

Credit Union Advisory Council

October 23 - 24, 2019



Consumer Financial
Protection Bureau

Meeting of the Credit Union Advisory Council

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

CUAC members present	CFPB staff present
Chair Sean Cahill	Director Kathleen L. Kraninger
Arlene Babwah	Deputy Director Brian Johnson
Teresa Campbell	Farah Ahmad
Rick Durante	Edward Blatnik
Doe Gregersen	Desmond Brown
Brian Holst	Matt Cameron
Racardo McLaughlin	Robert Cameron
Eric "Rick" Schmidt	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

Crystal Dully, Outreach and Engagement Specialist, Office of Advisory Board and Councils

Sean Cahill, Chair, Credit Union Advisory Council

Outreach and Engagement Specialist Crystal Dully convened the CUAC meeting and welcomed CUAC members and members of the public. She provided a brief overview of the meeting's agenda and introduced the CUAC Chair, Sean Cahill. CUAC Chair Cahill welcomed attendees and explained the CUAC's mission, summarized recent CUAC activities, and outlined the direction of future CUAC efforts. Following Chair Cahill's remarks, CUAC members introduced themselves.

Information Exchange: Regulatory Implementation and Guidance

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

Angela Fox, Counsel, Regulatory Implementation and Guidance, Office of Regulations

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.

Several members asked questions about the Bureau's guidance on requests related to HMDA. Members noted that it is difficult to move forward with compliance while waiting for a response from the Bureau. Members also provided feedback on the Bureau's website usability and content. Some suggested that the Bureau make clear when certain materials are outdated. Others asked that there be more model disclosures and FAQs. Members also discussed how their institutions use the materials provided on the website such as the interactive training tools and rule quick-reference guides.

Members discussed the Bureau’s outreach to compliance officers and small financial institutions to better inform them of the Bureau’s regulatory implementation and guidance function and published materials. They suggested webinars as effective tools along with more consistent outreach to regional credit union leagues, state regulators, and compliance groups. This outreach could be done directly or through live conference calls, as well as by creating a presence at trade events such as the Credit Union National Association (CUNA’s) Governmental Affairs Conference (GAC).

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 generally 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).

Committee Members provided feedback on the Agenda. Members expressed concern about uncertainty in the marketplace if nothing is done to replace the Qualified Mortgage rule as it exists. Members also inquired about HMDA data points and reporting thresholds. Some asked if there is a quantifiable benefit in collecting that information. Members also discussed raising the threshold for when resubmissions are required for compliance officers to report materiality.

During a discussion on PACE loans and indirect auto loans, members expressed the desire for more guidance and a federal requirement for disclosures to protect consumers from unscrupulous lenders. Members discussed small business lending data and noted that data requirements may pose additional challenges to small institutions. They asked what the Bureau has heard from small institutions on this matter. Additionally, members discussed student loans and the difficulty their customers experience paying them due to high interest.

Information Exchange: The Home Mortgage Disclosure Act (HMDA)

Kathleen L. Kraninger, Director

Alexa Reimelt, Senior Counsel, Office of Regulations

Patrick Orr, Policy Analyst, Research, Markets and Regulations, Office of Mortgage Markets

Chair Cahill invited the CFPB's Director, Kathleen L. Kraninger to provide remarks. Director Kraninger welcomed members and thanked them for their participation on the CUAC.

Following the Director's remarks, 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 EGRRCPA'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.

Members noted that complying with all the data points and putting home equity lines of credit (HELOCs) on the same system and making it match the regulation is burdensome. However, members stated that the HMDA resources on the Bureau's website and the implementation

guides were helpful. Responding to members' concerns about the ability of vendors to keep up with implementation, staff explained that the coding is open source so that lenders can download exactly what the Bureau uses and correct errors before submission. Members and staff agreed that continued outreach to vendors regarding the availability of programming code would be helpful.

Shifting to a discussion on resubmission of data to the Bureau, staff said that there are a variety of reasons that financial institutions may resubmit data besides being explicitly required to by the Bureau. Members replied that it was unclear when an error was discovered in previously submitted data whether it was required by regulators to resubmit and that other prudential regulators and financial institutions have different definitions of material, which creates uncertainty.

Members questioned whether data from small institutions is relevant to information on mortgage lending discrimination across the country compared to larger institutions. Members inquired how the data is used, if it is core to the purpose of the HMDA statute as written, and if it is worth all the effort to gather it. Staff noted that the Bureau is soliciting information from external stakeholders to determine if those data points serve the statutory purposes of HMDA. Bureau staff noted that the challenge moving forward is determining which data points are illuminating and balancing that against the burden of gathering them. Following this discussion, staff highlighted a new HMDA Data Browser that might be more user-friendly for novice or infrequent users. Staff also offered some observations on 2018 HMDA data.

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 trial disclosure program (TDP) policy, 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 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 member 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 industries. 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, Advisory Board and Councils Office
Consumer Financial Protection Bureau



Sean Cahill
Chair, Credit Union Advisory Council