

# Bloomberg

## Cordray Nomination Shows Consumer Bureau Battle Lines Unmoved

By: Carter Dougherty - Jan 24, 2013

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The re-nomination of Richard Cordray to run the Consumer Financial Protection Bureau shows that the former Ohio attorney general has won the confidence of Democrats who fought for the agency's creation despite his failure to win over Republican critics.

President Barack Obama yesterday put Cordray's name forward for a full five-year term after more than a year of work in which he oversaw the agency's effort to protect consumers from scams and other abuses in the financial services market.

"Through it all, Richard has earned a reputation as a straight shooter and somebody who's willing to bring every voice to the table in order to do what's right for consumers and our economy," Obama said at a White House news conference.

"There's absolutely no excuse for the Senate to wait any longer to confirm him," Obama added.

The move drew praise from consumer groups and Elizabeth Warren, whom Obama passed over for the job when he first nominated Cordray in July 2011.

"The CFPB has had an extraordinary first year and a half holding credit card companies accountable for cheating consumers and adopting the first set of rules to clean up the mortgage market," Warren, now a Democratic senator from Massachusetts, said in a statement. "Senate confirmation of Rich's nomination will continue this momentum."

### Partisan Fights

The re-nomination may spark partisan fights over Cordray and the bureau itself. Republicans, pressing for the agency to be headed by a multi-member commission, could strengthen their leverage through a court case related to the legality of Obama's appointment of Cordray in January 2012 while Congress was in recess. Democrats will count on Warren, who serves on the banking committee that must consider the nomination, to help block opposition.

Meanwhile, Cordray has won support from some of the bankers whose companies are overseen by the bureau.

Jamie Dimon, the chairman and chief executive officer of JPMorgan Chase & Co. (JPM), praised Cordray's work as the head of the agency.

“They’ve done a great job,” Dimon said in a television interview with Fox Business News. “They started from ground zero and they are making great progress.”

Dimon singled out the CFPB’s so-called qualified mortgage rule, which outlines underwriting standards, calling them “good, thoughtful” and prompt. “They did it quickly. They didn’t delay.”

#### Outreach Praised

The Independent Community Bankers of America, a trade association of smaller banks, also praised Cordray.

“Cordray has repeatedly reached out to community banks to better understand how the bureau’s regulations affect our industry, and the CFPB has worked to ensure that new mortgage regulations allow these institutions to continue meeting the needs of their customers and communities,” the group said in an e-mailed statement.

Richard Hunt, president of the Consumer Bankers Association, said the financial services lobby would push to revamp the structure of the agency as a multi-member commission.

“For the past two years, the CFPB has been a political football in part due to its flawed structure,” Hunt said in an e-mailed statement. “This is the perfect opportunity for Congress to replace a sole director with a commission.”

Americans for Financial Reform, an umbrella group of consumer advocates, labor unions and civil rights organizations, said the Senate should simply approve Cordray for a full term.

#### ‘Second Chance’

“The Senate now has a second chance to confirm this commendable nominee,” the group said in an e-mailed statement. “It should.”

Senate Republicans, using Senate rules that let the minority block nominations, closed ranks to oppose any nominee in 2011 unless the Obama administration agreed to create a commission to run CFPB and subject its budget, now linked to the Federal Reserve, to congressional appropriations.

In January 2012, Obama bypassed the Senate by installing Cordray through a so-called recess appointment. That move put Cordray in the job through the end of 2013.

Senator Richard Shelby, an Alabama Republican who helped lead the fight against Cordray in 2011, has not changed his position, his spokesman Jonathan Graffeo said in an e-mail. Shelby was the top Republican on the banking commission in the last Congress but will be replaced by Senator Mike Crapo of Idaho.

#### Crapo’s Opposition

Crapo spoke out against the bureau’s existing structure in a Dec. 8, 2011 speech on the Senate floor. In an e-mailed statement, he affirmed the Republican stance.

“If the president is looking for a different outcome, the administration should use this as an opportunity to work with us on the critical reforms we have identified to him,” Crapo said in the statement.

When Obama installed Cordray in his job, he also used recess appointments to put three people onto the National Labor Relations Board. Those appointments are now the subject of a court case in the U.S. Court of Appeals in Chicago, where a three judge panel heard arguments on Nov. 30.

No date has been set for a decision in the case, which revolves around the question of whether the Senate was truly in recess.

Mark Calabria, a former Senate Republican staffer, said a decision against the Obama administration over the NLRB would probably have the ripple effect of stalling any progress Cordray makes in the Senate. It would also embolden Republicans in their quest to change the law.

#### ‘Unconstitutionally Appointed’

“How can you have a confirmation process if a court has said he’s been unconstitutionally appointed?” Calabria, director of financial regulation studies at the Cato Institute in Washington said in an interview.

Before her election to the Senate, Warren was the Obama administration adviser who set up the agency and is widely credited with devising the concept behind it. While at the agency, Warren opposed changing the law to create a commission and subject it to congressional appropriations.

Senator Richard Durbin of Illinois, the chamber’s second- ranking Democrat, yesterday said in an interview that the Senate’s expanded Democratic majority in the 2012 election “helps a little” in overcoming Republican opposition, as does Warren.

“We now have a new senator named Elizabeth Warren,” Durbin said. “So there’s going to be an additional strong voice on the floor to support the CFPB.”

The Senate now has 55 Democratic and 45 Republican votes. Rules require 60 votes to end debate and move to an actual vote, which would still allow 40 of those Republicans to block nominees.

#### Recess Appointment

A new recess appointment for Cordray is possible, according to a Jan. 9, 2012 report of the Congressional Research Service. “The President may make successive recess appointments of the same or a different individual to a position,” according to the report.

There is a U.S. law that prohibits a recess appointee from being paid “from the Treasury,” according to the report. CFPB is funded via the Fed’s income stream, not through the Treasury.

Cordray has previously expressed interest in running for a statewide office in Ohio. The former governor, Ted Strickland, announced earlier this month he would not seek the Democratic nomination for his old job in 2014, opening the field to other candidates.

David Rothstein, a researcher with Policy Matters Ohio, a Cleveland-based policy analysis group, said the re-nomination may have closed the door on that possibility.

“The buzz around Ohio now is that this cements the idea that Cordray will not run for governor,” Rothstein said in an interview.

In an interview with Bloomberg Television, Cordray said that he does not “think about politics” while working at CFPB.

“I’m in a job that doesn’t mix with politics,” Cordray said in the interview aired on Jan. 10. “I have a lot of work to do looking after consumers across this country and I’m happy to be doing it.”