

March 24, 2016

## Director Cordray Appears Before House Financial Services Committee

By [Ryan Richardson](#)

On March 16, CFPB Director Richard Cordray appeared before the House Financial Services Committee to answer questions regarding the Bureau's eighth Semi-Annual Report to Congress, which it issued on November 20, 2015. As with previous appearances by Director Cordray before Congress, the hearing served as an open forum for members of the Committee to question Director Cordray on a broad range of topics pertinent to the CFPB.

Over the course of the three-and-a-half hour hearing, the Bureau's anticipated rulemaking activities related to payday loans, prepaid cards, overdrafts, and arbitration took center stage. Noteworthy moments for the mortgage industry were as follows:

- Director Cordray acknowledged that software updates and systems integration problems are among the greatest issues slowing effective implementation of the TILA-RESPA Integrated Disclosures (TRID) Rule. "Lenders can't control [information technology] systems of realtors or title agents or settlement agents and others, and they have to all work together," he stated. According to Director Cordray, the CFPB has been in close touch with key market participants and trade associations about these issues, and the CFPB plans to continue its current approach to TRID enforcement until further notice. Under this approach, actions on TRID errors and deficiencies will be "corrective and diagnostic, not punitive," unless CFPB examiners determine that an entity is "blatantly failing" to implement the rule.
- The CFPB is considering issuing additional written guidance on TRID implementation questions it is currently gathering from major trade organizations. Director Cordray mentioned only one specific matter under consideration: accurate disclosure of the total cost of title insurance in situations where premiums are paid simultaneously by the lender and the owner. This is a long-standing issue under TRID.
- Director Cordray expressed particular sensitivity to security concerns surrounding the new loan-level data to be collected under amendments to HMDA's implementing regulation, Regulation C, which will become effective on January 1, 2018. Director Cordray assured the Committee that the CFPB is taking appropriate steps to secure the

high volume of sensitive data it intends to collect, including property addresses and credit scores. Nevertheless, Director Cordray insisted that the expanded HMDA database will not contain data that is “personally identifiable.”

- When questioned about the CFPB’s use of the disparate impact theory of discrimination as grounds for a claim under the Equal Credit Opportunity Act (ECOA), Director Cordray cited the Supreme Court’s recent decision in *Texas Department of Housing and Community Affairs v. The Inclusive Communities Project, Inc.*, as decisive authority. When further questioned about application of *Inclusive Communities*, which interpreted the Fair Housing Act, to claims under ECOA, Director Cordray responded that the two statutes have been construed as “hand-in-glove for decades.”

To link to an archived webcast of the hearing, click [here](#). To link to the CFPB’s eighth Semi-Annual Report to Congress, click [here](#).