Credit Union Advisory Council minutes

MARCH 12, 2013

Consumer Financial Protection Bureau

Credit Union Advisory Council (CUAC)

On March 12, 2013, the Credit Union Advisory Council meeting was held at 1700 G Street N.W., Washington, D.C. Delicia Hand, staff director, Consumer Advisory Board and Councils, called the Credit Union Advisory Council (CUAC) meeting to order at 10:13 a.m. and Carla Decker, CUAC chairperson, welcomed the members and reviewed the day's agenda. Each of the members introduced themselves and briefly discussed a few of the current issues impacting their credit unions.

Board Members present:

Carla Decker, chair
Rose Bartolomucci, vice chair
John Buckley
Kevin Foster-Keddie
Helen Godfrey Smith
Mitchell Klein
Lily Lo
Maria Martinez
Marcus Schaefer
Gregg Stockdale

Via phone:

Bernard Balsis
Ron Ehrenreich
Camille Shillen
David Wright

CFPB Staff present:

Director Richard Cordray
Acting Deputy Director Steve Antonakes
Lisa Applegate
Peter Carroll
Kelly Cochran
Meredith Fuchs
Delicia Hand
Gail Hillebrand
Mitchell Hochberg
Zixta Martinez
Ana Mahony
Mitchell Hochberg
Cliff Rosenthal
Will Wade-Gery

Project Catalyst overview

Ana Mahony, special advisor to the director, and Will Wade-Grey, senior counselor , provided an overview of Project Catalyst's mission to support the creation of consumer-friendly products and services in the financial services space. Staff then reviewed Project Catalyst's key objectives which are: establishing and maintaining open and consistent communication with the innovator community, participating in innovative initiatives that inform the Bureau's policy work and providing information and other resources that support the Bureau as a forward-looking organization. Staff also discussed the various forms of engagement the Bureau is seeking from CUAC members and their contacts to help educate and information share with the CFPB.

Project Catalyst overview: CUAC questions and comments

- CUAC members expressed concern that credit unions could be left behind because of the limited resources available to them compared to larger institutions, including non-banking entities. Consideration needs to be given to the fundamental difference in how credit unions are structured. Because credit unions are primarily designed to serve their members, they do not have as much capital to invest in the latest technologies. However, not offering members the latest technologies can cost credit unions younger members who may have more interest in technology. Keeping up with innovation will require credit unions to collaborate with one another.
- CUAC members suggested that the CFPB could plan regional meetings to coincide with trade association events. Member Buckley added that League Service Corps should be consulted. Some CUAC members felt that bringing innovative ideas to the CFPB would not be beneficial because of their regulatory role in controlling outcomes. Others would like to know upfront if products or services they are considering will be disallowed by CFPB regulations before they invest further resources.
- A CUAC member suggested testing the efficacy and intelligibility of the disclosures for consumers.
- CUAC members noted that call centers are the main nerve of some credit unions. Quality, personalized customer service is what separates credit unions from larger banks. The new technologies need to go hand-in-hand with the customer service that members appreciate, including brick and mortar shops.

Policy discussion: overdrafts

David Silberman, associate director, Office of Research, Markets and Regulations, led a discussion on the CFPB’s inquiry into checking account overdraft programs and how they impact consumers.

The Bureau’s inquiry is focused on four main areas:

1. Transaction re-ordering that increases consumer costs
2. Missing or confusing information
3. Misleading marketing materials
4. Disproportionate impact on low-income and young consumers

The CFPB is seeking insight into credit unions' decision-making process in determining how to handle overdraft fees. The CUAC members discussed some of the programs offered at their credit unions. The following themes were raised by council members in the discussion:

- Most credit unions offer the service to keep their members happy, but issues arise on how to make up for losses incurred by waiving the overdraft fees.
- Some credit unions have philosophical reasons for not charging for overdraft, but do charge NSF fees.
- The group discussed their observations on how consumer psychology has changed in terms of bill prioritization and impulsivity.
- A CUAC member suggested developing a program that the consumer would authorize to pay their bills, insurance, etc., and then provide them with a weekly cash allowance.
- The group briefly discussed the impact of Regulation E requirements on credit union overdraft products. Most credit unions have between 65 percent and 75 percent of their members taking advantage of the service and require a set period of time to elapse before new members can opt in.

Working lunch CUAC idea sharing discussion

During a working lunch, CUAC participated in an informal discussion about how the CUAC can stay connected and productive in between meetings. CUAC member Kevin Foster-Keddie has set up a private group page on Facebook for CUAC and requested feedback about member interest in participating in the group. Some members raised concerns about using Facebook and whether using Facebook would open members' inboxes to FOIA requests. Interested members were asked to speak with Mr. Foster-Keddie about forming a small group to discuss the issue and create a proposal to present to the CUAC.

The remainder of the lunch discussion focused on guidelines for interacting with the broader credit union community and the media. CUAC Members are encouraged to discuss the CUAC and the CFPB's work, though were reminded by staff to distinguish that the views they express are their own and do not represent the council or the CFPB.

Mortgage rules implementation overview

Lisa Applegate, mortgage implementation lead, provided an overview of the plans for mortgage implementation and ways in which the council members will be engaged in these plans. The primary goal of regulatory implementation is to ensure that industry implements rules accurately, expeditiously and evenly. It is the CFPB's responsibility to coordinate closely with other regulators to facilitate regulatory consistency and to provide industry with the clarity and engagement needed to accomplish this. It is also necessary to educate consumers on their new protections. Hopefully the implementation will make the CFPB a smarter regulator and improve their focus for future rulemakings.

The CFPB's plans for achieving these goals fall into four categories:

1. Explaining the regulation (plain-language guides, videos, speaking engagements, other job aids);
2. Interpreting the regulation (oral interpretation, updates to official interpretations);
3. Providing implementation tips ("tips" and "checklists"); and
4. Clarifying supervisory expectations (exam procedures, check-ins with supervised entities, examiner training).

Feedback is critical to implementation and the Bureau will be engaging with federal and state regulators, participants in mortgage origination and servicing businesses (individually and through their trade associations), industry service providers, and consumer, community, and fair lending groups.

Mortgage rules implementation overview: CUAC questions and comments

- CUAC members noted that in the credit union environment, where the members bare all the expenses, unintended consequences have a wide ranging impact and questioned whether the Bureau will be assessing impact of the rules. Staff responded that the CFPB has a statutory obligation of a five-year look-back, monitoring the market to ensure that there are no significant adverse impacts.
- Differentiating by size and not taking into account individual characteristics of credit unions is where CUAC members expect some of the biggest challenges will arise.

Mortgage rules discussion

Peter Carroll, assistant director, mortgage markets and Kelly Cochran, assistant director, Regulations, presented a strategic overview of the recently issued mortgage rules and provided an opportunity for CUAC members to ask questions about the rules and next steps. Themes covered in the presentation included:

(1) the general ability-to-repay requirement, which applies broadly to closed-end transactions secured by a dwelling and requires the creditor to make a reasonable, good faith determination that the consumer can repay the loan, and

(2) Qualified Mortgages (QM), which restrict certain loan features, caps points, and fees, and imposes certain underwriting requirements, as well as establishing guidelines for safe-harbor on loans below the higher-priced mortgage threshold and rebuttable presumption for the higher-priced loans.

(3) The mortgage servicing final rule amends Regulation Z (TILA) and Regulation X (RESPA). The rule covers servicing for all borrowers and includes requirements on periodic statements, Adjustable Rate Mortgage (ARM) interest rate adjustment notices, and error resolution and information requests.

(4) Other rules recently issued include: rules implementing Dodd-Frank changes to Loan Originator Compensation and Qualification, HOEPA, Escrows, and Appraisals.

Plain-English versions of the regulations will be released in the spring on the Regulations page of the CFPB website. CFPB is still working on the definition of APR as part of the TILA and RESPA Regulations.

Mortgage rules discussion: CUAC questions and comments

- Council members would like the opportunity to provide comments to the TILA /RESPA rulemaking before it is finalized.
- A CUAC member asked if there are current guidelines addressing what is considered to be living expenses and staff replied that there is a rough metric but the CFPB is hoping to give more guidance on what it considers valid expenses. The Bureau is seeking comment on how best to handle rules related to affiliate fees and loan originator compensation.
- CUAC members asked whether lenders have the option to change the coverage to meet their own needs and not the borrower's, so the servicer is pays less in advancing escrow.
- Regarding the servicing rules, most CUAC members felt these were good rules but that their credit unions would be burdened by the need to modify software and retrain staff. The rules may also be onerous because of the delay in filings they will create, particularly with vacated and abandoned properties. The Bureau heard from servicers and borrowers that frontloading really does improve the chances of success and would like to find ways to incentivize consumers to get their application in for consideration.

Discussion: Bureau future outlook

Director Richard Cordray led a discussion with CUAC members about the Bureau's post-mortgage outlook. When Congress passed the Dodd-Frank Act, it populated the CFPB's agenda with certain items the Bureau would be required to act on and the CFPB has been focused on these mandates since opening its doors. For other issues, the CFPB puts out requests for information and holds field hearings. The CFPB has identified 4 structural problems in the market as it works on consumer protection:

1. Debt traps. When the business model for the product seems to depend upon trapping a significant portion of the customers (more than 20 percent) in a long-term debt cycle, such as car title and payday loans (including internet payday loans which will soon be the majority of that market and pose special challenges for enforcement).
2. Deceptive and misleading marketing, as in the case of credit card add-ons. These practices are already against the law, so a CFPB role here may be enforcement.
3. Oversight on mortgage servicing, credit reporting, and debt collection. Consumer education is needed on how important a person's credit report is to their lives and how to improve it.
4. Discrimination. The CFPB can do more to better signal to the market so there is less uncertainty around this issue.

Bureau future outlook: CUAC comments and questions

Director Cordray sought the CUAC's insight on how to fulfill the demand for short term loans in such a way as not to harm the consumer: what can be done to rein in the bad products and what can be done to bolster good products that fulfill the legitimate need?

- CUAC members pointed out the problem of convenience; customers do not pass by a payday loan storefront to get a better deal at a credit union. After four years of losing money, CUAC member's credit union in is seeing good take-up on their pay day loan alternative, actually making it a profitable venture while saving their members millions of dollars. As more people become aware of their internet and mobile services they expect that it will be very successful. Most banks are staying away from this sort of lending because of the reputation risk. Tracking systems are a critical component to protecting credit unions from abuse.

- Another CUAC member's credit union conducts "lunch and learns" where members are invited to discuss their credit report over lunch to help them understand what their score means and the reasons behind it. This has been a very successful program in helping people improve their credit rating. Similar programs often cause credit unions to have high operating expenses for which they are penalized by examiners despite offering value to the members which should lead to better returns on assets and reduced risk in their loan portfolio. Director Cordray offered to speak with the NCUA group about this issue.

- Nearly every CUAC member shared experiences with bad auto loans and the lack of disclosure in the car add-on market.

Adjournment

Staff Director Delicia Hand announced that the next meeting will be held via teleconference on June 5, 2013. The CUAC meeting adjourned at 5:08 p.m.