

# Congress of the United States

Washington, DC 20515

July 31, 2013

The Honorable Richard Cordray  
Director  
Consumer Financial Protection Bureau  
1500 Pennsylvania Avenue, NW  
Washington, DC 20220

Dear Mr. Cordray:

The Committee on Oversight and Government Reform and the Committee on Financial Services remain concerned about the lack of transparency at the Consumer Financial Protection Bureau (CFPB). In particular, recent news reports indicate that senior CFPB employees, including Raj Date, Gary Reeder, Chris Haspel, and Mitch Hochburg, have left the CFPB in order to profit from rules they helped create.<sup>1</sup> As part of our Committees' continuing oversight of the CFPB, we request more information about the departure of these individuals from the CFPB and its continuing relationship with them.

While serving in senior leadership positions within the CFPB, Mr. Date, Mr. Reeder, Mr. Haspel, and Mr. Hochburg helped to write a series of rules broadly affecting mortgage lending in the United States.<sup>2</sup> One such rule, mandated by the Dodd-Frank Wall Street Reform and Consumer Protection Act,<sup>3</sup> prohibits a creditor from making a mortgage loan without regard to the consumer's ability to repay the loan.<sup>4</sup> In implementing Sections 1411 and 1412 of Dodd-Frank, the rule requires creditors to make a reasonable, good faith determination of a consumer's ability to repay any consumer credit transaction secured by a dwelling, and establishes certain protections from liability under the requirement for "qualified mortgages."<sup>5</sup>

Many stakeholders and policymakers, including members of our Committees, warned that "if the CFPB is not careful, this rule could price millions of Americans out of the mortgage market at a time where it has already become more difficult to qualify for affordable home loans."<sup>6</sup> The stricter rules would place greater liability on lenders that make loans that do not meet the "qualified mortgage" standard by allowing borrowers to sue for damages in the event of foreclosure.<sup>7</sup> Observers have also argued that implementation of and compliance with the qualified mortgage rule will be costly, disproportionately burdensome to small businesses and

---

<sup>1</sup> Richard Pollock, *Revolving Door Spinning at Consumer Finance Protection Board, Raising Ethics Issues*, WASH. EXAMINER (June 19, 2012), available at <http://washingtonexaminer.com/revolving-door-spinning-at-consumer-finance-protection-board-raising-ethics-issues/article/2532152>.

<sup>2</sup> See, e.g., John Gittelsohn & Prashant Gopal, *Misfit Borrowers Attracting Lenders as Housing Revives*, BLOOMBERG (July 18, 2013), available at <http://www.bloomberg.com/news/2013-07-18/misfit-borrowers-attracting-lenders-as-housing-revives.html>; Matthew Yglesias, *Former CFPB'er Now Touting Unorthodox Mortgage Products*, SLATE (July 18, 2013), available at [http://www.slate.com/blogs/moneybox/2013/07/18/raj\\_date\\_fenway\\_mortgage\\_former\\_cfpb\\_guy\\_getting\\_into\\_unorthodox\\_lending.html](http://www.slate.com/blogs/moneybox/2013/07/18/raj_date_fenway_mortgage_former_cfpb_guy_getting_into_unorthodox_lending.html).

<sup>3</sup> Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111-203, 124 Stat. 1411, 1412 (2010).

<sup>4</sup> Truth in Lending (Regulation Z), 78 Fed. Reg. 18,795-98 (Mar. 28, 2013).

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

<sup>6</sup> H. COMM. ON OVERSIGHT & GOV'T REFORM, *Continuing Oversight of Regulatory Impediments to Job Creation: Job Creators Still Buried by Red Tape* 53 (July 19, 2012).

<sup>7</sup> *Id.*

hard to integrate with other mortgage-related provisions in Dodd-Frank.<sup>8</sup> The CFPB adopted its final rule on “qualified mortgages” in January 2013.<sup>9</sup> The rule includes strict criteria for such loans, standards that even Federal Reserve Chairman Ben Bernanke has suggested may be too strict.<sup>10</sup> Most lenders assert that, as a result of the CFPB’s new qualified mortgage rule, they will no longer issue non-qualified mortgages.<sup>11</sup>

On January 31, 2013, about a month after the release of the CFPB’s final rule, Mr. Date left his Deputy Director position at the Bureau with “no current plans for his career after the CFPB, other than to spend more time with his family.”<sup>12</sup> However, on March 11, 2013, less than two months after leaving his senior post at the CFPB, Mr. Date incorporated an advisory and investment firm known as Fenway Summer LLC (Fenway).<sup>13</sup> Fenway focuses “on those borrowers who do not meet the standards for ‘qualified mortgages’ as set by the CFPB under rules.”<sup>14</sup> To help in this endeavor, he hired Mr. Reeder, Mr. Haspel, Mr. Hochburg, and other CFPB employees to staff his firm.<sup>15</sup>

In his new capacity, Mr. Date’s emphasis in remarks on the “qualified mortgage” rule he helped create seems to have shifted. In testimony before the House Financial Services Subcommittee on Financial Institutions and Consumer Credit last July, Mr. Date said qualified mortgages “are structurally safer and pose lower risk for borrowers.”<sup>16</sup> However, in an interview with *Bloomberg* in July 2013 following his departure from the CFPB, Mr. Date opined that “[t]here are plenty of borrowers who are eminently responsible people but fall outside of the bright-line boundaries . . . [a]nd there’s a meaningful-sized business that can be quite good for borrowers and for lenders and investors to be able to satisfy that need.”<sup>17</sup> In fact, according to Mr. Date’s own estimates, non-qualified mortgages may make up as much as \$1.5 trillion of the \$10 trillion home-loan market,<sup>18</sup> a market that Fenway is uniquely positioned to serve.

Our Committees are not alone in their concerns regarding the appearance of impropriety in Mr. Date’s planned activities for Fenway. Richard Painter, a former White House ethics officer, characterized Fenway as “an extortion racket” that “hire[s] alumni of the agency and

---

<sup>8</sup> *Id.* at 55 (citing Letter from Steven Buckman, Pam Day, Celia Flowers and David Windle, Am. Land Title Ass’n, to Darrell Issa, Chairman, Comm. on Oversight & Gov’t Reform, and Jim Jordan, Chairman, Subcomm. on Reg. Affairs, Stimulus Oversight & Gov’t Spending (May 30, 2012) (on file with the author)).

<sup>9</sup> Proposed Rule, Ability-to-Repay and Qualified Mortgage Standards Under the Truth in Lending Act (Regulation Z), 78 Fed. Reg. 6408-6620 (Jan. 30, 2013).

<sup>10</sup> Nick Timiraos & Alan Zibel, *Rules Set for Home Lenders*, WALL ST. J. (Jan. 10, 2013), *available at* <http://online.wsj.com/article/SB10001424127887324442304578232083386220100.html>.

<sup>11</sup> *Id.*

<sup>12</sup> Elizabeth Ecker, *CFPB No. 2 Raj Date to Step Down From Post*, REVERSE MORTG. DAILY (Nov. 13, 2012), *available at* <http://reversemortgagedaily.com/2012/11/13/cfpb-no-2-raj-date-to-step-down-from-post/> (statement of CFPB spokeswoman Jen Howard).

<sup>13</sup> Pollock, *supra* note 1.

<sup>14</sup> Elizabeth Ecker, *Former CFPB Execs Start Mortgage Company Targeting Non-Qualifiers*, REVERSE MORTG. DAILY (June 6, 2013), *available at* <http://reversemortgagedaily.com/2013/06/06/former-cfpb-execs-start-mortgage-company-targeting-non-qualifiers/>.

<sup>15</sup> Pollock, *supra* note 1.

<sup>16</sup> *The Impact of Dodd-Frank on Consumer Choice and Access to Credit: Hearing Before the Subcomm. on Fin. Insts. & Consumer Credit of the H. Comm. on Fin. Servs.*, 112th Cong. (2012) (written testimony of Raj Date, Deputy Dir., Consumer Fin. Protection Bureau).

<sup>17</sup> Gittelsohn, *supra* note 3.

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

they'll call up their buddies in the agency to call off the dogs."<sup>19</sup> Michael Sandberg, of the Project on Government Oversight, has expressed similar concerns.<sup>20</sup>

Although the CFPB is now two years old, it remains "something of a mystery to many market participants as it ramps up operations."<sup>21</sup> This lack of transparency has apparently incentivized Mr. Date and other CFPB alumni to create a cottage industry unique to the Bureau's regulatory agenda. Simply put, it appears that former CFPB employees are now offering financial products in a market sector created by the very rules they were in a position to influence while working in senior leadership positions at the CFPB. This conduct raises serious questions about the integrity of the CFPB's rulemaking process and the conduct of some of its most senior former officials. We are deeply concerned that this close relationship between the CFPB and its former officials ultimately could harm consumers.

To assist our Committees, we ask that you provide us the following information in electronic format, as soon as possible, but no later than 5:00 pm on August 14, 2013:

1. All documents and communications between Mr. Date, Mr. Reeder, Mr. Haspel or Mr. Hochburg and any other official at the CFPB referring or relating to the drafting of the qualified mortgage rule between February 17, 2011, and the present;
2. All documents that provide an accounting of the CFPB's attrition rates on an annual basis, including the name of the departing employee, the departing employee's new employer, and the date of departure, between July 21, 2010, and the present;
3. All documents and communications between Mr. Date and any CFPB employee or agent referring or relating to the conception, design, or mission of Fenway Summer, between February 17, 2011, and the present; and
4. All documents and communications between any partner or employee of Fenway Summer LLC and any CFPB employee or agent between March 11, 2013, and the present.

The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and may at "any time" investigate "any matter" as set forth in House Rule X. The Committee on Financial Services has principal jurisdiction over the activities of the CFPB. An attachment to this letter provides additional information about responding to the Committees' request.

When producing documents to the Committees, please deliver production sets to the Majority Staffs in Rooms 2157 and 2129 of the Rayburn House Office Building and the Minority Staffs in Rooms 2471 and B301C of the Rayburn House Office Building. The Committees prefer, if possible, to receive all documents in electronic format.

---

<sup>19</sup> Pollock, *supra* note 1.

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

<sup>21</sup> Zibel, *supra* note 25.

The Honorable Richard Cordray

July 31, 2013

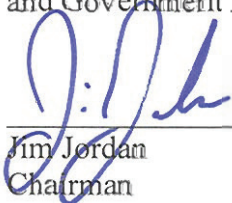
Page 4

If you have any questions about this request, please contact David Brewer or Katelyn Christ of the Oversight and Government Reform Committee Staff at 202-225-5074 or Brian Johnson of the Financial Services Committee Staff at 202-225-7502. Thank you for your attention to this matter.

Sincerely,



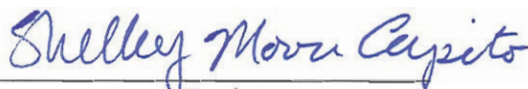
Darrell Issa  
Chairman  
Committee on Oversight  
and Government Reform



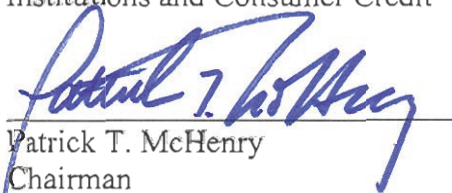
Jim Jordan  
Chairman  
Subcommittee on Economic Growth,  
Job Creation and Regulatory Affairs



Jeb Hensarling  
Chairman  
Committee on Financial Services



Shelley Moore Capito  
Chairman  
Subcommittee on Financial  
Institutions and Consumer Credit



Patrick T. McHenry  
Chairman  
Subcommittee on Oversight  
and Investigations

Enclosure

cc: The Honorable Elijah Cummings, Ranking Minority Member  
Committee on Oversight and Government Reform

The Honorable Maxine Waters, Ranking Minority Member  
Committee on Financial Services

The Honorable Matt Cartwright, Ranking Minority Member  
Subcommittee on Economic Growth, Job Creation and Regulatory Affairs  
Committee on Oversight and Government Reform

The Honorable Gregory Meeks, Ranking Minority Member  
Subcommittee on Financial Institutions and Consumer Credit  
Committee on Financial Services

The Honorable Al Green, Ranking Minority Member  
Subcommittee on Oversight and Investigations  
Committee on Financial Services

Mr. Mark Bialek, Inspector General, Federal Reserve Board and CFPB

ONE HUNDRED THIRTEENTH CONGRESS  
**Congress of the United States**  
**House of Representatives**  
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM  
2157 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-6143

Majority (202) 225-5074  
Minority (202) 225-5051

**Responding to Committee Document Requests**

1. In complying with this request, you are required to produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You should also produce documents that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. Requested records, documents, data or information should not be destroyed, modified, removed, transferred or otherwise made inaccessible to the Committee.
2. In the event that any entity, organization or individual denoted in this request has been, or is also known by any other name than that herein denoted, the request shall be read also to include that alternative identification.
3. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, or thumb drive) in lieu of paper productions.
4. Documents produced in electronic format should also be organized, identified, and indexed electronically.
5. Electronic document productions should be prepared according to the following standards:
  - (a) The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
  - (b) Document numbers in the load file should match document Bates numbers and TIF file names.
  - (c) If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
  - (d) All electronic documents produced to the Committee should include the following fields of metadata specific to each document;

BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH,  
PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE,  
SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM,

CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE, DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD, INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION, BEGATTACH.

6. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, box or folder is produced, each CD, hard drive, memory stick, thumb drive, box or folder should contain an index describing its contents.
7. Documents produced in response to this request shall be produced together with copies of file labels, dividers or identifying markers with which they were associated when the request was served.
8. When you produce documents, you should identify the paragraph in the Committee's schedule to which the documents respond.
9. It shall not be a basis for refusal to produce documents that any other person or entity also possesses non-identical or identical copies of the same documents.
10. If any of the requested information is only reasonably available in machine-readable form (such as on a computer server, hard drive, or computer backup tape), you should consult with the Committee staff to determine the appropriate format in which to produce the information.
11. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
12. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; and (e) the relationship of the author and addressee to each other.
13. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control.
14. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you are required to produce all documents which would be responsive as if the date or other descriptive detail were correct.
15. Unless otherwise specified, the time period covered by this request is from January 1, 2009 to the present.
16. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data or information, not produced because it has not been

located or discovered by the return date, shall be produced immediately upon subsequent location or discovery.

17. All documents shall be Bates-stamped sequentially and produced sequentially.
18. Two sets of documents shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building.
19. Upon completion of the document production, you should submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

### **Schedule Definitions**

1. The term “document” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, inter-office and intra-office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, email (desktop or mobile device), text message, instant message, MMS or SMS message, regular mail, telexes, releases, or otherwise.

3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.
4. The terms “person” or “persons” mean natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, or other units thereof.
5. The term “identify,” when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; and (b) the individual's business address and phone number.
6. The term “referring or relating,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is pertinent to that subject in any manner whatsoever.
7. The term “employee” means agent, borrowed employee, casual employee, consultant, contractor, de facto employee, independent contractor, joint adventurer, loaned employee, part-time employee, permanent employee, provisional employee, subcontractor, or any other type of service provider.