THE FINANCIAL SERVICES ROUNDTABLE

Financing America's Economy

To: Representatives of the Financial Services Roundtable, GAC, Public Affairs Council, Research Council, All Staff

Fast Facts: CONSUMER FINANCIAL PROTECTION BUREAU

Part 1: AUTHORITY

The Director of the Consumer Financial Protection Bureau (CFPB) must be appointed by the President and confirmed by the Senate. Currently, no Director is in place. Elizabeth Warren is an Assistant to the President and Special Advisor to the Secretary of the Treasury for the CFPB, but she does not carry the authority of the Director.

What are the CFPB's authorities WITHOUT a Director?

BEFORE July 21, 2011:[a]

FACT: The Dodd-Frank Act authorizes the Secretary of the Treasury to organize the CFPB and perform "administrative services," such as:

- Work with other agencies on transferring employees
- Establish the compensation and benefits of those employees, and
- Accompany current federal regulators on consumer compliance examinations of banks, thrifts, and credit unions with more than $10 billion in assets.

FACT: The Secretary is not authorized to issue rules on behalf of the CFPB prior to July 21.

AFTER July 21, 2011:

FACT: If no Director is in place, the Secretary can perform all the consumer financial protection functions of the Federal Reserve Board, OCC, OTS, FDIC, FTC, NCUA, and HUD. This includes issuing regulations under existing consumer financial protection laws. This also includes supervising banks, thrifts, and credit unions with more than $10 billion in assets.

FACT: The Secretary is not permitted to carry out new functions of the Bureau. Specifically, the Secretary is not permitted to:

- Prohibit unfair, deceptive or abusive acts or practices in connection with consumer financial products and services
- Prescribe rules and require model disclosures to ensure that the features of a consumer financial product or service are fairly, accurate, and effectively disclosed both initially and over the term of the product or service

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[a] July 21, 2011 is the designated "transfer date" when consumer financial protection authorities of financial services regulators are transferred to the CFPB.

- Supervise non-depository institutions

What are the CFPB's authorities WITH a Director?

BEFORE July 21, 2011:

FACT: The Director is authorized to:

- Conduct supervisory examinations of non-depository institutions
- Monitor the risk of consumer financial products or services
- Gather information from participants in the consumer financial services markets

FACT: The Director would not have authority to issue regulations under the so-called enumerated consumer laws such as the Equal Credit Opportunity Act (ECOA) and the Truth in Lending Act (TILA) or to regulate unfair, deceptive or abusive acts or practices.

AFTER July 21, 2011:

FACT: The CFPB and its Director are authorized to perform all of the consumer financial protection functions of the Federal Reserve Board, OCC, OTS, FDIC, FTC, NCUA, and HUD. This includes issuing regulations, orders, and guidelines under existing consumer financial protection laws, including TILA, ECOA, the Fair Credit Reporting Act (FCRA), and the Real Estate Settlement Procedures Act (RESPA).

FACT: The CFPB is authorized to supervise banks, thrifts, and credit unions with more than $10 billion in assets for compliance with Federal consumer financial laws.

FACT: The CFPB's enforcement authority begins as does the authority to regulate unfair, deceptive, or abusive acts or practices, respond to consumer complaints and inquiries, and the authority to create model disclosures, including harmonizing TILA and RESPA.

As always, please do not hesitate to contact Abby McCloskey, Director of Research at the Financial Services Roundtable, at Abby@fsround.org, Scott Talbott, Senior Vice President of Government Affairs, at Scott@fsround.org, or Anne Wallace, President of the Identity Theft Assistance Center and the Roundtable's point of contact on CFPB issues, at Anne@fsround.org.