THE BROOKINGS INSTITUTION

WEBINAR

A CONVERSATION WITH
FORMER CFPB DIRECTOR RICHARD CORDRAY

AUTHOR OF *WATCHDOG: HOW PROTECTING CONSUMERS CAN SAVE OUR FAMILIES, OUR ECONOMY, AND OUR DEMOCRACY*

Washington, D.C.

Friday, May 1, 2020

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Introduction and Moderator:

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Featured Speaker:

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P R O C E E D I N G S

MR. KLEIN: Good afternoon. I'm Aaron Klein, a fellow in Economic Studies, and the policy director of the Center on Regulation and Markets at the Brookings Institution.

Thank you for joining us this afternoon with our distinguished guest, the first director of the Consumer Financial Protection Bureau, the former Attorney General of the State of Ohio, the former treasurer, Richard Cordray, who has joined us here to talk about his brand-new book, *Watchdog*, which is a story of the beginning of the CFPB, and a lot more.

Richard, thank you for joining us today.

MR. CORDRAY: My pleasure, Aaron.

MR. KLEIN: I should also point out that before coming to Washington you were -- or the first time you came to Washington before this book, you clerked for the Supreme Court?

MR. CORDRAY: That's correct. Yes, I clerked for Justice Byron White, and Justice Anthony Kennedy, right out of law school. And then didn't return to Washington until I came to work at the Consumer Financial Protection Bureau a number of years later.

MR. KLEIN: Well, let's talk a little bit about that return, and then I want to go a little bit off script right into what's going on now. But you know this town, Washington, is full of people who spend their life trying to be involved in federal policy and in the book and story you tell: you're a guy from Ohio trying to make Ohio a better place when the phone rings. Tell us a bit about that conversation of what went into your mind between leaving Ohio and coming back to Washington.

MR. CORDRAY: Sure. As you mentioned, I had been the state treasurer in Ohio. By the way, think about my trajectory. I was the state treasurer in Ohio in 2007 and 2008, so right in the throes of the financial crisis I was responsible for keeping the public's money safe. Then in 2009/2010 I'd been elected in a special election to be the Attorney General of Ohio.

We thought that the Wall Street firms had abused our pension systems and taken money wrongly from taxpayers in Ohio, so we were very aggressive about trying to get money back to Ohio. I think we recovered $2 billion dollars over the two years I was Attorney General, in cases against AIG, Fannie Mae, Freddie Mac, Bank of America, and the like.

And so I was really focused, as you say, on Ohio and the issues in our communities, but I was also aware, as you tend to be, that some of these same issues had become national issues. For example, the foreclosure crisis that unfolded early in Ohio, Michigan and Indiana.

There was a time when we thought it was a Rust Belt phenomenon in the middle of the decade of the 2000s, and then of course it broadened into a national crisis when it hit the sand states, California, Arizona, Nevada, Florida, and it became a national problem that broke the economy in 2008.

But at the same time my focus, as you say, was on communities in Ohio. We had created Save Our Homes task forces county-by-county to help keep people in their homes who were losing their homes during that crisis.

And it was only when I received a call from then professor Elizabeth Warren, one who was setting up this new Consumer Financial Protection Bureau, later of course, Senator Elizabeth Warren, that she encouraged me to think about trying to do on a 50-state basis the kinds of things we had been trying to do here in Ohio.

And it was an interesting and attractive offer that actually led me to be talked into a long-distance commute for the next year or two which became ultimately seven years.

MR. KLEIN: So you're saying Senator Warren made you an offer you couldn't refuse to come to Washington?

MR. CORDRAY: Well, I could have refused it, but my family and I thought, boy, what a way to serve your country, to try to see if you can protect consumers in a way that had never happened before at the Federal level. And of course the work we had done at the state level, we were always impeded by the fact that Federal law periodically preempts state law, or you're only dealing with something within the jurisdiction of the State of Ohio when national companies have nationwide or even international scope.

So there were a lot of impediments to us doing some of the things we were trying to do to rebalance and create more fairness for consumers. And suddenly here was an opportunity to do that on a national scale.

MR. KLEIN: So let me imagine another once-in-a-lifetime crisis this one, COVID that we are dealing with right now. You wrote a piece in The Washington Post recently about what you think a strong watchdog would be doing right now.

How would you rate the CFPB's performance as we enter into a period where the unemployment rate looks like it's going to skyrocket past what it was before, people are racking up huge debts, they're still waiting for their stimulus checks to arrive, small businesses are teetering on bankruptcy, the system is on the verge, on the edge, millions of people themselves are kind of on and over the edge.

How's the bureau holding up right now? How would you rate their current performance and what should they be doing that they're not?

MR. CORDRAY: Well, as you know, Aaron, it was my point of view that when you step down from a job you should give your successors a little bit of leeway, and give them a chance to find their footing. I knew there would be some significant disagreements between myself and my successors because of the tenor of the Trump administration. But I sort of held my tongue for a while. Now we're coming into, as you say, you know, suddenly a dramatic crisis, an economic crisis and a consumer crisis.

And by the way, that burden is now falling onto consumers who have not had income, many of them, for a-month-and-a-half, and they're running out of savings, they're missing mortgage payments, rent payments, auto loan payments, and they're in a lot of trouble.

And as far as I can see the Consumer Bureau at the federal level so far has been missing in action at a time when consumers really need them most. I know they regard themselves now as predominantly an education agency, and that's fine, education is part of the role and it's always useful, and over time it will make a difference to a lot of people, but in a crisis what we need is action.

We enforcement, we need strong oversight because -- and I think what I've seen is, I think the Consumer Bureau initially thought of this crisis as a crisis for businesses, that it's for companies who were suddenly having to abruptly halt their activity. And it is that definitely, but it's become a consumer crisis as well.

And if you're easing off on companies to give them leeway, and give them a break and those companies are consumer finance companies that serve consumers, then the brunt is all falling on consumers. For example, take mortgage servicing right now, mortgage servicers are supposed to be administering mortgage relief, payment deferrals and so forth for people across the country on the vast majority of mortgages.

And if they're not doing their job, if they're not being held accountable for delivering that relief, consumers won't get it and will be in a lot of trouble. I think it's time for the Consumer Bureau to step up and do more, and to be more protective of consumers. That's really what's needed at this crisis moment.

MR. KLEIN: You talk in your book about mortgage servicing, and you kind of question the model, whether or not -- and you talk a little bit also, I mean there's servicing in student loans, there's a lot of debt servicing. I always thought of that model a little bit like Lucy and Ethel in the chocolate factory. I was trying to find the exact quote that you put elegantly in the book, you know, that it's a model set up for good times.

It's like Lucy and Ethel have no problem fixing the chocolate if the conveyor belt doesn't have very many, once the conveyor belt ramps up, and by definition servicing ramps up in a crisis. Is the model fundamentally sound? You know, let me ask you to think not just about the bureau but, you know, building out. Is our goal to go back to the prior model we had? Or a back-to-back crises in the last 15 years pointed out areas where the model is structurally unsound and we ought not to go back, and if so where?

MR. CORDRAY: I don't think there's any way realistically, Aaron, we can go back to a model of a generation or two ago, where most lending was community-based lending, and it remained mostly local. We've made a lot of advances in the economy since then and many of those have actually improved life for consumers. But they come with complexities and they come with risks, and one of the things we saw in the crisis 12 years ago, which itself was a foreclosure-driven crisis, it was a housing and mortgage market meltdown that brought about that collapse of the economy.

Different scenario at this time because it's the pandemic not the mortgage market that has broken the economy, but nonetheless for consumers, if they end up in foreclosure, and by the way not just for consumers, but for banks and mortgage companies, if they end up with a lot of properties in foreclosure, what we saw is that system doesn't work very well.

The courts become clogged, the timeframes for foreclosure process start to stretch out. You end up with vacant and abandoned homes because as soon as people hear they're being foreclosed on, even though it may take a year or two, they start to look for other housing, and they potentially vacate their premises. We saw just how dysfunctional it was in the last crisis, and we've learned some lessons since then.

This was part of the work that Consumer Bureau did was to put new rules in place to secure the mortgage market, including helping companies recognize that foreclosure needs to be held as a last resort. It is not a first resort. It is not an easy answer to the problem of a default on a mortgage. And there have been different procedures put in place, different waterfall arrangements for what the options are for consumers, and that's all helpful.

Two things that are still a problem though for mortgage servicers is number one, many of them, and they're both big banks, and big financial companies, and there are other non-bank companies in the mortgage servicing space. So it's a mix of different kinds of institutions, but the nonbanks are very thinly capitalized, they are not set up to handle the problems in the down part of the cycle, they have always systematically, chronically underinvested in their processes. And that remains a problem.

I think -- I don't talk about it in the book -- but on the Financial Stability Oversight Council, the FSOC, we did talk about the need to more robustly capitalize mortgage servicers, and that was underway at a time when we had the change of administration and everything went in a different direction. The other problem for mortgage servicers is, it's an easy job when things are going well, simply to match the payments and apply them where they're supposed to go. Still get screwed up in surprisingly many situations, but it's an easier job.

During a tough part of a cycle, the down part of a cycle, the volumes increase, the call wait times increase, the call abandonment times increase, the service becomes overwhelmed, they have not prepared themselves for the down part of the cycle, and frankly probably nobody could have been entirely prepared for the speed of this economic collapse, nonetheless they could have been better prepared, many of them are not, and we're going to see a lot of misery as a result.

MR. KLEIN: The book goes into great detail and length, and is really an illustrative must read for folks who are going to be thinking about how to fix these problems, of mortgage servicing, student loan servicing, you have some great stories on Navient, and its predecessor, and what you found there.

But let me get to another part because you talked about the Bureau being MIA, and not being out there on the frontline for consumers, and in your book you talk to great length about the Payday Rule, which was one of the most kind of important pieces, I'd say, of your legacy at points. You said in the book you kind of -- you didn't want to leave until you'd gotten that done. And you highlight in the book, you know, there's huge problems, endemic in the business model, you talk about how the rule would only -- is based on a simple concept: Do you have the ability to repay?

It would allow only -- it would only preclude six percent of people, but you thought it could impact 60 percent of the loans that that highlights the very few people that fall -- "very few" is the wrong word -- but it highlights how the minority of people who take out a payday loan can have the vast majority of loans because of how they churn through the product.

You thought that rule seemed set -- in the book you talked and drew some interesting parallels about your immediate successor, Former Congressman and White House Chief of Staff John Michael Mulvaney. Then you kind of say: it's going to be left to Director Preminger what to do.

The New York Times had a memo that somewhat explosively just came out from one of the former economists and employees that that you have there saying that -- kind of somewhat accusing the Bureau of politicizing the data. What did you make of that memo? What's your take on what's going on right there right now?

MR. CORDRAY: Well of course I heard about it immediately, I think there were, last count, maybe 19 people sent me that story yesterday. And in the story it suggests that there has been some concerted effort within the bureau to try to shape the research, or reshape the research so as to justify repealing the rule we've put in place to restrict payday lending. And I think, you know, ultimately all of this will play out in the courts.

As you say, this was an important piece of work that the bureau had been doing for a number of years, and realized what payday lending has never been addressed at the federal level before, and therefore we were having to build a research base to justify a rulemaking in the area. We also were taking enforcement actions, and we were overseeing supervising payday lending companies learning all the time as we went.

And what we saw, and the research of millions of payday loans showed, was just what you said, that for many people who take out a payday loan it is not a loan that they can repay immediately when it comes due.

The lenders know that. That's the business model. They want that repeat customer who's going to have to roll the loan over and pay fee after fee in order to extend it if the short-term loan becomes, in many cases, a long-term commitment, and they end up making money more money back in fees than they ever lent out in the first place.

That's why one industry executive referred to payday lending as a model of printing money for the companies. And we had put in place a, I think, fairly modest rule -- by the way it's the very same rule that's now in place in the United Kingdom to address short-term loans, which is that if you're going to make a loan, you have to first make a reasonable assessment that the borrower has the ability to repay the loan without having to reborrow immediately when it's due.

And that would require the lenders to shift their model and reform their model in ways that would be helpful to consumers. But the industry has never wanted to do that. It's a very vigorous industry, very adamant industry that, they know best, and at least 390 percent annualized rate loans are good for people, and it's important to make them available.

By the way, about a third of the states in the country don't allow any payday lending, they don't allow interest rates above 36 percent, and in about two-thirds of states they do. Our rule at the Federal level was not going to preempt what states could do, it was going to set a floor, this ability to repay floor, and then states could go beyond that in regulating payday lending.

That was the rule we got onto the books. I knew that that was going to be a controversy, it would be challenged in court, it has been, it remains tied up in the courts, the efforts to repeal it that are underway now, those will be tied up in court, and this will be a battle that will go on a while.

But I thought it was really important to establish that principle, to follow through on all the work we had done to vindicate the research that had been done, and that I think they're having trouble unwriting the research that we did, because the facts are the facts, and you can disclaim them, or you can try to push them aside, but they still are what they are.

MR. KLEIN: In the book, I thought you put it really, really well. You said, "This new proposal must move through the same notice and comment process before it can take effect. In the meantime, however, implementation of the current rule remains on hold, and the whole mess is destined to be tied up in the courts, which suits the payday lending industry just fine. Justice delayed here, is justice denied.

And for now the payday lenders can continue to make high-cost loans to people who are unlikely to be able to repay that with devastating consequences. Justice delayed is justice denied. There are lots of nuggets like this in the book that I think ought to really take people, a hold, and they come through in the book.

I want to talk to you for a second about the book, and about how you decided to write this book, you weave into it stories of real people, these don't just become concepts about imaginary loans with statistics, and analysis, it's not just a story about how you were part of a team that built up an idea into a multi-thousand-person agency, and whatever you think of the Bureau, it has been tremendously impactful.

There could be a person who thinks you did all the wrong things, but that nobody thinks you did nothing. And, you know, you can't say that about every agency created in Dodd-Frank.

One thing I want to ask you is: Why is it, why in the narrative is it important? Why did you intersperse these kinds of people that you come to feel like you know a little bit at the end of the story?

MR. CORDRAY: And by the way, Aaron, I would say what one of my mentors once said about himself, "When they come to write my story they won't be able to say, as they say of some players, no runs, no hits, no errors. There have been plenty of all three." And that would be true of me as well, I'm sure.

But the reason that I thought it was important to write the book, there were a number of reasons, one is it's a fascinating story of how government can work or doesn't work in this very politically-charged era that we're in, and that we've been in certainly since at least 2010, and shows no signs of abating right now. We've seen some really odd things happen.

I mean my confirmation was held up for two years, you had Judge Merrick Garland's confirmation was held up, you had people who came in in 2010 on a platform of less government and solving the budget deficit, who now have blessed budget deficits monstrous size as far as the eye can see. It's an interesting era.

And the challenge we had, of trying to build a new agency to protect consumers against the financial industry, and to rebalance the relationship between individuals, and the big financial companies, was a difficult task, and we had to build that agency from scratch. There's all of that.

But I did think it was important to start the book and to really focus the book about the individual stories of people. So that you and I both deal with economic analysis and it can often be very technical and abstract, it's really about flesh-and-blood issues that matter in people's (audio skip) lives, but it often doesn’t seem that way. And so I (inaudible) just the friends of people they know.

And I wanted to get a couple points across in those stories. The first is that when somebody has a problem it's not just their own problem it's often a problem for all the rest of us as well. When the mortgage market broke (audio skip) -- there's this whole dignitary aspect to people who believe they should be treated fairly in the financial marketplace, and that they deserve respect and responsiveness, and they often don't get it. And that's very frustrating and alienating for people, and that's a big theme in the book as well, as to what we try to do to give people a voice and be responsive to people, and to really elevate the individual consumer's status in our society.

And by the way, consumer can be a kind of bland sounding term. Who are consumers? It's all of us, it's you, it's me, it's everybody on this webinar, it's everybody in our society, all of us are affected by these issues, and I wanted to make that clear to people as well.

MR. KLEIN: Rich, let me take you for a second through some of these people, because the person that stuck with me the most was Ari. Ari was, you know, in your book is a person of the military, you know, there's some special laws regarding military lending, you talk in there about Senator Jack Reed of Rhode Island, some of his efforts and others.

I was working in the Senate Banking Committee when they passed the Military Lending Law but, you know, the special challenges they faced, and some of the interesting partnerships you could form, with the Department of Defense, with other areas.

Talk a little bit about what you learned through that lens, and how the CFPB can be a force for making life better for our servicemen and women, the people who protect us and our families. And maybe we ought to do a better job of protecting them and their families.

MR. CORDRAY: Sure. And I agree with you Aaron. I think that Ari's story is one of the classic stories in the book, there have been many as you know. But he was a young service member, there were many of those across the country, new ones every day, and they are typically leaving for the first time, they're unsophisticated, they haven't had to deal with or manage their own financial affairs before, and there's plenty of lenders out there who know that, and regard them as ripe targets,

Why? Because they are unsophisticated, and they have a guaranteed paycheck from the U.S. government, so you tend to see high-cost lenders congregate around military bases to take advantage of them. One analogy has been to grizzly bears gathering around the stream as the salmon come upstream to spawn and harvesting them, and these high cost lenders do that.

In Ari's story he wanted to buy wheels, many 18- 20-year-old young service members;

that's their first dream when they start to get some money. He went to a lender called the MILES Lender. Looked very upstanding, Military Installment Lending and Educational Services, you know, what could sound better than that. By the time he walked out of there he had a loan that was going to cost him 70 percent of his take-home pay, it included undisclosed fees which was against the law, it included misleading add-on products that have been deceptively marketed to him, also against the law, and the money was going to come right out of his paycheck before it ever hit his account. He had lost control of his own finances right off the bat.

But as is true of many consumers in many situations, we've all heard this before, he signed the paperwork, so that was that. There was nothing that could be done. Until, as later in the book I described, his father came to the Bureau and filed a complaint on Ari's behalf. Ari had been deployed and his father took over his finances.

That led to an investigation that led to the recognition that there were 50,000 other service members who'd been similar mistreated. Brought an enforcement action, got millions of dollars back for service members, reformed these contracts. And we also reformed the allotment system so that money could not be taken out of people's accounts as an automatic for high-cost electronics, and cars and trucks loans for service members.

That that was that was government working. It was people hearing the voice of an individual consumer, recognizing that others were in the same boat. The government had the ability to look across the market and understand that, take the actions necessary, and fixed systemic problems.

And my point, the reason I say that in the title of the book about protecting our families, our economy, and our democracy, is that this is how government can work for the middleclass. Not just for the top one percent of the people with influence and clout in Washington, but for the rest of us. And that's a model that the CFPB set forward, and that's another reason why I wanted to write this book and tell that story.

MR. KLEIN: It's an incredibly important story to tell, particularly, I mean you know I've been doing some research -- I haven't published it yet -- on an overdraft fees. And there's a set of banks that, you know, to me feel more like check cashers with a charter, who make more in overdraft fees than they do on all other revenue combined. So if you were just to go in overdraft, one of the five largest banks there is, Armed Services Bank.

I was giving this lecture, I was giving a lecture on this topic at Princeton, and somebody there said: I went and listed, that was the bank on my base. I said to them they make 87 percent of their profits on overdraft fees. And he said, "I was one of those people." And it's just disheartening.

You talk about government working, let's talk a little bit in the book about places where you couldn't quite get what you wanted. One of them seemed like an auto lending. I lived through the auto bailout. I know the power of auto dealers. You know, one of my favorite factoids was when GM went bankrupt they had twice as many auto dealers as they did in -- as Toyota, and they sold fewer cars. And it was illegal to close an auto dealership, by state law.

You know talk about the -- talk about people who believe in the free market. Yeah, yeah, yeah, once I get a charter to run a business you must sell through my company, and you cannot deny me sales no matter whether or not I'm economically profitable. And they've lobbied the state legislatures. They're also a pretty effective arm in lobbying in Congress. Do you think that when somebody walks into the auto dealer floor room today that they're properly protected?

MR. CORDRAY: And, Aaron, I was the Attorney General of Ohio and during the General Motors' bankruptcy, and I worked without a dealers (audio skip)

MR. KLEIN: It froze there for a second, Rich. Rich, are you there? You froze for a moment.

MR. CORDRAY: -- just to make sure that they had the same time of what happened, and part of the story in the book is, not just how you make government work, but it's also that you have to try to make it work in a context that involves a lot of politics. And that was nowhere more true than with the Consumer Financial Protection Bureau. That's a concept you might think would be bipartisan or nonpartisan, you know, we're protecting consumers.

Again, who is that? It's all of us. It's Republicans, it's Democrats, it's Independents, it's people who are not even politically aware. But at the same time, who were we taking on? Who was being affected by what we're doing? The financial industry; as I described in the book, it is the most influential piece of our economy, but particularly in the corridors of Washington yet makes the most campaign contributions, and spends the most on lobbying, and they were resistant to us at many turns.

But what happened in the legislation that created the bureau, was the auto dealers got themselves carved out of the legislation. We could not actually take any actions against auto dealers. We could and we had a responsibility to deal with auto lenders, but auto lenders and dealers work together in a kind of symbiotic relationship, were very often you as you go to a dealer to buy a car, you will also get your loan through the auto dealer.

And they have a lot of say in what kind of loan it is, and sometimes they end up splitting part of the profit with the lender in order to secure that loan towards that lender. And there's lots of things that the car buyer doesn't necessarily understand.

And by the way, this is a point I make in the book, and it's an important point. Consumer finance has come to be a big driver of our lives, economically day by day, most households in America have access to consumer credit and use it for any kind of sizable purchase, particularly buying a car or truck, particularly buying a home. And what that means is that as you're shopping for the product, the house that you're buying, the neighborhood you're buying it in, how much -- what amenities how much cost, how big, et cetera, does it have a yard, not have a yard.

All of those things, you at the same time now are having to shop over the financing of the product, that is the loan that would be made, the mortgage loan, and there's a lot of intricate aspects to that you may or may not understand. And if you don't shop carefully on the loan, just as you shop carefully on the house, you can end up undermining yourself. The same is true with cars, and people often now shop very carefully on Kelley Blue Book to get the price of the cars, to know what car they want, safety records, and the like.

But then they don't carefully understand the details of the auto loan, and they can get fleeced, or at least disadvantaged in many ways in the way those loans work out. And the political difficulty we had was the gap in our jurisdiction that made it hard for us to address this on a market-wide basis.

MR. KLEIN: So if I go to my bank or credit union and have an auto loan given directly from me to them before I walk into the dealer's showroom. That loan is under the bureau's authority; right? If a bank or credit union had a policy that said, people of a one skin color or gender are going to get a higher rate, that's under a different authority to discover that and prosecute that, than if I walk into a showroom. You have a story of a person in the book who was told that they get the best rate they could qualify for, and got charged with three percent more, got a nine percent loan, they could have gotten six. That's under a different authority.

If you could read -- if you could change the law should Congress make that a level playing field? Or should I have greater protection in a bank than I do on a showroom floor when I'm being sold the same product? Or am I wrong on any of this?

MR. CORDRAY: It should be a level playing field. In fact, that's the principle behind the Dodd-Frank Act in most areas of consumer finance. You know, one of the interesting things is, what we found was regulating part of a market and leaving some of it unregulated, or differently regulated was a recipe for failure because you couldn't really manage the market properly, you couldn't oversee it, you couldn't -- you couldn't put people on the same terms.

And we did that with the mortgage market, for example, not just the banks that offered mortgages, but the non-bank mortgage lenders that typically had been regulated only at the state level and very unevenly from state to state, all came under the jurisdiction. It was to cover entire markets. But the auto dealer carve-out created that gap in the auto lending market one of the biggest products that affect consumers, it's one of the four big credit areas, and it undermined us.

We actually covered all auto loans whether you got them directly from the bank or credit union, or whether you got them through the dealer, but we couldn't affect the dealers' behavior themselves, we could not take enforcement actions there. And I think that was a -- look, it was a political reality that happened with the passage of the bill. But if we were logically doing this we would say that we would be better off if everybody was covered.

MR. KLEIN: In one of your more --

MR. CORDRAY: It's that the one people who would dispute that would be the group of auto dealers of course.

MR. KLEIN: Well, in one of your philosophical moments in the book, there are a couple where I kind of felt like I could see you turning and reflecting, you said something about how, you know, the honest businessperson often is one of the bigger losers when there's weak consumer protection. That, you know, the less scrupulous lender slides in, takes business away from the scrupulous person and, you know, as an economist would kind of say, everybody is worse off.

It's, you know, the consumer gets the worse deal, the scrupulous business loses money, and some view of just and fairness. The unscrupulous business does really well, and then when the system goes kablooey they're off doing their next thing. Right; it's kind of some of the mortgage brokers and Michael Lewis' “Big Short” which, visually, was a pretty good adaptation of the crisis I thought.

There was another moment where I saw you being very reflective, and this goes kind of way back. Before I was at Brookings I was at the Bipartisan Policy Center, and we were tasked with running what I would call kind of a mock Congress, which was imagining a world in which Democrats and Republicans came together on a broader bipartisan basis, than what was what happened in Dodd-Frank.

And we did a deep dive into the CFPB. I think you were only three years old at the time. And so we tried to find all the different areas where we thought you were doing right and doing poorly, and we went in to brief you on it. And I'll never forget, because you started the briefing saying something very different than almost any other regulator I dealt with which was: I've read all -- I've read your full report. Usually those briefings start with: You know, your report has been summarized to me, and I promise to read it when we're done, but tell me the highlights.

It was, you started with, you'd read all of it. And in the middle of the meeting you kind of paused and said something: You know, I wonder if I could write a report and honestly say what I've gotten right and what I hadn't, because per your earlier comment, you know, even the great Cal Ripken made three errors in his record-setting season with the highest-fielding percentage of any shortstop of all time. Everybody makes mistakes. In the book you talk a little bit about that, but tell me about some of your reflections about some of the things where maybe --

Oops, did do we lose you for a second, Rich? Did we lose you? Anna? (audio skip).

Okay, we're going to get Rich back on in a second, and I'll take this time to plug, not just Rich's book *Watchdog*, but if you want to support a local business during this very difficult time of crisis, there are a lot of local bookstores, one of which is Solid State Books, their shopping, if you go to the website you can find them online. I strongly recommend getting a copy of this book.

In addition, we're free to take questions. Audience, you can ask your questions on the Twitter hashtag "Watchdog", just like this. We will compile those questions, and they're brought to me via Chat. And we will get Rich on, and we will ask him your questions as well, as this problem -- again, it's a different world technologically at the moment, and we hope everybody here is staying safe and sound. Take a moment, and we'll be right back in a second.

We're also going to look at Twitter, and I'm going to take a peek at who's been asking, who's been asking what on #Watchdog right now where you can join in the conversation. I see crash, alright here we go. People should feel free. I see a question right now, "Is the current crisis -- oops hold on a second --

Okay. I see a question here: "Is the government doing enough to protect consumers as we're losing jobs or firms, including financial institutions at hidden costs? Makes it a paradox that an agency designed to be more independent has also been so political." That's an interesting question from Diego Zuluaga, from Cato. We will get to that when we get Richard back on. That's a very good question, not surprisingly.

Let's see what else we have going on here. Okay, we've got somebody from Duke Law, "Which agency is more dependent, the CFPB or the Fed Board of Governors?" That's a great question. "You know the Federal Reserve structure is something that's quite challenging to understand, even for experts who look at it as a system of the Federal Reserve, with a Board of Governors presidentially appointed of seven members, 12 regional Reserve Bank Presidents who are technically not part of the United States Government, but rather are elected by their bank and approved by the Board of Governors.

And then the CFPB which was created as an independent bureau within the Federal Reserve System but independent of the Federal Reserve Board of Governors, sounds a little bit confusing. And how does that work?"

And there's a question, another Duke Law student. I enjoyed my time last year at Duke Law and I gave a lecture down there. There's a great regulation center sponsored by Lee Reiners that I highly recommend folks ought to deal with. And question was about a federal agency headed by a single agency versus a board.

Currently that's a legal theory that's certainly making its rounds. The book *Watchdog* discusses the case, the PHH case, and interestingly enough that case which was decided at the Appellate Court level by then Judge Kavanaugh, prior to his appointment to the Supreme Court, and I can't answer it, I can let Rich -- I'm just an economist, Rich is the lawyer, former attorney general and former clerk of the Supreme Court -- why a Board makes a difference vis-à-vis an independent agency head.

I know the statute that the Bureau was modeled on, was based on the Comptroller of the Currency, which was a law created by a wonderful Republican President, many people's favorite Republican President, Abraham Lincoln, and that seems to have worked okay for a while, but perhaps they'll be a President -- Rich, are you back?

MR. CORDRAY: I am back. Yes, I've been hearing you for a little while. But now I'm back on video apparently.

MR. KLEIN: Excellent. Well, Rich, we've got a few questions from the audience popped through, but before that I want to finish on this thought about, you know, when you look back on it now you have had a chance to kind of say to people ideas about what you got right, and a little bit about what you got wrong. But if you were to look back on it, and you faced a lot of tough choices, nobody gets them all right. What would you do a little bit differently?

MR. CORDRAY: Well, it's a very good question. Certainly we try to be fast at building up the agency, because we knew that the sooner we could start carrying out our authorities and doing things for the public and for consumers, the more we would build our legitimacy and our authority. So there were a lot of people who counseled us to go slow, don't make many waves, do less, and you'll end up with less controversy, less criticism.

We actually always felt very much the opposite. That we needed to move forward quickly, that we needed to show, put some wins on the board, to show consumers we are making a difference. I think it mattered enormously that over the six years we were able to get $12 billion back for 30 million Americans. People really like it when you get their money back for them, especially when they think it's gone forever, and to find that someone was really working on their behalf, was always a very good reaction we got around the country.

In terms of things that we didn't do as well as we might have, you know, there were various areas where I wish that we could have damped down some of the controversy with some of the partisanship in Congress. We never quite managed to do that. Maybe it wasn't in the cards. Maybe there was just too much heat at the time. Some of that was being ginned up certainly by the financial industry that was resisting our encroachments.

So, you know, there were also times when we suffered some losses in the courts, again I didn't feel that we should try to avoid all risks, and we did take some risks, and we had some theories that were pretty aggressive, and there were a couple, or three times when the courts invalidated our actions. Most of the time they did uphold our actions, but when they did, when they didn't validate them we lived and learned from that.

And we also -- look, we tried to be very open to criticism, and to take it for what it's worth, to think about it substantively, and to respond to it where we could. And I think we scored a lot of points, particularly with some of the business groups, over time, by showing that we were willing to be open minded to discussion with them, even though they may have thought we were a little hard-headed at other times, and I'm sure we were.

So, you know, a little bit of a mixed bag, but to think back on what we accomplished, that we safeguarded the mortgage market which will never be subject to the same risks that it was prior to the Bureau coming into existence, and those mortgage rules, by the way, have been the subject of a five-year look-back review, and they held up pretty darn well.

Then secondly, the enforcement actions and the really change of behavior at some of the companies who really became to understand that they needed to be giving better customer service, they needed to be more consumer friendly. And if they could do that, not only would they have a better time with their regulator, us, but they would also generate a lot of goodwill with their customers. And this was good business in the long run.

You know, you talked earlier about my point, that consumer protection doesn't just protect consumers, it protects good businesses in a marketplace. This is the whole philosophy behind the Better Business Bureau, and I've seen it over and over again. It's bad conduct drives out good, and you don't want the offenders who are taking advantage of violating the law to gain market share at the expense of those who are doing things right.

And so the people with the biggest stake in some of the things we were doing were the high-road businesses that we're trying to do things right, and needed protection against unfair competition from low-road businesses who are quite happy to do things wrong if it gave them an edge.

MR. KLEIN: No. I can say from personal experience, you know, managing a bipartisan group that was looking at the bureau, where folks started and where they ended was radically different in terms, because they saw what you were doing, and they saw the approach that you were taking. And to critics that were willing to deal with the facts on the ground you made a (inaudible) of headway.

And I saw, you know, and your book talks about a couple things where you changed some of the enforcement practices in terms of who was in the meeting that made a really big difference in impact. And I just saw you responded to thoughtful criticism in a way that's unique, and I wish more people in Washington did that.

We had two questions that came in online, that were kind of similar. One is, "The paradox that you and an agency designed to be more independent than any other, but has been so political. And you talk in the book about the politics surrounding everything, from the birth of the agency, and your confirmation, all the way through to the decision to appoint the White House chief of staff there."

And somebody else who asks a question about, "Who's more independent, the bureau or the Fed? And this weird point -- and you allude to a couple times in the book -- that the bureau is technically part of the Federal Reserve System."

MR. CORDRAY: That's right. Yeah.

MR. KLEIN: "Yet it is independent of the Federal Reserve Board of Governors. So it's an independent agency within an independent agency, but still part of the government. Unlike, say, the Federal Reserve regional banks which are not part of the United States government, or chartered by Congress and part of the Federal Reserve System. How does all that independence work? And what do you make of this paradox between the independence and the political polarization?"

MR. CORDRAY: Yeah, certainly the Federal Reserve is a very interesting organization going back more than a hundred years, to an era where the line sometimes between government and nongovernmental was a little more blurry than it seems to be today. And maybe we were just the newest, interesting, odd creature to join the Federal Reserve. But we were independent of the Board of Governors, just as the Board of Governors was independent of us. I didn't have any say in what they were doing, and they had no real say in what we were doing.

We were meant to be independent. Congress created this that way. Congress didn't have to do that, Congress could have done it any way they wished, but that was what they thought was the preferable way to do things. They wanted to see the best Consumer Financial Protection, and this was the model that they had used for most of the financial regulators across the government, was some independence from the day they (inaudible).

Why is that? Because if you don't have that the day-to-day politics may overwhelm your ability to carry out your responsibilities; this happened by the way with the Federal Housing Oversight, and that that creep (phonetic) became the new creature, the FHFA.

It had been really under the -- under the control of its regulated entities, Fannie Mae and Freddie Mac, who had so much political clout in the Congress, that the George W. Bush administration reformed it, and got Congress to pass a bill to create a single-headed, director-independent agency so that the regulation could actually work and create meaningful oversight.

Nonetheless, those arguments and some of the constitutional aspects are currently in front of the U.S. Supreme Court, that case as you know was argued last month, actually two months ago now, and will be decided sometime before the end of June, and then we'll get a reading on that. My sense is that they will probably say that the director can be removed at will by the president, and that will mean like Cabinet officials, the Director will mostly turn over at the beginning of each new administration, and then we'll go on from there.

But it's interesting, you know, Congress has created many agencies over many years with many different Boards, whether a single director, three people, five people, seven people, this speaks for itself, has nine. It's not a given, but that's how Congress has set it up at the moment, and they all run in different ways from one another.

MR. KLEIN: So, let me talk about the difference in a second. But I was part of the team in the Senate Banking Committee that drafted the Housing Economic Recovery Act, or HERO, which created the Federal Housing Finance of Administration, FHFA, the idea to have one single agency head was strongly supported on a bipartisan basis.

Not only did you reference (inaudible), the predecessor, but FHFA actually merged that with the Federal Home Loan Bank Board, which I think had seven or nine members, the Chair had been indicted for lying to Congress about illegal political activity beforehand, and there was a concern that when you have too many Board members of a diffused organization, it becomes more subject to capture.

I think eight of the twelve Federal Home Loan Banks were under some sort of capital decree, or consent order. And if you put a little parallel going into the crisis about who borrowed the most from the Federal Home Loan Bank system, and who are the brand-name lenders that you were going in and finding problems on their mortgage origination, the overlap is stunning, now there's another player in that the Office of Thrift Supervision, whose physical building you inherited in one of the great ironies of Washington that you discussed in the book.

But it seemed back then having a single agency head was a bipartisan idea, the same thing with the Bureau Director, the same thing with the comptroller of the currency, which you also referenced, by the way, that the change in the comptroller of the currency you thought made a difference.

You served on a couple coards. You served on the FDIC Board, you served on the -- Financial Stability Oversight Council whose regulatory or quasi regulatory authority exists, I like to call it the jedi council, of all the regulators. And I do remind people that the jedi council in the end lost to the emperor, that even when you brought them all together there was a paralysis and gridlock within the great council, even chaired by the wonderful Yoda.

Let me ask you. How do you view the pluses and minuses of having served on a regulatory board, having been the single agency head? You talked about all the different theories. At one point one group I was with, loved the idea of a three-person board, they thought that was optimal, until you realized the Federal Sunshine Act means two people running into each other in the bathroom, or at a party, and they've just violated the law, since they constituted a majority of the Board. That's what ended three-member Boards except for the Credit Union Board.

What do you think? What do you think the pros and cons are? What's your lesson learned from your experience in that?

MR. CORDRAY: Well, there are pros and cons to both models, and I don't think Congress has constantly and intentionally picked one over the other, they just look around for a model that's at hand, and don't necessarily, you know, think it through with great care. Although in the Dodd-Frank Act, you know, the model changed as it went through the Congress. And so there clearly were some conscious and deliberate thinking that went on there.

I would say this. I think every organization tends to have a leadership team and someone to actually run it day to day. If it's a board that is in charge, like at the FDIC, you still have an executive director, or a chair, or somebody who can -- who can make things run on a day-to-day basis.

And if you have a single director, as we had at the CFPB, you're going to have a broader leadership team unless you're, you know, crazy or megalomaniacal, that's going to help you do a better job of figuring out what to do and how. I was used to a single director model, if you will, from being in elective office in Ohio. I was in the elected state treasurer. We didn't have a Board of Treasury. I was the elected state attorney general, I was responsible, we didn't have Board of Justice professionals. And, you know, that worked just fine.

I will say one thing that I'm quite sure, it was really important, especially in the early days of the bureau, to have a single director because we needed to be nimble, we needed to move, we needed to make decisions, we had to press forward if we were going to complete this task of building a new agency from scratch in any reasonable amount of time, and then to be able to make decisions about how to proceed and set the direction. Maybe that's less important over time, but it certainly was very important to us in the way we were going, which is I would I say.

MR. KLEIN: Yeah, it's interesting. At the Treasury Department when we first proposed the whitepaper idea, there was a Board at the Bureau. At one point in the House the idea was a single agency head then it became a Board. Only Senator Chris Dodd was always constant on one person. If you go back and look at all the legislative drafts that came out of the Senate, it's kind of a forgotten footnote of history, that he was very intent on one person, similar to the experience of FHFA.

You talked again about your experience as Attorney General, your experiences Treasurer, you're back in Ohio, you know, again ground zero, I've seen some of the unemployment and GDP hits, the industrial Midwest seems to have been deeply hammered. You know, some of us in Washington are very fortunate, particularly government employees got safety and stability.

But what do you say to the attorney generals out there who are going to be dealing with this? What do you say to the state treasurers who are having huge impacts on their operating budget in this crisis, and are running around? What's your advice to America?

As we kind of start to wrap up here, what's your -- what's your advice to various people on this COVID thing? What do you think we are doing right? And what do you think, if you could do one or two things, either in your old job at the Bureau, or any of your prior jobs, what would you say to America we ought to do differently here? And lastly, what do consumers?

MR. CORDRAY: Well, I'll leave the health aspects aside, because I'm not an expert in those, and obviously that's driving a lot of this. When do we open the economy? How do we do it? By the way, one thing that we've just seen that's quite significant is, you saw Amazon revenues were up, but the expenses were also up. There're going to be a lot of expenses companies are going to have to take on, that's not been something people have recognized here, in order to do their business just as they did before, and that's going to hurt profits.

So there's lots of aspects of this economically that we are just beginning to understand and see develop. But I would say that for consumers they're in a crisis right now, many of them have lost their income. Again, not through any fault of their own, everybody recognizes that. It's not that anybody has decided suddenly they're going to stay home and be lazy and not work, they're being required to stay at home, their businesses when they go to work are required to be shuttered, and people are in a very difficult way.

And I think that officials at every level need to think hard about what they can do to help consumers in this crisis. When I was the State Treasurer in Ohio I didn't have any authority over the foreclosure crisis, but we could see people losing their homes. Nobody really had authority to deal with that, so we created the Save Our Homes task forces working with county officials across the states.

We just made up an approach to try to help keep people in their homes, and help save their lives in many instances. And officials are going to have to be creative in that way. I see governors and some attorneys general stepping up, issuing orders to restrict evictions, to restrict foreclosures during this crisis recognizing, again, that people are in this predicament through no fault of their own, and often due to government orders.

Debt collection, restrictions and other things, these are all needed, but the other thing that we're going to have to be very aware of is, the revenue fallout for state and local governments. We see it already at the federal level, the budget deficit is massively growing, it's going to be three or four trillion this year, maybe even higher. But at the state level where they're required to balance their budget by law, there's going to be a lot of cuts coming.

This happened in 2009/2010. It's going to be difficult for public officials to cope with that, they're going to have to try to get out in front of it, they're going to have to be thoughtful about what they do, because at the same time more need is being created among the people they serve, and yet they're going to have fewer resources to meet it.

That's going to be a profound crisis. And, by the way, it is going to create a lot of layoffs and job losses among government employees who up to now have been protected, and that's going to be another aspect of the economic crisis.

MR. KLEIN: Well, I think that's right. I mean, you know, there's so much more that policymakers can do, so much that people can do creatively at the state and local level, it makes me sick to my stomach that the Federal Reserve is not doing more to expedite the clearing of checks. Millions of Americans have been waiting six weeks, and are going to get their stimulus check today. Take a picture of it and deposit it on their phone, and because the Fed refuses to use their authority under the Expedited Funds Availability Act, they're not going to have access to their money until Tuesday, even though the bank can process that.

In fact, your consumer complaint database showed to me in one of your deep dives, the best data about how angry people were getting about how many overdrafts were being caused by this delay. Some of my own research was guided by your complaint database showing people would get these emails: Your check has been approved. And they would think the money was there, and then, boom, 35 bucks, boom, 35 bucks, $35 billion in overdraft.

I think one of your greatest lasting legacies was in the world of data and the complaint portal. To me, you know, we have too little information about what the 40 percent of Americans, or more, who are living paycheck-to-paycheck, really are experiencing, and this complaint database, you know, just made the world a better place by providing that information.

To me that's one of your great legacies of the Bureau. There are a lot of ways you could have started that up. The book describes a lot of your thought there. Tell us about some of your other great legacies that you're most proud of in the Bureau that you think will help guide us through this crisis right now?

MR. CORDRAY: Well, you mentioned one of them and I'm really proud of the team that deals with consumer response, and takes in now, I think it's on average, 30,000 complaints a month, and handles and responds to those in a way that gives a lot of relief to people, and help the people get responses and answers.

One of the things I've urged the current leadership of the Bureau to be doing right now is that database of what consumers tell us are their challenges, is very valuable, and it is real-time data that we could use, and they ought to be putting a lot of information out, and publishing information, and analyzing that data.

Fortunately the database is still public, so that's helpful, but we could really get a much better picture of what's happening in the economy there than through many of other data sources, because as you know, data is collected with a lag, it's often slow to take time to collect it, and assemble it, and then analyze it, often means it's weeks or months behind. But the consumer complaint databases on a day-to-day basis up to date. And I talk a lot in the book about how valuable that information was to us.

Again, I think that the example we set of how government can be responsive to the public, this is something that we should demand and expect from our government, but we were able to take it to a very different level, where it became very interactive between the public and us, between individuals and us, and us then responding to them that created kind of a virtuous circle.

But I do think that transparency in government is important. It tends to be there in good times, but they tend to want to hide the information that is more politically damaging. If you're going to be transparent, you have to be transparent across the board, and I think that's important too.

MR. KLEIN: It's reassuring to hear somebody who was under such a microscope, from all sides, not just the right but also the left, as well as your own Inspector General at the Federal Reserve who, unfortunately, have to share with -- with the Board, to encourage more transparency.

You know, in Yiddish we have a term, a “mensch" a person of high integrity and honor, you know, and it strikes me that that's really a mensch-like thing to say. You know, most people who have to make tough choices, want a little bit of discretion and quietness, so to sweep their mistakes under the rug. But your calls for transparency I think are very well heeded and heard here.

We're about to wrap up, but I wanted to ask if there's anything else you want to -- want to leave us with today, Rich?

MR. CORDRAY: Well, I would simply say that this is a book that's about government, but it's about our economy, and it's about our families. It really covers a lot of ground. It's also a bit of a roadmap for what we did, and why we did it, and how, and can be a roadmap for the future of what the Consumer Bureau can do, but what the federal government can do, and state and local as well.

I talk a lot in the book about state officials. I had been one myself. I respected the work that they do. I saw that they could be major players and make a big difference in this field, and we could partner with them, and we did. And I think that that's where government works well is when people come together, and they push to achieve the same objectives.

We got tremendous support within the Obama administration, even though we were an independent agency, we could partner with the Pentagon, as you say, to protect military service members, we could partner with the Department of Education on student loan issues. If the government's working well, it's not breaking down into its fiefdoms and its fragments, but it's actually working in a cooperative way to try to benefit the public at large. And that's what government is all about.

In an era where we've had so much negativity about government, so much claim that the government is the problem and we need to get regulators out of the way so that people can do whatever they want, you know, what we're seeing right now is when we have a crisis that's when we realize we need the government the most. We need it to step up, we need it to be effective, we need it to do things when many other parts of our society can't manage on their own.

And that's where we are right now with this pandemic crisis, and that's where we're going to be with the economic crisis that's flowing out of it for the next couple of years, and it kind of behooves all of us to rethink some of the ideologies that we can fall into, and the familiar things that we like to say. It's time that we pull together as a nation, and every part of the government has its role to play in that.

MR. KLEIN: Well, Rich, I learned a tremendous amount reading *Watchdog*. I encourage everybody else, if you want to support local bookstores and local businesses, there's a great one in D.C. Solid State, and if you're not even here I think online their portals can ship to anywhere. I encourage everybody to read the book, to reflect on regulation.

It's been an honor and a privilege to share this stage. I'll end with a question which is, you know, that who here is a five-time Jeopardy Champion? The answer: the author of *Watchdog*, Rich Cordray. Thank you very much for joining us here, Rich.

MR. CORDRAY: Thanks, Aaron.

MR. KLEIN: And we have a lot of (inaudible).

MR. CORDRAY: Thanks everybody.

MR. KLEIN: Thank everybody else from Brookings. Have a wonderful -- and stay safe. Goodbye.

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