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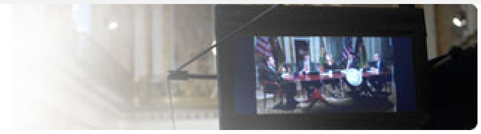

Remarks by Senior Advisor to the Treasury Secretary on the CFPB Elizabeth Warren

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As Prepared for Delivery

Thanks very much for that introduction, and thank you, SABEW, for inviting me to speak at your spring conference. It's a real pleasure to be with so many people who focus on economic issues. This is one of the few places where a punch line can be "declining marginal utility" and no one rolls their eyes.

For 30 years, as a law professor and an empirical researcher, I have studied the pressures facing middle-class families. In particular, I studied families hit by the one-two punch of flat wages and rising core expenses. Over time, these families stopped saving and increasingly turned to debt – debt to pay for an education, to cover the costs of medical bills, to cover a job loss, to start a business, or just to make it to the end of the month. I watched as those debt products grew more dangerous, and as risks multiplied – family by family, bank by bank – until we stood at the edge of complete economic collapse. With every year that went by, I watched – and worried, and warned – as America's middle class was hollowed out.

And then my job changed. I didn't come to Washington looking for a job. I came because Congress asked me to serve on the Congressional Oversight Panel (COP) in late 2008. At the COP, we worked hard to produce careful reports about the policy choices made by the Department of the Treasury as it administered TARP. I also went to Capitol Hill on many occasions to testify on behalf of the COP and to answer questions. From those experiences, I came to understand and appreciate the importance of accountability from our government officials – as I know you do too.

For the past six months, I've been hard at work setting up the new Consumer Financial Protection Bureau (CFPB). Accountability has been an integral part of my job. I spend a lot of time thinking about how to make this new agency accountable – not just right now, while it's all new, but how to make it accountable to the American people over the long haul.

Today, I have three ideas I want to share with you about what it will take for this agency to be a significant force for middle-class families now and in the future. Let me start by talking about changes in the consumer financial marketplace. Many of you remember a time when lenders competed straight up by offering products and services consumers could more easily understand and compare to one another. A community banker in Chicago recently showed me the mortgage papers he signed when he bought his home many years ago, or I should say, the mortgage paper – one page. Customers could answer the two basic questions that every consumer needs to answer, the questions that help make our financial markets stable and help make our competitive markets work: Can I afford this thing, and can I get a better deal somewhere else? So long as consumers can do that, markets pretty much work as they should, both for consumers and for honest competitors.

But in the years preceding the financial crisis of 2008, competition among lenders took a turn for the worse. Credit terms became longer and more complicated, with more tricks hidden in the fine print. Lenders made staggering profits with front-end back-end pricing, promising low, low costs up front, knowing they were going to make it up with fees, penalties, and re-pricing on the back. In this marketplace, many American families were rolling the dice every time they used credit.

Where were our regulators? Who watched consumer credit products to make sure they weren't loaded with tricks and traps? Prior to the financial crisis, the authority to address these problems was scattered among seven different federal agencies. Those agencies had other responsibilities – and other priorities. Consumer financial protection was not anyone's number one concern. The tangle of seven agencies failed to create effective rules and left gaping holes in oversight, leaving no one accountable. It was impossible to haul any single regulator before the camera to say, "Hey, why are these guys selling teaser rate mortgages to people who can't afford them?" or "Why can these credit card issuers change the interest rate on loans they have already made?"

Scattered responsibility led to a second problem: regulatory arbitrage. Financial institutions could shop for regulators who would give them the most leeway. For example, if a national bank did not like the supervision it was receiving from the Office of the Comptroller of the Currency, it could re-charter as a federal thrift or state bank and get a new regulator – or vice versa. The result was that federal and state regulators also began competing for business, competing to create the most accommodating oversight. We had a system where big banks could choose their own regulators. As we know now, that system did not work well for the rest of us.

Accountability means that someone can be held responsible for failure. With the new consumer agency, there is now someone to call out. Instead of hauling up seven regulators to point fingers at each other, now Congress can haul up one. That's the ultimate accountability.

There's the first thought: Structural accountability matters. Seven agencies splitting up a task doesn't work. A slew of agencies competing for business doesn't work. A single regulator with a clear mission is a more accountable regulator.

Accountability also means that no agency strays too far from its lawful mission. For the consumer agency, there are a number of formal mechanisms to make that happen. Like all other agencies in the federal government, when the CFPB makes rules it will be subject to the requirements and limitations of the Administrative Procedure Act. Like any other agency, we will be subject to judicial review to ensure that we are operating within the constraints set by Congress. And like any other agency, our rules can be overturned by Congress if the legislature disagrees with our judgments. In addition, we are specifically required to consider the benefits and costs of any proposed rules to consumers and providers. We are one of only three agencies anywhere in government that is required to conduct SBREFA panels, a process to gather input directly from small businesses about the potential costs of proposed rules.

But the constraints go further. The CFPB is the only bank regulator – and perhaps the only agency anywhere in government – whose rules can be overruled by a group of other agencies. Let me say that again: While we cannot interfere with other agencies' rulemaking efforts, no matter how much we think consumers will be harmed by their rules, other agencies can veto our rules. This is an extraordinary restraint, another assurance that we can be held to account for our actions.

There's more. The CFPB is the only bank regulator that is expressly limited in its ability to determine its own funding levels. If the OCC believes it needs more funds to hire more examiners or to conduct more studies, it can raise more through levies on the industry. But the consumer agency's independent funding is statutorily capped at a portion of the Federal Reserve System's operating expenses. If we conclude that we need additional funding, we must persuade Congress of the merits of our case.

Together, these procedural and funding restrictions – some of which apply to no other banking regulator – combine to impose great restraint on the new consumer agency. Even with these restrictions, however, I believe the new agency will be able to function effectively and to watch out for American families. Some of these procedural restrictions may even help us do our job better.

But there is a possible twist. There are proposals in both chambers of Congress for Dodd-Frank repeal, which would eliminate the consumer agency before it's born. In other words, we would stick with a failed system. Other proposals take a different approach. In the guise of greater accountability, it would be possible to restructure the new consumer agency to make it less – not more – likely to achieve its stated goals. A new bill in the House would fully subject the consumer bureau to the appropriations process. Not one other banking regulator – not one – is subject to the yearly appropriations process. Congress has consistently provided for independent funding for bank supervisors to allow for long-term planning and to ensure that banks are examined regularly, thoroughly, and in a manner that is insulated from the political process. The real-world risk of breaking from this historical practice is that the consumer agency could be forced to kowtow in the face of powerful banking opposition – in other words, to become less accountable to the American people.

I fear, of course, that this is precisely the goal of the forces at work to politicize the CFPB's funding. If they succeed, the beneficiaries will be some of the same institutions that precipitated the financial crisis, not the American public. And there's the second thought: Politicizing the funding of a banking agency can undercut its effectiveness. Political independence is critical for a bank supervisor to be strong enough to be truly accountable to the American people.

Structural accountability is important, but it may not be enough. Many agencies began with good intentions but were eventually captured by the industries they were supposed to regulate. So we have another idea to place a check on ourselves at the CFPB: to set goals and make them known to the public, so that everyone can see whether we are achieving them. In other words, we plan to make accountability a very public matter.

We are setting out the agency's goals in clear language: Make markets work for buyers and sellers alike. Consumers should be able to figure out the costs and risks of any financial product, and it ought to be easy to compare one product with two or three others. Armed with this information, customers should be able to answer the two basic questions I mentioned earlier, the questions that make our competitive markets work: Can I afford this thing, and can I get a better deal somewhere else?

Americans aren't looking for a free ride. They expect to be held responsible for the purchases and other decisions they make. If they don't keep up with payments on their credit cards, car loans, and mortgages, they expect to face the consequences. But Americans are looking for an honest marketplace. They want to know the costs up front, so that they're not blindsided by hidden fees, interest rate changes, or payment shocks. By making the bureau's goals clear in advance, and by aligning them with the goals of most American families, we expect to be held accountable for moving in that direction every single day. We are setting out a clear goal, and that gives everyone a metric against which to measure us. We have just begun, and we have a very long journey ahead, but by announcing where we are going, we make it easier for others to keep us on course.

We are already starting. We launched a website – five months before our agency is "live." We jumped out there so that people can see what we are doing. It's all right there. My calendar is published on that website every month. So, too, are the bureau's organizational chart and the data from the first consumer survey we conducted. Last week, we posted a quarterly spending update for the first time. Once we are fully operational, we will do even more.

And that's why I am here today. Diana Henriques said that if I came to Dallas, I could ask you for something. No promises on getting it, but I could ask. So here's my ask today: Please stay engaged with the consumer agency. Make sure that your readers know what we're up to – and make sure that the next person who gets your job does the same. And here's my promise in return: If you'll stay engaged, we'll do our best to make sure you can always see what we're up to. We think our work is interesting, and important, and we bet your readers will, too.

If Diana would let me have a second ask, it would be that you also do your best to hold the players in the marketplace accountable as well. Accountability should be a two-way street. Some of the largest financial services companies command truly extraordinary resources, and that means they have the power to shape public debates in ways that most businesses and families can barely imagine. We see that happen every day as we work to set up the new consumer agency. The industry's resources provide a powerful check on any agency, including the brand new CFPB. At the consumer agency, we will do our best to keep them honest, but we need the press to do the same.

One recent example shows the power of the press to hold some of the largest financial institutions accountable. Earlier this year, NBC's TODAY Show aired a segment on alleged violations by a large financial institution of the Servicemembers Civil Relief Act. This law limits the interest rate that can be charged to our fighting men and women when they're deployed overseas and restricts foreclosure proceedings during deployment. Already, because of enterprise journalism, the industry is starting to make changes. That's a powerful example of accountability.

Over the past two decades, as the financial system loaded up with more and more dangerous products and risks multiplied throughout the system, our regulatory system failed us. The CFPB will fix some basic structural problems, but it can do more. With your help, this agency has the opportunity to make accountability its hallmark.