

Division Updates

Office of the Stakeholder Management September 3, 2020

Taskforce on Federal Consumer Financial Law & Intergovernmental Affairs

On Monday, August 31, 2020, as part of the Taskforce's ongoing effort to solicit input from Federal partners to inform the Taskforce's work, the Chair, along with a few members, of the Taskforce on Federal Consumer Financial Law (Taskforce) held two meetings; one with representatives from the National Association of Attorney Generals (NAAG); and a second with the Treasury Assistant Secretary for Financial Institutions (Treasury). A day later, Tuesday, September 1, the entire Taskforce met with the FTC.

Bureau attendees at the NAAG meeting included Taskforce Chair, Todd Zywicki, Taskforce members Howard Beales and Bill MacLeod, Taskforce Staff Director Nat Weber, Assistant Director Office of Intergovernmental Affairs Cheryl Parker Rose, Taskforce Senior Counsel Ashlie Tarpley, and Taskforce Paralegal Jeff Magliato. NAAG attendees included some of the organization's staff along with representatives from many of the fifty state Attorney General offices. The meeting focused on the Taskforce's five areas of concern: the legal framework of consumer protection, consumer information/education, competition/innovation, inclusion/access, and regulatory modernization and flexibility. Little feedback was gained from the NAAG participants though many offered that written comments might be submitted after consultation within their respective offices.

Bureau attendees at the Treasury meeting included Taskforce Chair, Todd Zywicki, Taskforce members Howard Beales and Bill MacLeod, Taskforce Staff Director Nat Weber, Assistant Director Office of Intergovernmental Affairs Cheryl Parker Rose, Taskforce Senior Counsel Ashlie Tarpley, and Taskforce Paralegal Jeff Magliato. Treasury attendees included Assistant Secretary Jeffrey Dinwoodie and Special Advisor Robert Greene. The meeting focused on the Taskforce areas of concern of competition and innovation, inclusion and access, and regulatory modernization and flexibility. Notable suggestions for recommendations that came out of the meeting included:

- 1) Regulators should emphasize financial literacy and education and determine which methods for educating consumers work.
- 2) Regulators should avoid collecting data absent a defined purpose and the ability to use the data for that purpose.
- 3) Bureau should consider scaling regulations and compliance requirements to the characteristics of a regulated entity.
- 4) Regulators should create a unified regime for innovative technologies providing services similar to those of banks.

- 5) Regulators should issue more regulatory guidance to guide behavior and make clear the rules of the road.
- 6) Regulators should continue to identify and focus on opportunities to coordinate regulatory efforts.
- 7) Regulators should consider data privacy and cyber security issues and risks presented by emerging technology as part of all regulatory activities.

Bureau attendees at the FTC meeting included Taskforce Chair, Todd Zywicki and all Taskforce members (Beales, MacLeod, Noonan, Durkin), Taskforce Staff Director Nat Weber, Taskforce Senior Counsel Ashlie Tarpley, and Taskforce Paralegal Jeff Magliato. FTC attendees included Director of the Office of Policy Planning Bilel Sayayed, Director of the Bureau of Consumer Protection Andrew Smith, and three other staff members. The meeting focused on the Taskforce areas of concern of the legal framework of consumer protection, competition and innovation, and regulatory modernization and flexibility. Notable ideas to come out of the meeting included:

- 1) Competitive forces are not at play in areas where there is no consumer choice such as debt collection so oversight is more important in these arenas.
- 2) Payment system improvements are stymied by current requirements that market participants need to be part of the standard banking system.
- 3) Allowing exemptions from rules for certain providers (ex: Fin Techs) creates a different rules for different folks and unfair playing field situation.
- 4) Generally, FTC and CFPB seem to be staying in their own lanes but clearer delineation of areas of responsibility might be helpful. Data security is a subject where FTC thinks it has the specialized skill that should preclude other regulators from involvement. Another area of concern is CFPB stepping into the area of FTC work regarding use of credit information in background checks for employment and other like purposes.
- 5) E-sign should be permitted in any situation where a physical signature is allowed.
- 6) Disclosures might be better tailored to delivery at the appropriate times within the life of a transaction rather than issuing them all at once at the start.

Overall, the meetings with these outside groups in furtherance of the Taskforce's engagement plan to solicit input from a variety of sources were productive and led to interesting ideas to consider. The team can share more detailed notes about the discussions upon request.