CONSUMER FINANCIAL PROTECTION BUREAU | OCTOBER 2019

Community Bank Advisory Council

October 23 - 24, 2019

Consumer Financial Protection Bureau

Meeting of the Community Bank Advisory Council

The Consumer Financial Protection Bureau's (CFPB) Community Bank Advisory Council (CBAC) met in person at 12:30 p.m., Eastern on October 23, 2019. On October 24 the CBAC, Consumer Advisory Board (CAB), and Credit Union Advisory Council (CUAC) convened for a combined roundtable meeting.

CBAC members present	CFPB staff present
Chair Aubery Hulings	Director Kathleen L. Kraninger
John Erik Beguin	Deputy Director Brian Johnson
Maureen Busch	Farah Ahmad
Patrick Ervin	Edward Blatnik
Shan Hanes	Desmond Brown
Bruce Ocko	Matt Cameron
Valerie Quiett	Robert Cameron
Heidi Sexton	Albert Chang
	Darian Dorsey
	Crystal Dully
	Andrew Duke
	Andrea Edmonds
	Angela Fox
	Kim George
	Manny Mañón
	Zixta Martinez

	John McNamara
	Vanessa Megaw
	Patrick Orr
	Tom Pahl
	Alexa Reimelt
	David Silberman
	LaShaun Warren

October 23, 2019

Welcome

Manny Mañón, Deputy Staff Director, Office of Advisory Board and Councils
Aubery Hulings, Chair, Community Bank Advisory Council

CFPB Office of Advisory Board and Councils Deputy Staff Director Manny Mañón convened the CBAC meeting and welcomed CBAC members and members of the public. He provided a brief overview of the meeting's agenda and introduced the CBAC Chair, Aubery Hulings. CBAC Chair Hulings welcomed attendees and explained the CBAC's mission, summarized recent CBAC activities, and outlined the direction of future CBAC efforts. Following Chair Hulings remarks, CBAC members introduced themselves.

Information Exchange: The Home Mortgage Disclosure Act (HMDA)

Director Kraninger
Alexa Reimelt, Senior Counsel, Office of Regulations
Patrick Orr, Policy Analyst, Research, Markets and Regulations, Office of Mortgage Markets

Staff from the Office of Regulations and Office of Mortgage Markets provided an update on recent activities regarding the Home Mortgage Disclosure Act (HMDA). Staff reminded participants that most of the 2015 HMDA rule took effect January 1, 2018 and that a few weeks prior to the rule taking effect, the Bureau announced its intent to reconsider several aspects of the rule. Staff highlighted the May 2018 Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA), which (among other things) created new partial HMDA exemptions for most insured depository institutions and insured credit unions that originate fewer than 500 closed-end loans or open-end lines of credit in each of the two preceding years. In August 2018, the Bureau issued an interpretive and procedural rule to clarify which institutions are covered by the EGRCCPA's partial exemptions and which data points do not need to be reported by institutions covered by the exemptions.

The reconsideration of the HMDA rulemaking commenced in May 2019 when the Bureau released two Notices: a Notice of Proposed Rulemaking (NPRM) and an Advanced Notice of Proposed Rulemaking (ANPR). The NPRM sought comment on a proposed extension for two years of the temporary open-end threshold at the 500 line of credit level and on a proposal to increase the closed-end threshold to either 50 or 100 as well as the incorporation of the EGRRCPA into Regulation C. The ANPR sought comment on new or revised data points from the 2015 HMDA rule, including race and ethnicity. The ANPR also sought comment on commercial-purpose loans secured by a multi-family dwelling. Staff noted that reconsideration the HMDA rule is an ongoing process.

Staff inquired whether the HMDA reporters among committee members were impacted by the partial exemptions, and those members indicated that they were. Staff further inquired as to the desirability of the current open-end threshold as compared to a lower threshold and members agreed that they preferred the higher threshold. Members said that the Bureau should consider establishing thresholds at 500 for both close-end and open-end loans. Members expressed concern that they would require additional resources should the open-end threshold drop. Members stated that home equity lines of credit (HELOCs) may not be as desirable to offer should there be a lower threshold that would bring them under HMDA's coverage. Members also noted potential issues with vendors, and in response Bureau staff discussed the Bureau's outreach programs with vendors.

Staff asked committee members how their institutions used the HMDA data for any analysis. Some noted that their institutions use HMDA data to perform fair lending analysis and to understand changing market demographics. Members noted that small institutions don't want to be caught off guard by regulators and prefer to be aware of any potential issues before being approached by regulators. Staff further queried the members concerning how due diligence is performed and how often the data is reviewed. Members noted that their institutions do multiple checks, both before and after a given loan is closed.

Committee members provided additional feedback on their experiences with HMDA. Some members noted that they had to add additional resources to ensure compliance. Members expressed concern with the HMDA data fields and how they are formatted, especially issues with open-ended fields and variations on the spelling of names. Bureau staff noted that they may reach out to HMDA reporters if data irregularities are detected. Members expressed concern about the amount of time that it takes to perfect the data and the fact that the free-form fields are rarely used.

Additionally, members discussed Metropolitan statistical areas (MSAs) and noted that small community banks are reluctant to expand into MSAs because of HMDA reporting requirements. Members asked if the Bureau has determined if the extra data fields (free-form) provide any additional value and said the Bureau should revisit this and remove these fields if data is not providing useful information.

Members expressed concern that some online lenders are not collecting race/gender information during loan application, and therefore, are circumventing the rule and not complying with HMDA. Members also flagged that when an in-person applicant chooses not to self-report race, it falls to the loan officer to determine the applicant's race by appearance. Staff acknowledged that this requirement could potentially be difficult for loan officers but is in place to avoid wider underreporting of race data. Furthermore, members asked if non-banks are supervised the same way as other traditional banking institutions. Members also noted that HMDA data suggests that consumers need more financial education in order to access better financial products at affordable rates. They recommended that the Bureau to continue focusing in financial education efforts.

Information Exchange: Regulatory Implementation and Guidance

Kathleen L. Kraninger, Director

Andrea Edmonds, Managing Counsel, Regulatory Implementation and Guidance, Office of Regulations
Angela Fox, Counsel, Regulatory Implementation and Guidance, Office of Regulations

Chair Hulings invited the CFPB's Director, Kathleen L. Kraninger to provide remarks. Director Kraninger welcomed members and thanked them for their participation on the CBAC. Following the Director's remarks, Bureau staff from the Office of Regulations provided an overview of the Bureau's regulatory implementation and guidance functions. Staff noted that the Regulatory Implementation and Guidance (RIG) team aids industry compliance through rule implementation, written guidance, individual guidance, data collection guidance, and general guidance supporting operations. The RIG team's work begins at the proposal stage and goes all the way through the post-rule implementation phase.

Staff noted that the RIG team's role during rule implementation is to provide plain language explanations for any new rules to cut through jargon and reduce the burden of implementation on industry. Staff explained that the purpose of written guidance was to make the rule more accessible to those without a legal background, not as a substitute for the rule itself. Staff went through a sample rule implementation where they noted that while various rule change summaries are released, the redlined version of the rule is especially helpful because it allows for easy comparison with previous requirements. After the rule implementation phase, the Bureau is tasked with providing post-implementation guidance.

Staff described various types of guidance and their limitations. For example, informal individual guidance can be quickly issued but is not binding on the Bureau or other agencies. A Bureau policy statement can provide clarity on the Bureau's current enforcement priorities or how it plans to enforce statutes and rules, but it takes more time and signifies only Bureau present intent. An interpretive rule provides an authoritative Bureau interpretation and might also provide a safe harbor from civil liabilities but can take an extensive amount of time to issue. Finally, a legislative rule creates new rights or imposes new legal obligations, but it takes the most amount of time to issue, as a notice and comment process is generally required.

Staff also discussed the RIG team's work on informal individual guidance. Initially this was done very informally with the Bureau receiving questions via email or by phone. However, in an effort to increase efficiency, accountability and accessibility, the Bureau in 2018 began receiving inquiries through a web intake form. Staff described data regarding the individual guidance inquiry volume by topic. Questions regarding the Home Mortgage Disclosure Act (HMDA) were the most popular topic of inquiry, followed by the TILA/RESPA Integrated Disclosure (TRID) rule.

Additionally, staff noted that the RIG team also provides industry with data collection guidance. Such guidance includes the collect platform for credit card information and the HMDA platform for annual HMDA data collection, processing, and publication. Staff went on to describe future planned improvements to regulatory guidance, including continued enhancements to Interactive Bureau Regulations, exploring guidance needs for Inherited Rules, and diversifying outreach avenues to increase identification of guidance needs.

Staff asked for feedback regarding changes that were recently made to the Compliance and Guidance section of the Bureau's website. CBAC Members praised the changes, noting improved search functionality and the small entity compliance guide. Members also cautioned staff about material on the website that may be partially out of date. Members recommended that Bureau staff attend more industry events, network with important stakeholders, and share relevant regulatory guidance information.

There was also discussion on maintaining a leveled playing field with other government regulators to help with supervisory consistency. To this point members suggested compiling a checklist for regulators and having a public database of commonly asked questions. Members also spoke of the need for targeted training on specific subjects, noting that while bank directors may not have time to dial in to an hour-long webinar, shorter podcast-type training on specific topics would be more helpful.

Information Exchange: Regulatory Agenda Overview

Tom Pahl, Policy Associate Director, Division of Research, Markets, and Regulations
David Silberman, Associate Director, Division of Research, Markets, and Regulations

Bureau leadership from the Division of Research Markets and Regulations led a discussion on the CFPB Regulatory Agenda. Currently, the approach to rulemaking at the Bureau is to make rules for regulated entities, prevent consumer harm, promote competition, and help foster compliance. The rules should be as clear as possible in order to better serve their regulatory function. Leadership further explained the rulemaking process, noting that the process begins with a public notice of proposed rulemaking, followed by a period of comment, then completed with the issuance of a rule (along with an explanation for the details contained therein).

The discussion centered on the Spring 2019 Regulatory Agenda, as the Fall 2019 Agenda was not yet completed (at the time of this meeting). On a semi-annual basis, executive branch agencies submit to the Office of Management and Budget (OMB) their regulatory agendas for the ensuing twenty-four months which OMB compiles and publishes as the "Unified Agenda of Regulatory and Deregulatory Actions." The Bureau's most recent Unified Agenda lists the regulatory matters that, as of the time of submission, the Bureau anticipated having under consideration during the period from May 1, 2019 through April 30, 2020 and lists several matters that the Bureau anticipates addressing in the following year.

The agenda includes items in the "proposed rule stage" category in which the Bureau expected would get to the final stage of rulemaking after 12 months. The items in this category are payday, vehicle title, and high cost installment loans, the Home Mortgage Disclosure Act (HMDA), HMDA public disclosure and HMDA data points, and debt collection. A second portion of the agenda focuses on items in the pre-rule phase; items are not expected to get to a proposal before 12 months, but some action is expected to be taken. The items in this category include: Property Assessed Clean Energy (PACE); Small Business Lending Data or Section 1071 of the Dodd-Frank Act; Remittance Transfers; and the threshold for establishing escrows for higher-priced mortgage loans. An additional category consists of items that are set out 13-24 months. The items in this category include: consumer access to financial records as defined in Section 1033 of the Dodd Frank Act; defining abusive acts or practices; a review of inherited regulations. Lastly, some other potential rulemakings discussed were the Ability-to-Repay/Qualified Mortgage rule as well as disparate impact under the Equal Credit Opportunity Act (ECOA).

Bureau presenters inquired about the members' opinions on the various rulemakings and timeframes and whether anything should be added or changed. Members stated that the rulemaking process likely leaves Bureau staff with many comments to review and inquired how the Bureau can analyze. Staff acknowledged that the comment review process is intensive and that they are assisted by contractors in the process. Members thought some other rules should be looked at for potential revisions, such as the TILA/RESPA Integrated Disclosure rule and the loan originator compensation rule. Members asked about the Bureau's work on Section 1071. Members also asked if the Bureau directly supervises non-bank or fintech institutions. Some members asked about the scope and timeline for PACE loan rulemaking. Bureau leadership also explained that the Dodd-Frank Act requires a five-year lookback whereby the Bureau must conduct an assessment five years after the issuing of significant rules. Staff suggested that any changes to rules might eventually spring from those assessments.

October 24, 2019

Combined Advisory Committee Roundtable

On October 24, CAB, CBAC, and CUAC members met with Bureau leadership and subject matter experts for a combined roundtable discussion on the Bureau's *Start Small Save Up* initiative, an update on the Bureau's innovation policies, trends and themes, and enhancements to the Consumer Complaint Database. Zixta Martinez (Associate Director of the Division of External Affairs) welcomed audience members to the public meeting and introduced advisory committee members. Andrew Duke (Policy Associate Director of the Division of External Affairs) welcomed attendees and introduced Director Kraninger. Director Kraninger provided opening remarks and welcomed the committee chairs, committee members, and members of the public. Following Director Kraninger's remarks, Desmond Brown (Deputy Associate Director, Division of Consumer Education and Engagement), LaShaun Warren (Deputy Assistant Director, Office of Consumer Engagement), and Farah Ahmad (Senior Operations Advisor, Office of Community Affairs) discussed the Bureau's *Start Small, Save Up* initiative. The goal of the initiative is to increase consumer's opportunities to save and empower them to achieve their savings goals as a step to improved financial well-being. Staff described future goals for the initiative, such as utilizing the connections the Bureau has with financial institutions to help better connect consumers to those institutions. Committee members agreed that it was important to provide education on behaviors regarding saving and to provide opportunities to make saving easier for consumers. The Director provided closing remarks to this roundtable session.

Next, Edward Blatnik (Deputy Counsel, Office of Innovation) and Albert Chang (Counsel, Office of Innovation) provided an update on the Bureau's innovation policies. Staff described recent policies the Bureau has worked on regarding innovation including the revised No Action Letter (NAL) policy, the revised Policy to Encourage Trial Disclosure Programs, and the compliance assistance sandbox (CAS) policy. These programs were established to help make reaction to innovation more agile and certain, as well as to allow companies to better comply with the regulation handed down by the Bureau. Staff provided detail on each policy. Additionally, staff discussed the Office of Innovation's interest in coordinating with other regulators to facilitate innovation that will benefit consumers. The Bureau works with other Federal regulators such as the Commodity Futures Trading Commission, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, and the Securities and Exchange Commission. In order to better coordinate with state regulators, the Bureau announced the American Consumer

Financial Innovation Network (ACFIN). Committee members asked questions regarding the NAL, TDP, and CAS policies. Members and staff also discussed privacy, data use, and potential bias against certain groups of consumers. Members also discussed the importance of enabling agility.

The Director provided some closing remarks for this session and CAB Chair Neiser adjourned the meeting for a break. During the break, advisory committee members met for a preparatory working lunch (a summary of the working lunch can be found below).

Following the working lunch, CAB Chair Neiser reconvened the public meeting. Darian Dorsey (Deputy Assistant Director, Office of Consumer Response) led a discussion on enhancements to the Consumer Complaint Database (Database). Dorsey discussed the function of the Office of Consumer Response and explained that the Bureau examines trends of complaints over time, relationships between sets of complaints, and geographic relation of those complaints. She highlighted recent enhancements which include: updates to the Submit a complaint and Database landing pages, including adding tips for consumers before they start a complaint and a for users of the Database. She also highlighted new data visualization tools that the Bureau will add to the Database in Spring/Summer 2020. Following the presentation, committee members and staff discussed several items related to the Consumer Complaint Database including: the amount of complaint information available, consumer use of tools, company options to flag duplicate complaints, what success looks like to the Bureau, and the format of the data. Further, members and staff discussed feedback from institutions on alternate resolutions, how the Bureau views opinions expressed in complaints, the role of social media in the industry, and the prospect of having financial entities provide data themselves. There was also discussion on the ratio between complaints that are started, and complaints submitted, the number of complaints responded to within 15 days, how banks are notified of complaints, and structured public response categories. Director Kraninger thanked committee members for their time and their feedback. The video of the roundtable is available on consumerfinance.gov.

Preparatory Work: Working Lunch – Private Education Student Loan Ombudsman Introduction

Robert Cameron, Private Education Student Loan Ombudsman, Office of the Director

The preparatory work - working lunch began with an introduction to the Bureau's Private Education Student Loan Ombudsman. CAB Chair Neiser introduced the Private Education Student Loan Ombudsman, Robert Cameron. Cameron greeted committee members and gave a brief overview of his professional career. He also provided background of his military service. He emphasized the importance of building trust and professional partnerships. Additionally, he summarized the Office's priorities and accomplishments to date, including the issuance of the 2019 Annual Report. Committee members and staff discussed student loan servicers, appropriate debt levels, legacy platforms, the return on investment on student loans, and student loan servicer oversight.

Preparatory Work: Working Lunch – Trends and Themes by CAB, CBAC, and CUAC Members

Erik Beguin, Community Bank Advisory Council (CBAC)
Sameh Elamawy, Consumer Advisory Board (CAB)
Manning Field, Community Bank Advisory Council (CBAC)
Sean Cahill, Credit Union Advisory Council (CUAC)

During the preparatory work trends and themes session, two pairs of committee members presented on trends and themes in the financial marketplace. CAB member Sameh Elamawy and CBAC member Erik Beguin presented on trends in credit reporting. Elamawy provided a background on credit reporting and identified 3 major issues that servicers face including: reporting cadence, slow rental reporting, and disputes. Mr. Beguin continued the presentation and focused on credit disputes. He noted that credit disputes help with fraud prevention. However, he explained that there is significant consumer confusion around processing disputes, which cause some consumers to spend money on otherwise free services. He also highlighted other issues such as blanket disputes, fake identity theft disputes, and frivolous law suits. Mr. Beguin then described synthetic identity fraud and identity theft, the threat of credit privacy numbers (CPNs), and issues with the sale of trade lines. Following the presentation, committee members and staff discussed cases of fraud in the industry, penalties for committing fraud, difficulties in consumer reporting, and the accuracy of data at consumer reporting agencies. There was also discussion on debt collection practices and issues with accurate credit reporting.

Next CAB member Manning Field and CUAC Chair Sean Cahill discussed innovation in financial education. Field presented on four case studies. The first study he relayed was on Mint, which successfully gave consumers an aggregated view of their financial data, allowing consumers to learn how to budget and make better decisions. The second study was of Credit Karma, which elevated the numbers around credit health significantly. The third study he highlighted was Digit, which monitored consumer's cash flow, and put some money away on behalf on the users. The final study was on Acorns, which helped consumers obtain the financial confidence and means to properly increase financial health.

CUAC Chair Cahill highlighted information about credit unions and financial empowerment. He noted that financial well-being is founded on knowledge, skills, and access. Furthermore, he shared how credit unions can offer those tools to consumers in various ways, such as through middle school/high school reality fairs, retirement education, life simulations, varieties of educational tools, webinars, podcasts, classroom time, and new programs that are conducive to building financial resources. Next Field provided a rundown of some of the ways educational content can be better made to help consumers. Following the presentation, committee members and staff discussed changing attitudes toward money, aggregators of financial information, and investing into gaming. Members also suggested that education tools be in made conjunction with the Bureau's *Start Small Save Up* campaign.

Adjournment

CAB Chair Brent Neiser adjourned the meeting of the CFPB advisory committees on October 24, 2019 at 3:15 p.m. Eastern.

Certification

I hereby certify that, to the best of my knowledge, the foregoing minutes are accurate and complete.

Matt Cameron
Staff Director, Office of Advisory Board and Councils
Consumer Financial Protection Bureau

Aubery Hulings
Chair, Community Bank Advisory Council