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COVER STORY

Cordray Sets Active Agenda for The CFPB

By Kate Davidson

WASHINGTON — One day after his appointment as director of the Consumer Financial Protection Bureau, Richard Cordray sent a clear signal that he intends to move aggressively to enforce the agency's expanded authority.

The former Ohio attorney general announced the launch of the agency's nonbank supervisory program, defended his controversial appointment, promised that the CFPB was already working on significant enforcement actions and pledged it would not be cowed by the threat of legal challenges.

"The appointment is valid," Cordray said when asked how he would respond to skeptics. "I am now the director of the bureau."

EARLY reviews: Barefoot (l) says the bureau has been eager to use its "full spectrum of power." Fine (center) says Cordray "has a steel rod down his spine." Fischer said he "would do exactly the same thing" Cordray did: act swiftly.

The tone of his remarks surprised few industry observers, who have long believed Cordray would move decisively if confirmed. Cordray, who joined the bureau in 2010 as enforcement chief, built a reputation in his home state as a consumer warrior who went after mortgage servicers for flawed foreclosure practices.

Asked about the enforcement strategy at the bureau, Cordray said there is "lots of work in the pipeline."

"We are actively moving forward on all fronts and will have more to say as things ripen," he said during a question-and-answer session at the Brookings Institution.

With a permanent director in place, the CFPB ostensibly has the authority to supervise nonbanks, including mortgage companies, payday lenders and private student lenders. It also has the ability to prohibit "abusive" acts or practices by banks and nonbanks.

Republicans and industry observers continued to raise doubts Thursday about the validity of Cordray's appointment, as well as the ability of the bureau to exercise its new authority with a recess-appointed director, as opposed to one confirmed by the Senate.

The battle is almost certain to end up in the courts, but in the meantime, Cordray said the CFPB has no intention of treading lightly.

Asked if the bureau planned to proceed with caution in light of potential legal challenges to his appointment, Cordray answered with a forceful "no."

"I don't say that in any sort of militant or challenging way," Cordray said. "The law of the land gives us certain responsibilities, important responsibilities, that matter to people in this country. With a director in place … we now have our full authority to move forward. We will do that."

Backing up Cordray's statements was the announcement Thursday that the agency had already started its nonbank supervision program. Under the Dodd-Frank Act the bureau has the authority to oversee mortgage companies, payday lenders and private student lenders, regardless of size, and may also regulate large nonbanks in other markets.

The bureau has proposed a handful of other markets for potential inclusion — debt collection, consumer reporting and prepaid cards, to name

a few — and plans to issue a final rule soon to define which companies would be subject to its oversight.

Industry observers said staff at the bureau have long been frustrated by their inability to exercise their full authority under Dodd-Frank. The White House waited nearly a year to nominate a Cordray, after months of speculation that the job belonged to Elizabeth Warren, the bureau's architect and person in charge of getting it off the ground.

Cordray's comments and the bureau's actions on Thursday make clear that they are ready and eager to exercise those powers.

"The staff there I think did their prep work and have been waiting for the starting gun, and that shot happened yesterday," said Joseph Lynyak, a partner with Pillsbury Winthrop Shaw Pittman LLP.

Jo Ann Barefoot, a co-chair with Treliant Risk Advisors, said, "They've been eager to feel that they had the ability to go flat-out with their full spectrum of power and they are planning to do it."

The expectations are heightened by the fact that Cordray is viewed as one of the more aggressive attorneys general in recent memory, at least in consumer lending, said Arthur Wilmarth, a law professor at George Washington University Law School.

As attorney general, Cordray distinguished himself by filing lawsuits against mortgage servicers for their foreclosure practices well before the robo-signing scandal vaulted the issue to a national stage.

In March 2010, Cordray and a local prosecutor announced indictments of 16 individuals on charges related to mortgage fraud, alleging artificial inflation of home values and providing false information on mortgage applications.

In July 2010 his office reached a $725 million settlement with the insurer AIG over allegations that the company engaged in accounting violations and stock price manipulation. In October that year Cordray sued GMAC Mortgage and its parent company, Ally Financial, alleging robo-signing. His office said that it was the first in the nation to take legal action in the robo-signing scandal. The Ohio attorney general's office recovered more than $2.7 billion from major Wall Street firms during Cordray's two-year tenure, according to its 2010 annual report.

"His approach is low key, but he has a steel rod down his spine," said Cam Fine, president and chief executive of the **Independent Community Bankers of America.** "He is just as enthusiastic as Elizabeth Warren but is more subtle in his approach. I think he will be very aggressive so as to make his mark."

But Fine said he does not think Cordray's primary focus will be on community banks, who are covered by new rules from CFPB but are not examined by the agency unless they have more than $10 billion of assets. "I believe that Cordray's attention will be focused on the nonbank financial sector and the major Wall Street firms over which the CFPB has primary consumer compliance examination authority," he said. "Let's face it, I can't think of any policymaker who wants to see headlines that say they are picking on George Bailey and the corner bank or credit union."

Industry observers said it's smart for the bureau to move quickly to establish its standing.

"If you go slow, there's some risk that everything you do might be unwound," said John Beaty, a partner with the Venable law firm in Washington. "And if you go fast, you put some pressure on the courts because they, in deciding to unwind everything, recognize that there's going to be severe damage to the regulatory structure that's been created in the interim."

L. Richard Fischer, a partner with Morrison & Foerster, agreed. "If I were him I would do exactly the same thing," he said of Cordray. "I would move forward and I would move forward very quickly, because one, you want to establish legitimacy, and you want to make it clear that there was a purpose in the presidential action and that that purpose is going to lead to results. "From a political perspective, that's essential."

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