

**Joint Response by the Inspectors General of the Department of the Treasury and
Board of Governors of the Federal Reserve System**

Request for Information Regarding the Bureau of Consumer Financial Protection

~~Professor Warren stated that her role as an Assistant to the President is separate from her role as a Special Advisor to the Secretary. She explained that, as a Special Advisor to the Secretary, she is a full time Treasury employee whose activities, which include periodically updating the President on the Bureau's implementation, are subject to the same oversight by the Secretary or his delegates afforded to any other Treasury official. She further noted that her role as an Assistant to the President does not preclude oversight related to her Bureau responsibilities. In describing her role as an Assistant to the President, Professor Warren stated that she speaks to the President and his advisors about issues that are not related to standing up the Bureau.~~

- ~~4. Section 1100G of the Act requires the Bureau to describe the impact of any proposed rule on the cost of credit for small entities. Who will be in charge of conducting this analysis? Please provide descriptions of positions and the dates of hire for each Bureau staff person charged with conducting this analysis.~~

~~The Bureau implementation team has not yet identified an individual(s) to conduct the analysis regarding the impact of any proposed rule on the cost of credit for small entities. Section 1100G, which requires the Bureau to perform this analysis, is not effective until the designated transfer date. Position description(s) for the individual(s) who will be conducting the analysis are not yet available. According to Treasury officials, the Bureau does not plan to propose any rules prior to the transfer date. Treasury officials further stated that they recognize that this is an important issue, and that the Bureau implementation team expects to review the issue carefully during the course of its future work.~~

- ~~5. Do you agree that the interim authority specified in Section 1066 of the Act terminates on the designated transfer date, and that after such date, the Bureau can function only if a director has been confirmed with the advice-and-consent of the Senate?~~

The interim authority specified in section 1066 of the Dodd-Frank Act does not fully terminate on the designated transfer date. Sections 1066(a) and 1066(b) identify two different expirations for Treasury's authority. The Secretary's

**Joint Response by the Inspectors General of the Department of the Treasury and
Board of Governors of the Federal Reserve System**

Request for Information Regarding the Bureau of Consumer Financial Protection

authority under section 1066(a) terminates when a Director is confirmed by the Senate, rather than on the designated transfer date. Section 1066(a) states, "The Secretary is authorized to perform the functions of the Bureau under this subtitle *until the Director of the Bureau is confirmed by the Senate...*" In contrast, the authority of the Department of the Treasury under section 1066(b) terminates on the designated transfer date. Section 1066(b) states, "The Department of the Treasury may provide administrative services necessary to support the Bureau *before the designated transfer date.*"

If the Bureau does not have a Senate-confirmed Director by the designated transfer date, the Bureau may continue to operate under the Secretary's section 1066(a) authority. As discussed above, the Secretary's authority under section 1066(a) does not expire on the designated transfer date; instead, this authority continues until a Director is confirmed by the Senate. Specifically, until a Director is confirmed, section 1066(a) grants the Secretary the authority to carry out the functions of the Bureau found under subtitle F of title X.³ On the designated transfer date, subtitle F grants the Bureau the authority to:

- prescribe rules, issue orders, and produce guidance related to the federal consumer financial laws that were, prior to the designated transfer date, within the authority of the Board, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, and the National Credit Union Administration;
- conduct examinations (for federal consumer financial law purposes) of banks, savings associations, and credit unions with total assets in excess of \$10 billion, and any affiliates thereof;
- prescribe rules, issue guidelines, and conduct a study or issue a report (with certain limitations) under the enumerated consumer laws that were previously within the authority of the Federal Trade Commission (FTC) prior to the designated transfer date;

³ These transferred authorities are found in sections 1061(b) and 1063 of the Dodd-Frank Act, which are effective on the designated transfer date.

**Joint Response by the Inspectors General of the Department of the Treasury and
Board of Governors of the Federal Reserve System**

Request for Information Regarding the Bureau of Consumer Financial Protection

- conduct all consumer protection functions relating to the Real Estate Settlement Procedures Act of 1974, the Secure and Fair Enforcement for Mortgage Licensing Act of 2008, and the Interstate Land Sales Full Disclosure Act that were previously within the authority of the Secretary of the Department of Housing and Urban Development prior to the designated transfer date;
- enforce all orders, resolutions, determinations, agreements, and rulings that have been issued, made, prescribed, or allowed to become effective prior to the designated transfer date by any transferor agency or by a court of competent jurisdiction, in the performance of consumer financial protection functions that are transferred to the Bureau, with respect to a bank, savings association, or credit union with total assets in excess of \$10 billion, and any affiliates thereof; and
- replace the Board, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, the National Credit Union Administration, and the Department of Housing and Urban Development in any lawsuit or proceeding that was commenced by or against one of the transferor agencies prior to the designated transfer date, with respect to a consumer financial protection function transferred to the Bureau.

Since subtitle F transfers the above functions to the Bureau on the designated transfer date, in the absence of a Senate-confirmed Director, the text of section 1066(a) authorizes the Secretary to perform these transferred functions. The Secretary's authority to carry out these transferred functions terminates when a Director is confirmed by the Senate.

In addition to the transferred functions, the Bureau has newly-established federal consumer financial regulatory authorities. The Secretary is not permitted to perform certain newly-established Bureau authorities if there is

**Joint Response by the Inspectors General of the Department of the Treasury and
Board of Governors of the Federal Reserve System**

Request for Information Regarding the Bureau of Consumer Financial Protection

no confirmed Director by the designated transfer date.⁴ For example, if there is no Senate-confirmed Director by the designated transfer date, in general, the Secretary is not permitted to exercise the Bureau's authority to:

- prohibit unfair, deceptive, or abusive acts or practices under subtitle C in connection with consumer financial products and services;
- prescribe rules and require model disclosure forms under subtitle C to ensure that the features of a consumer financial product or service are fairly, accurately, and effectively disclosed both initially and over the term of the product or service;
- prescribe rules under section 1022 relating to, among other things, the filing of limited reports to the Bureau for the purpose of determining whether a nondepository institution should be supervised by the Bureau;
- supervise nondepository institutions under section 1024, including the authority to (a) prescribe rules defining the scope of nondepository institutions subject to the Bureau's supervision, (b) prescribe rules establishing recordkeeping requirements that the Bureau determines are needed to facilitate nondepository supervision, and (c) conduct examinations of nondepository institutions.

~~6. What appropriation account, or accounts, is the Treasury Department using to fund the work relating to the Bureau? How much does the Department estimate that this effort will cost in total?~~

~~According to Treasury, funds from the Board, not from appropriation accounts, support the activities of the Bureau.⁵ Treasury established a separate "Treasury General Account" to receive disbursements from a Board account, called the~~

⁴ The Bureau's newly-established authorities are found throughout title X of the Dodd-Frank Act, including section 1024, and multiple provisions of section 1022 and subtitle C. According to the text of the Dodd-Frank Act, the Secretary's authority under section 1066(a) does not extend to these newly-established authorities.

⁵ The Board is not funded through appropriations. 12 U.S.C. §§ 243-44.