tools and resources they need to find their piece of the American dream. Thank you.

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