New Agency, New Authority: What You Need to Know About the Consumer Financial Protection Bureau

John E. Villafranco and Kristin A. McPartland

A few weeks ago, President Obama asked me to get to work starting the new Consumer Financial Protection Bureau. He was clear about his goal: Level the playing field for American families and fix the broken consumer credit market—and do it as quickly and effectively as possible.[1]

—Elizabeth Warren, Assistant to the President and Special Advisor to the Secretary of the Treasury on the Consumer Financial Protection Bureau, October 28, 2010.

The passage of the Dodd-Frank Wall Street Reform and Consumer Protection Act, with its creation of a new government agency, the Consumer Financial Protection Bureau (CFPB), represents a major reorganization in the regulation of consumer financial products and services. With controversy surrounding the new agency from its initial conceptualization to the September 2010 appointment of Professor Elizabeth Warren in a special advisory role, many questions remain unanswered about the practical effect that the new agency will have on existing practices, standards, and current regulation.

This list of questions grew longer in November 2010 with the Republicans' recapture of the U.S. House of Representatives. Republican leadership has targeted the Act and the CFPB in particular for aggressive oversight and potential rollback. The day after his party's electoral success, incoming Speaker of the House John Boehner (R-OH) made his party's position clear: "When it comes to the financial services bill and the 358 regulatory filings required under that bill . . . it's going to require a significant amount of oversight—so that not only will the Congress understand, but the American people will understand, just what this bill will do to our financial services industry."[2]

Despite the Republicans' promise to dig in, we should expect President Obama to push forward with the initiative. In recent weeks, Professor Warren has been on a publicity offensive, reaching out to consumers, as well as industry leaders and trade groups—many of whom spent much of the year fighting against the agency's creation—and outlining the CFPB's priorities in interviews and news show appearances. This article discusses those priorities, their prospects, and the expected intra-agency relationship with the Federal Trade Commission.

"Standing Up" the CFPB

While the CFPB will not become fully operational and assume its new statutory authority until July 2011, a nascent staff of fifty-four moved to new offices in late October and presently numbers more

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[1] Elizabeth Warren, *Standing Up the Consumer Financial Protection Bureau*, THE WHITE HOUSE BLOG (Oct. 28, 2010, 6:00 AM), http://www.whitehouse.gov/blog/2010/10/28/standing-consumer-financial-protection-bureau.

[2] David M. Herszenhorn, *The Road Ahead Turns Right*, N.Y. TIMES, Nov. 3, 2010, *available at* http://www.nytimes.com/2010/11/04/business/04outlook.html.

than seventy. The CFPB will eventually consolidate employees and responsibilities from several federal agencies, including the Federal Reserve, the FDIC, and the Department of Housing and Urban Development, among others, and is ultimately expected to have hundreds of employees and a budget up to $500 million.[3]

In appointing Professor Warren to serve as Assistant to the President and Special Advisor to the Secretary of the Treasury on the CFPB, President Obama noted that she was "the architect behind the idea for a consumer watchdog, so it only makes sense that . . . she should be the architect working with Secretary of Treasury [Timothy] Geithner in standing up the agency."[4] Consumer groups had advocated for Warren, who previously served as Chair of the Congressional Oversight Panel of the Troubled Asset Relief Program, to be appointed the first Director of the agency.

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Warren's 2007 article, *Unsafe at Any Rate*,[5] has been widely credited for making the case for a new agency intended to reduce the risk of financial products and ensure that consumers are provided clearer disclosures. Her appointment to serve in an advisory capacity rather than as Director represented a compromise by President Obama in the face of concerns expressed by Senator Chris Dodd (D-CT), Chairman of the Senate Committee on Banking, Housing and Urban Affairs Committee and chief author of the new law, and others over securing Senate confirmation for Warren. In selecting Warren for the interim position, President Obama highlighted the importance of her appointment by commenting that she will "play a pivotal role in helping me determine who the best choice is for director of the bureau."[6] Many Republicans have criticized the decision-making influence of individuals within the Administration who did not go through Senate confirmation. A Republican-controlled House will no doubt home in on this in its Congressional oversight efforts, and Warren's position is a likely candidate for close examination.

The CFPB's leadership structure, with its single director, has also come under scrutiny as it differs significantly from other regulatory agencies, which are generally directed by odd-numbered Commissioners. For example, both the FTC and the SEC are overseen by five Commissioners, appointed by the President with the advice and consent of the Senate, and no more than three Commissioners may be of the same political party. In contrast, the CFPB will be headed by a single Director, appointed by the President with the advice and consent of the Senate, for a five-year term. Senator Bob Corker (R-TN), a member of the Senate Banking Committee, wrote to President Obama just before Warren's interim appointment and criticized the Director position as

> unprecedented in the nature of its unfettered and unchecked authorities, which makes the confirmation process even more important to the interests of the American people. . . . The job is disproportionately reliant on the decisions of one individual with access to large sums of taxpayer monies to carry out the agency agenda.[7]

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3 The FTC is exempt from the personnel transfers affecting other agencies but the CFPB is likely to draw many of its new employees from the ranks of the FTC. Peggy Twohig, former Associate Director in the Division of Financial Practices, moved to the CFPB earlier this year, and she was recently joined by Alice Saker Hrdy, an Assistant Director in the FTC's Division of Financial Practices, and on detail by Lucy Morris, a senior FTC attorney who has litigated notable predatory lending cases on the FTC's behalf. For a list of people reported to have joined the new agency, see the accompanying chart entitled *Key Personnel in Starting Up the Consumer Financial Protection Bureau*, http://www.abanet.org/antitrust/at-source/10/12/Dec10-CFPBChart12-21f.pdf [under REFERENCES].

4 President Barack Obama, Statement by the President to the Press, The White House Office of the Press Secretary (Sept. 17, 2010), http://www.whitehouse.gov/the-press-office/2010/09/17/statement-president-press.

5 Elizabeth Warren, *Unsafe at Any Rate*, Democracy: A Journal of Ideas, Summer 2007, at 8, *available at* http://www.democracyjournal.org/pdf/5/Warren.pdf.

6 President Obama, Statement to the Press, *supra* note 4.

7 Andy Meek, *Corker to Obama: Don't Circumvent Senate*, Daily News Blog (Sept. 15, 2010), http://blog.memphisdailynews.com/?s=Warren (scroll down to the Sept. 15, 2010 posting).

Senator Corker's letter may have been one of the reasons President Obama appointed Warren to establish, but not lead, the CFPB.[8]

The CFPB will be funded through the Federal Reserve's earnings, and the transfer of money is not reviewable by Congressional Appropriations. This independent funding source—assuming it remains— could prove critical to the new agency's success. In addition to stepped-up oversight, Republicans generally considered to be hostile to the Act are eyeing tweaks to the new law—in lieu of full-scale repeal—and may attempt to weaken or reduce funding for key provisions via the Congressional Appropriations process. Representative Spencer Bachus (R-AL), currently the Ranking Member of the House Financial Services Committee and incoming chair of the Committee when Republicans assume control in January 2011,[9] has dubbed the Dodd-Frank Act a "government takeover of the economy."[10] Bachus has recently indicated that he may attempt to make the CFPB subject to the appropriations process—likely one of many proposals to face resistance in the Democratic Party-controlled Senate. "Consumer protection is a bipartisan goal, [but] there needs to be accountability in the appropriations process," Bachus has said.[11]

In late November, Representative Bachus and Representative Judy Biggert (R-IL), currently the Ranking Member of the Subcommittee on Oversight and Investigations, began challenging the establishment of the CFPB by sending letters to the inspectors general of both the Treasury Department and the Federal Reserve, directing them to conduct investigations into the ongoing work related to the CFPB.[12] Bachus and Biggert requested the reports be submitted by January 10, 2011,[13] and fellow Republican Darrell Issa (R-CA), the incoming chair of the House Oversight and Government Reform Committee is likely to join Bachus in initiating oversight hearings on the CFPB in early 2011.[14] Warren had earlier expressed her concern that critics of the new agency were trying to dismantle it before it becomes fully operational: "Now, here we're coming out of—we hope coming out of another great recession—we've passed serious reform, and it's just a matter of months until people are talking about how to undercut this new consumer financial protection agency."[15]

The CFPB's Priorities

President Obama, in signing the Act into law, described the CFPB as "a new consumer watchdog with just one job: looking out for people—not big banks, not lenders, not investment houses—look-

[8] Andy Meek, *Corker: Don't Bypass Senate on Warren. Obama: Ok.*, Daily News Blog (Sept. 17, 2010), http://blog.memphisdailynews.com/?s=Warren (scroll down to the Sept. 17, 2010 posting).

[9] Phil Mattingly, *Bachus Selected by Republicans as Wall Street Overseer*, Bloomberg, Dec. 8, 2010, http://www.bloomberg.com/news/2010-12-08/house-s-bachus-wins-key-vote-in-bid-to-be-wall-street-overseer.html.

[10] DealBook, *Wall Street Hopes to Gain as Democrats Lose House*, N.Y. Times, Nov. 3, 2010, http://dealbook.blogs.nytimes.com/2010/11/03/wall-street-gains-as-democrats-lose-house/?scp=8&sq=dodd%20frank%20act&st=cse.

[11] Steven Sloan, *Bachus Poised for Gavel as Rhetoric on New Financial Rules Toned Down*, CQ Today Online News, Nov. 3, 2010, http://www.cq.com/doc/news-3758764?wr=UEhZTDhpeFBiKnI5cVliWipaSUdFUQ (subscription required).

[12] Victoria McGrane & Deborah Solomon, *With New Power, GOP Takes on Consumer Agency*, Wall St. J., Nov. 23, 2010, *available at* http://online.wsj.com/article/SB10001424052748703559504575631082414598868.html.

[13] *Id.*

[14] Stacy Kaper, *Bachus, Issa Confirmed as Committee Chairs*, Am. Banker, Dec. 9, 2010, http://www.americanbanker.com/issues/175_235/bachus-issa-confirmed-1029675-1.html (subscription required).

[15] Maya Jackson Randall, *Warren Shocked by Effort to Weaken US Consumer Bureau*, Fox Bus. News, Nov. 9, 2010, http://www.foxbusiness.com/markets/2010/11/09/warren-shocked-effort-weaken-consumer-bureau/.

ing out for people as they interact with the financial system."[16] Under the Act, the CFPB is vested with broad-based authority to implement and enforce most existing federal consumer financial laws,[17] including the Truth-in-Lending Act, the Fair Credit Reporting Act, and the Federal Debt Collection Practices Act.[18] Additionally, the CFPB has specific authority to prevent unfair, deceptive, or abusive acts or practices in connection with any transaction with a consumer for a consumer financial product or service.[19] "Consumer financial product or service" is broadly defined and includes extending credit or servicing loans, real estate settlement services, deposit-taking activities, stored payment card systems, check-cashing, collection or guaranty services, financial advisory services, consumer report information, and debt collection (with some exceptions).[20]

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In setting up the CFPB, Warren has focused on two initial areas. First, she has described the CFPB as the "first 21st century agency,"[21] and has identified the use of technology as a means to prevent "capture" of the new agency by the regulated industries.[22] Warren has stated that the agency will "use supervision and lawsuits to enforce the law" while employing technology to "supplement the cop on the beat by building a neighborhood watch."[23] Her statements suggest that establishing the infrastructure to collect and analyze consumer complaints will be a top priority.

Second, in a September 21, 2010 forum on mortgage disclosures held by Treasury Secretary Timothy Geithner and Warren, Geithner stated that "[m]oving quickly to improve mortgage disclosures is one in a series of concrete steps we're taking to implement the historic consumer protections included in the Dodd-Frank financial reform law. . . . Simplifying these forms is a prime example of where we can and will accelerate our efforts to deliver real benefits to consumers as soon as possible."[24] Warren has echoed these statements often, including her desire for clear and short disclosures for credit cards and other financial products in an October 12, 2010 White House podcast.[25] Accordingly, consumers and industry can expect early action regarding financial product disclosures.

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16 President Barack Obama, Remarks by the President at Signing of Dodd-Frank Wall Street Reform and Consumer Protection Act, The White House Office of the Press Secretary (July 21, 2010), http://www.whitehouse.gov/the-press-office/remarks-president-signing-dodd-frank-wall-street-reform-and-consumer-protection-act.

17 The complete list of laws now under the CFPB's authority is as follows: Alternative Mortgage Transaction Parity Act of 1982; Consumer Leasing Act of 1976; Electronic Fund Transfer Act, with the exception of section 920; Equal Credit Opportunity Act; Fair Credit Billing Act; Fair Credit Reporting Act, with the exception of sections 615(e) and 628; Home Owners Protection Act of 1998; Fair Debt Collection Practices Act; subsections (b) through (f) of section 43 of the Federal Deposit Insurance Act; Sections 502 through 509 of the Gramm-Leach-Bliley Act, with the exception of section 505 as it applies to section 501(b); Home Mortgage Disclosure Act of 1975; Home Ownership and Equity Protection Act of 1994; Real Estate Settlement Procedures Act of 1974; S.A.F.E. Mortgage Licensing Act of 2008; Truth in Lending Act; Truth in Savings Act; section 626 of the Omnibus Appropriations Act; and Interstate Land Sales Full Disclosure Act. Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203 [hereinafter Dodd-Frank Act], tit. X, § 1002(12), 124 Stat. 1376, 1957 (2010).

18 *Id.*

19 *Id.* tit. X, § 1031(a), 124 Stat. 1376, 2005.

20 *Id.* tit. X, §§ 1002(5) & 1002(15), 124 Stat. 1376, 1956, 1957–60.

21 David Corn, *Elizabeth Warren: Too Bold to Fail?*, Mother Jones, Oct. 29, 2010, *available at* http://motherjones.com/politics/2010/10/elizabeth-warren-consumer-financial-protection-bureau?page=2.

22 Carter Dougherty, *Warren Says Technology Can Prevent "Capture" of Consumer Agency*, Bloomberg, Oct. 28, 2010, http://www.bloomberg.com/news/2010-10-29/elizabeth-warren-says-technology-can-prevent-capture-of-consumer-agency.html.

23 *Id.*

24 Press Release, U.S. Dep't of Treasury, Treasury Convenes Mortgage Disclosure Forum (Sept. 21, 2010), http://www.ustreas.gov/press/releases/tg864.htm.

25 Kori Schulman, *What You Missed: Tuesday Talk with Elizabeth Warren*, White House Blog (Oct. 12, 2010, 2:21 PM), http://www.whitehouse.gov/blog/2010/10/13/what-you-missed-tuesday-talk-with-elizabeth-warren (downloaded using iTunes).

Relationship Between the CFPB and the FTC

The CFPB will have broad authority over consumer financial products and services but the Act contains several exemptions from CFPB jurisdiction including, with some limitations, an exemption for merchants, retailers, and other sellers of non-financial goods or services if they provide credit directly to a consumer related to the purchase of the seller's goods.[26] In general, entities exempt from CFPB jurisdiction but currently subject to FTC jurisdiction will remain under the purview of the FTC.[27]

The CFPB will acquire the FTC's authority to prescribe rules, issue guidelines, conduct studies, or issue reports that are currently mandated by any of the enumerated consumer laws.[28] The FTC, however, retains its general rulemaking authority under Section 18(a)(1)(B) of the FTC Act and the two agencies will negotiate an agreement to avoid duplication or conflict between their rules.[29] In addition, the exclusion for motor vehicle dealers in the Act grants the FTC new authority to write rules related to auto dealer financing,[30] and the FTC is expected to work closely with the CFPB to develop and enforce new restrictions.

Both agencies will have reciprocal authority to enforce rules promulgated by the other agency under their respective enforcement powers as long as the rules apply to a person within the enforcing agency's jurisdiction.[31] Thus, the CFPB may enforce rules prescribed under the FTC Act and the FTC may enforce rules promulgated by the CFPB. To accommodate this overlapping authority, the CFPB and the FTC must negotiate an agreement to coordinate enforcement actions by each agency, which is to include procedures for notice to the other agency where feasible.[32] Additionally, once one agency has initiated an action, the other agency may not institute another action but it may intervene in the pending action.[33]

A model for these rulemaking and enforcement agreements may be seen in existing FTC agreements with other agencies. For example, the FTC and the FDA have a longstanding liaison agreement under which the FTC has primary jurisdiction to regulate the truth and falsity of all advertising of food, over-the-counter drugs, dietary supplements, medical devices, but the FDA has primary jurisdiction over the labeling of these products, as well as the truth and falsity of advertising for prescription drugs.[34] The CFPB and the FTC may follow this model and parcel out responsibility for different areas of consumer finance to prevent overlap.

FTC Commissioner Julie Brill, in a December 7, 2010 speech, pointed to one area of potential cooperation with the CFPB—the Fair Credit Reporting Act.[35] She noted that "[w]hen Congress cre-

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26 *See* Dodd-Frank Act, tit. X, § 1027(a)(2), 124 Stat. 1376, 1995.

27 *See, e.g.*, *id.* tit. X, §§ 1027(a)(2)(D) & 1029(d), 124 Stat. 1376, 1996, 2004–05. Exemptions exist, to varying degrees, for motor vehicle dealers, real estate brokers, manufactured home and modular home retailers, accountants and tax preparers, attorneys, persons regulated by state insurance regulators, employee benefit and compensation plans, persons regulated by a state securities commission, the SEC, the CFTC, or the Farm Credit Administration, activities relating to charitable contributions, and insurance.

28 *Id.* tit. X, § 1061(b)(5)(B)(i), 124 Stat. 1376, 2037.

29 *Id.* tit. X, § 1061(b)(5)(D), 124 Stat. 1376, 2037.

30 *Id.* tit. X, § 1029(d), 124 Stat. 1376, 2004–05.

31 *Id.* tit. X, §§ 1061(b)(5)(B)(ii) and (b)(5)(C)(ii), 124 Stat. 1376, 2037.

32 *Id.* tit. X, § 1024(c)(3), 124 Stat. 1376, 1989.

33 *Id.* tit. X, § 1024(c)(3)(B), 124 Stat. 1376, 1989.

34 Federal Trade Comm'n & Food & Drug Admin., Memorandum of Understanding (1971), *available at* http://www.fda.gov/AboutFDA/PartnershipsCollaborations/MemorandaofUnderstandingMOUs/DomesticMOUs/ucm115791.htm.

35 Julie Brill, Comm'r, Fed. Trade Comm'n, The FTC, the CFPB, and Consumer Privacy Protection (Dec. 7, 2010), *available at* http://www.ftc.gov/speeches/brill/101207iapp.pdf.

ated the Fair Credit Reporting Act, it created clear guidelines on how personal information can be used for credit, insurance and other financial services."[36] In her view, the two agencies have shared responsibility for carrying out Congress' mandate: "The Federal Trade Commission and the new Consumer Financial Protection Bureau need to make sure our current rules continue, in this technologically advanced age, to protect consumers' rights under the FCRA—both to know the data that has been collected and used in making important financial decisions, and to correct that data when necessary.[37]

Given that, currently, the FTC primarily acts through its enforcement powers, the transfer of rule-making authority for the consumer financial practices laws may not greatly limit the FTC's operations. One area to watch, however, is the FTC's current rulemaking regarding mortgage lending practices. The FTC recently issued its Mortgage Assistance Relief Services (MARS) rule on loan modification and foreclosure rescue services, which FTC Chairman Jon Leibowitz described as "an enforcement tool with teeth: If the foreclosure rescue companies don't play by the rules, the FTC has the authority to go after them with hefty fines."[38] The FTC also issued a proposed rule under the Mortgage Acts and Practices (MAP) rulemaking regarding mortgage advertising in September 2010, for which the comment period ended on November 15, 2010. If rulemaking activities related to mortgage practices are still pending at the time of transfer, responsibility should move to the CFPB. Generally speaking, however, the FTC's new authority to enforce CFPB rules may ultimately result in an expansion of the FTC's enforcement activities and clearer focus on its priorities once the enforcement agreement between the agencies is negotiated and in place.

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The CFPB's "Unfair, Deceptive, and Abusive Practices" Authority

The CFPB will have specific authority to prevent a covered person from committing or engaging in an unfair, deceptive, or abusive act or practice.[39] The scope of this regulatory authority is based on and expands the unfair and deceptive acts or practices (UDAP) doctrine in Section 5 of the FTC Act and numerous state statutes. Comparison of the Act's definitions to the FTC Act and the FTC's jurisprudence suggests that current standards are likely to remain consistent.

First, the term "unfair" is defined in the Act as:

> (A) the act or practice causes or is likely to cause substantial injury to consumers which is not reasonably avoidable by consumers; and (B) such substantial injury is not outweighed by countervailing benefits to consumers or to competition.[40]

This definition is substantially similar to the FTC's unfairness jurisprudence, which establishes that a practice is unfair by showing that: (1) it causes or is likely to cause substantial consumer injury, (2) which a consumer could not reasonably avoid, and (3) the injury is not outweighed by any benefit the practice provides to consumers or competition.[41]

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36 *Id.*

37 *Id.*

38 Jon Liebowitz, Chairman, Fed.Trade Comm'n, Fighting for the Middle Class: The FTC Tackles Mortgage Rescue Fraud (Nov. 19, 2010), *available at* http://www.ftc.gov/speeches/leibowitz/101119mars.pdf.

39 Dodd-Frank Act, tit. X, § 1031(a), 124 Stat. 1376, 2005.

40 *Id.* tit. X, § 1031(c), 124 Stat. 1376, 2006.

41 15 U.S.C. § 45(n) (2006); *see, e.g.*, Complaint, CVS Caremark Corp., FTC No. C-4259 (June 18, 2009) (alleging that failure to use reasonable and appropriate measure to prevent unauthorized access to personal information caused or was likely to cause substantial injury to consumers not offset by countervailing benefits to consumers or competition and thus was an unfair act or practice), *available at* http://www.ftc.gov/os/caselist/0723119/090623cvscmpt.pdf.

Second, the Act is silent on the definition of "deceptive," thus providing the CFPB with discretion in developing a definition.[42] It is well established under FTC jurisprudence, however, that a practice is deceptive if it: (1) "misleads the consumer acting reasonably in the circumstances," (2) to the consumer's detriment, and (3) will affect consumers in a material way, i.e., is likely to affect a consumer's conduct or decision regarding the product.[43] The CFPB thus will probably look to FTC precedent on deception, at least as an initial starting point.

Finally, the Act defines the term "abusive" as an act or practice that:

> (1) materially interferes with the ability of a consumer to understand a term or condition of a consumer financial product or service; or (2) takes unreasonable advantage of—
>
> (A) a lack of understanding on the part of the consumer of the material risks, costs, or conditions of the product or service;
>
> (B) the inability of the consumer to protect the interests of the consumer in selecting or using a consumer financial product or service; or
>
> (C) the reasonable reliance by the consumer on a covered person to act in the interests of the consumer.[44]

The term "abusive" is not defined in the FTC Act but FTC jurisprudence is likely to influence CFPB enforcement. For example, the FTC's Telemarketing Sales Rule prohibits "abusive" telemarketing practices in addition to deceptive practices and such abusive practices are defined as calling during certain hours, disclosing or receiving a consumer's unencrypted account information, and denying or interfering with a consumer's right to be placed on the Do Not Call list.[45] Moreover, the FTC has recently publicized its efforts to stop "deceptive and abusive" practices against industries such as debt relief providers.[46] Given the rich, preexisting enforcement experience, the CFPB will probably take guidance from FTC jurisprudence in exercising its authority to prevent abusive practices.

Conclusion

While it would be hard to overstate the impact of a new major consumer protection agency, the CFPB clearly will be looking to make a major impact, at least in certain areas. New disclosure requirements and an up-to-date information and complaint collection system suggest that the CFPB will take an active and immediate role in monitoring industry developments and the impact of financial practices on consumers as soon as it is up and running in July 2011.

The CFPB's shared authority with the FTC in enforcement and certain rulemaking areas and their overlapping authority to prevent unfair, deceptive, and abusive practices suggest, however, that there should be some consistency in consumer protection standards going forward. But with the recent mid-term election results and the expected push by Republicans—and pushback by Professor Warren and President Obama, the final shape of the CFPB remains unknown. Interested parties will need to pay close attention in the coming months. ●

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42 A prior version of the bill included a definition of "deceptive" that would have adopted the FTC's policy statement on deception, but this provision was dropped from the final bill, suggesting that the CFPB may have discretion in construing the term. *See* Jeff Sovern, *Deception and the CFPB*, CL&P BLOG (Oct. 4, 2010, 7:11 PM), http://pubcit.typepad.com/clpblog/2010/10/deception-and-the-cfpb.html.

43 Cliffdale Assocs., Inc., 103 F.T.C. 110, 175–76 (1984) (reprinting as appendix a letter dated Oct. 14 1983, from the FTC to The Honorable John D. Dingell, Chairman, Committee on Energy and Commerce, U.S. House of Representatives).

44 Dodd-Frank Act, tit. X, § 1031(d), 124 Stat. 1376, 2006.

45 *See* 15 U.S.C. § 6102; 16 C.F.R. § 310.4 (2010), *available at* http://www.ftc.gov/os/2010/07/R411001finalrule.pdf.

46 *See* Press Release, Federal Trade Comm'n, FTC Issues Final Rule to Protect Consumers in Credit Card Debt (July 29, 2010), http://www.ftc.gov/opa/2010/07/tsr.shtm.

Key Personnel in Starting Up the Consumer Financial Protection Bureau*

John E. Villafranco and Kristin A. McPartland

NAME	CFPB POSITION	FORMER POSITION	APPROX. APPOINTMENT/ HIRE DATE
Elizabeth Warren	Assistant to the President & Special Advisor to the Secretary of the Treasury on the Consumer Financial Protection Bureau	Leo Gottlieb Professor of Law, Harvard Law School; Member of the Commission on Economic Inclusion; steering committees of the Tobin Project and the National Bankruptcy Conference	September 17, 2010
Alice Hrdy	Detail from FTC to Department of Treasury	Assistant Director, Division of Financial Practices, FTC	September 2010
Lucy Morris	Detail from FTC to Department of Treasury	Senior Attorney, Division of Financial Practices, FTC	September 2010
Rajeev V. Date	Senior Advisor to Elizabeth Warren	Chairman and Executive Director, Cambridge Winter Center for Financial Institutions Policy	October 2010
Dan Geldon	Senior Advisor to Elizabeth Warren	Congressional Oversight Panel	October 2010
Nani Coloretti	Deputy Assistant Secretary, Management and Budget, Treasury Department	Budget Director, Mayor's Office, San Francisco	October 2010
Timothy R. Burniston	Senior Associate, Division of Consumer and Community Affairs, Federal Reserve Board	Assistant Director, Division of Consumer and Community Affairs, Federal Reserve Board	October 2010
Peggy L. Twohig	CFPB Implementation Team, Lead for Non-Depository Supervision Team	Treasury Department, Director of the Office of Consumer Protection; CFPB Implementation Team, Policy Lead	November 16, 2010
Steve Antonakes	CFPB Implementation Team, Lead for Depository Supervision	Commissioner of Banks for the Commonwealth of Massachusetts; Voting Member of the Federal Financial Institutions Examination Council; Vice Chairman of the Conference of State Bank Supervisors	November 16, 2010
Richard Cordray	CFPB Implementation Team at Treasury, Lead for the Enforcement Division	Ohio Attorney General	December 15, 2010
Leonard Chanin	CFPB Implementation Team at Treasury, Lead for the Rule Writing Team	Deputy Director, Division of Consumer and Community Affairs, Federal Reserve Board	December 15, 2010
David Silberman	CFPB Implementation Team at Treasury, Lead for the Card Markets Division	General Counsel and Executive VP, Kessler Financial Services	December 15, 2010

* This chart accompanies the article by John Villafranco and Kristin McPartland, *New Agency, New Authority: What You Need to Know About the Consumer Financial Protection Bureau*, ANTITRUST SOURCE, Dec. 2010, http://www.abanet.org/antitrust/at-source/10/12/Dec10-Villafranco12-21f.pdf. John Villafranco is a partner, and Kristin McPartland is an associate, at Kelley, Drye & Warren LLP.