Taskforce on Federal Consumer Financial Law Listening Session

October 1, 2020
11:00am to 12 pm Eastern

Organization: Federal Deposit Insurance Corporation (FDIC)

CFPB Participants: Todd Zywicki, Bill MacLeod, Tom Durkin, Howard Beales, Cheryl Parker-Rose, Anneliese Simmons, Nat Weber, Jeff Magliato

FDIC Participants: Leonard Chanin, Deputy to the Chairman

Purpose: On Thursday October 1, 2020, Taskforce Members and staff met remotely via WebEx the FDIC Deputy to the Chairman as part of the Taskforce's commitment to engage with external stakeholders to gain insights regarding the financial service industry and financial consumer protection laws. The group discussed opportunities to improve, strengthen, and modernize consumer financial protection laws.

Discussion:

1) **Introductions and Opening**

Taskforce Chair conducted opening remarks and members and FDIC personnel introduced themselves.

2) **On Inclusion and Access (*see discussion prompts*)**

- Issues in this arena need to be looked at from the perspective of, "Who are you looking to help?". There are three groups of consumers: savvy, middle group competent in financial terminology and products, and those that lack even a basic understanding.
- Obstacles to inclusion: Studies show 95% of households are banked (= at least one member of house has checking or savings account). The 95% varies somewhat by age, gender, race.
- Top three reasons for non-inclusion: Lack of trust in system, Prior bad experience with financial interactions, Don't have enough money to maintain an account

- Is there a need for bank accounts? Most benefit from having an account using it as a place to put money, and use to make payments.
- As to the idea of checkless checking accounts, or new types of accounts that allow the making of payments: The obstacles include FDIC insurance for the money in these new types of accounts as well as other overall general protections.
- How does FDIC deposit insurance protection apply to these new payment systems? There does not seem to be an answer at this time.
- The idea of a payment process using an interchange system brings up the problem of how do the providers of financial services make money in such a system. If there is no money to be made, no one will offer a service.
- Small dollar loans are not money makers.
- During the pandemic, the FDIC pushed the idea to the public that options exist for opening accounts using an on-line process.

3) On Competition and Innovation (*see discussion prompts)*

- Credit card and prepaid card industry is very competitive. Competition for bank accounts seems hindered due to the stickiness of bank accounts.
- Bank account competition is complicated by the use of account numbers, routing numbers. And the need of consumer to maintain two accounts for a period of time during the transition period of moving into a new account.
- The reality is that bank accounts are very similar in product and service so there is a question as to whether consumers would switch accounts even if the process was simple.
- Yes phone number portability helps in the cell phone shopping world but the structure of the banking system makes account movement more complicated than cell phone movement.
- Banks do engage in programs to entice consumers to switch to new providers using incentives. It seems banks are finding it easier to buy accounts by buying competitors.
- Banks face the dilemma of making account switching easy to attract new customer but make it difficult to keep current customers.
- Bank and fintech cooperation to enhance competitive positions is an issue for FDIC. When does the FDIC insurance protections apply? When money is with the Bank, certainly, but what about when money is in transit from fintech to bank or in fintech control?

4) Consumer Information and Education (*see discussion prompts*)

- In the world of disclosures, there is tension between the providing of accurate information vs the timing of the provision of information.
- The process now is the consumer gets disclosure then clicks a button to get a loan. This is fast but the quality of the information given to the consumer is questionable.

- Evidence shows consumers don't read the information in disclosures and if they do read, there is so much information provided that they are unable to focus or discern what is important. Information is often too abundant and not helpful. And consumers often just don't care about anything other than, "What is my payment?"
- Standard disclosures for bank accounts is an idea. Such a standard might help consumers shop. The problem is that a variety of products with various options makes it difficult to employ a standard enclosure that addresses the differences. Fees, due to the sheet number and variety, are difficult to capture in standard disclosure. Accounts can be complicated.
- Every regulation made to govern is either under or over inclusive. The overall idea is to keep things simple on the regulatory side while products in the marketplace are not always simple.
- The value of a disclosure is often a function of the type of product. Credit cards are a common item very familiar to the consumer. Familiarity with the product makes giving effective disclosures an easier task. In contrast, products like mortgages are rarely used, and the disclosures for this product are not well known or understood by consumers so disclosure approach needs to be treated differently than for credit card disclosures.
- Consumers do not shop for late fees or prepayment penalties. Credit cards are often used as a loan at an instant to satisfy an immediate consumer need so disclosures are of less value. The value of disclosures here is not so much in helping consumers but in keeping providers in check. The requirement of disclosures allows for litigation which is the way the institutions are kept in check.
- Testing has shown education of customers is not useful in helping them protect themselves. One test gave consumers an opportunity to direct payment to lower interest rate portion of their bill instead of the highest, the tested did not use their opportunity well.
- Limiting an institution's ability to change terms via regulation and disclosure can end of hurting consumers that are than dropped as product holders because the lower interest rates held by these consumers are no longer attractive to the lender. The lender just drops these consumers.
- Some discussion about Chime and its partnering with main stream banks took place but no definitive comments were made.

5) Potential recommendations:

1. Establish a standard bank account disclosure form to help consumers shop for bank accounts. (item 2, 4th bullet)
2. Safety and soundness issues should be considered when implementing consumer protection laws and regulations. Credit Card Act limited ability to change terms of cards. This led to a 10% drop in portfolios and widespread freezing of credit lines when creditors were prohibited from raising interest rates on consumers with existing credit. (item 4, 9th bullet)
3. Identify when funds are covered by FDIC deposit insurance in situations where banks are partnered with FinTechs to offer payment services (ex. Are funds in transit covered by

depository insurance? Are funds in possession of the partnered FinTech covered by depository insurance.) (item 3, 7th bullet)

4. Conduct research to determine why FinTechs are partnering with traditional banks (to receive access to payments system, to avoid state laws through preemption, to receive depository insurance, or some combination of other reasons) to identify ways to make such activity more efficient and consumer friendly. (item 4, 10th bullet)

6) Potential Action Items:

1. Address the idea of standard bank account disclosure forms in the Volume I Disclosure chapter.