

Consumer Financial Protection Bureau
1700 G Street NW
Washington, D.C. 20552



August 27, 2020

Briefing memorandum for the Director

Taskforce on Federal Consumer Financial Law Monthly Check-in

| | |
|--------------------------|--|
| DATE | Thursday, August 27, 2020 |
| TIME | 10:00 am – 10:30 am Eastern |
| LOCATION | WebEx Audio and Visual |
| PARTICIPANTS | Matt Cameron, Assistant Director, OSM Todd Zywicki, Taskforce Chair Nat Weber, Taskforce Staff Director Tom Pahl, Deputy Director |
| STAFF CONTACT | Nat Weber, Staff Director, x Redacted |
| POLICY ASSOCIATE | Andrew Duke, Policy Associate Director, CEEA, x Redacted |
| DIRECTOR APPROVAL | Delicia Hand, Deputy Associate Director, CEEA, x Redacted |

Objective

The primary objective of this meeting is to provide you with a status update related to the Taskforce on Federal Consumer Financial Law's (Taskforce) work.

Andrew Duke
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Timing Considerations

The Taskforce governance documents state that the Director or her designee will hold monthly check-in meetings with the Taskforce Chair and the Staff Director, but there are no specific deadlines or other timing considerations to consider for this meeting.

Background

The Taskforce will (1) examine the existing legal and regulatory environment facing consumers and financial services providers; and (2) report its recommendations for ways to improve and strengthen consumer financial laws and regulations, including recommendations for resolving conflicting requirements or inconsistencies, reducing unwarranted regulatory burdens in light of market or technological developments, improving consumer understanding of markets and products, and identifying gaps in knowledge that should be addressed through future Bureau research.

Pursuant to the Taskforce Roles and Responsibilities document, the Staff Director and Taskforce Chair will hold a monthly check-in with the Director to provide status updates on its work. The Staff Director will utilize the attached milestone schedule in **Tab 1** to discuss accomplishments to date, work currently in-progress, planned work, and risks that the team is working to mitigate. The Taskforce Chair will use the Volume I Progress Report in **Tab 2** to discuss the evolution of the report's contents and its progress, and the Volume II Progress Report in **Tab 3** to highlight the recommendations that are being developed. For additional visibility, the team will include views into ideas for potential recommendations that have not been discussed for the September check-in. The Chair will also share requests for resource support, any support needed in addressing dissent, or scope clarification questions that may require executive input.

This is the seventh monthly check-in with the Staff Director and Taskforce Chair. Your most recent interaction with the entire Taskforce was at the July 16 Taskforce Public Hearing. You last met with the Taskforce Chair and Staff Director during the July 23 Monthly Check-in. You will next interact with the Taskforce during the Bureau's Advisory Committee Meetings on September 15 and, then again, on September 24. Below is a brief update that the Staff Director and Chair will expound upon during the monthly check-in. The monthly check-in will be conducted via WebEx Audio and Visual and the preference is for you to turn your camera on.

Report Progress

- The Taskforce members will generate a two-volume report, which will be informed by the public, meeting with Bureau experts, and leveraging members' past insights and expertise.

- In Volume I of the report, members will analyze data regarding the benefits and costs of consumer financial products and services and review the existing consumer financial regulatory framework to develop a common understanding of the history and current state of federal consumer financial laws and their influence on the marketplace.
- Volume II will contain recommendations for improvements to the consumer financial system. Over the past month the Taskforce has turned its focus to Volume II work.
- Last month, July 21 – 24, the Taskforce met for four days via WebEx in two-hour sessions twice a day. The first half of the week was spent reviewing insights obtained through the Taskforce RFI and Public Research summaries that were shared during last month's check in. The latter part of the meeting was spent talking through numerous recommendations to be presented in Volume II of the report. Taskforce member Jean Noonan is the lead member in preparing this volume. Limited discussion of Volume 1 chapters occurred as chapter authors continue to refine their works in preparation for submission for staff review.
- The Taskforce held a working session on Tuesday, August 11 at which it continued consideration and analysis of proposed recommendations.

Taskforce Engagements & Interactions

- The Taskforce continues execution of its overall outreach plan (see **Tab 4**). On July 22 the Taskforce Chair met with seven officials from the Conference of State Bank Examiners (CSBS). The discussion centered around the dual federal and state regulatory model. CSBS emphasized the importance of the regional/local knowledge that state entities bring to the job of consumer financial protection. In response to a Taskforce Chair query, CSBS noted that it considers information sharing efforts with state regulators by CFPB and other federal regulators the one action of most use to states in their efforts to conduct consumer protection work in an efficient and effective manner. On August 6, 2020, CSBS released a blogpost titled “State and Federal Coordination in Consumer Financial Sphere” that noted CSBS met with the Taskforce Chair to share ‘insight on the areas of concern for state regulators in the consumer finance industry’ (see **Tab 5**).
- The Taskforce continues to implement its state and federal outreach plan as described in **Tab 6**. The Bureau Intergovernmental team is helping to arrange meetings with key stakeholders from each of the state and federal organizations listed in **Tab 6**. The Taskforce Chair and Staff Director are scheduled to meet representatives from the

National Credit Union Association (NCUA) on August 24, and representatives from the National Association of Attorneys General (NAAG) on August 30.

- The Taskforce is in the process of supporting the Advisory Boards and Councils team as it prepares for a public meeting with the Consumer Advisory Board (CAB), Community Bank Advisory Council (CBAC), and Credit Union Advisory Council (CUAC) on September 15. Next the teams will begin preparing for a public meeting with the Academic Research Council (ARC) on September 24. You will deliver opening remarks at both these meetings, and the Taskforce intends to repurpose the discussion prompts used for the July 16 Public Hearing that the Taskforce hosted during Consumer Financial Protection Week.
- In early August, the Taskforce reached out with requests for specialized assistance to the Bureau's SEFL, RMR, CEE, and OFLEO groups. The requests are for support in researching or drafting small, well-defined scopes of work to help fill gaps in Taskforce knowledge. A comprehensive list of the requests and interactions with Bureau stakeholders outside of the Taskforce is available.
- Plans are now being developed to reach out to senior leadership throughout the Bureau to share the overall tone and direction of the Taskforce's initiative.

Attachment

Tab 1: Taskforce Milestone Schedule.

Tab 2: Volume I Progress Report.

Tab 3: Volume II Progress Report.

Tab 4: Taskforce External Engagement Strategy.

Tab 5: CSBS Blogpost.

Tab 6: Taskforce State and Federal Outreach Plan.

Tab 7: Taskforce Key Points Document.

August 27 Monthly Check-In Summary

| Milestone | Target Deadline | Notes | Risks |
|---|-------------------|---|---|
| 4 Request for Information (RFI) | April 2020 | Summaries completed on 7/17 | Feedback from public may be limited due to COVID-19, so the team will rely heavily on Call for Evidence feedback as well as public research |
| 6 Advisory Committee Listening Sessions | March 12-13, 2020 | New milestones have been added to this document account for an updated public engagement plan. | Pandemic impacted the teams external engagement strategy. An updated public engagement plan was released via blog. |
| 9 Obtain all research needed to begin crafting Volume I | June 2020 | Only targeted ad hoc inquiries remain. | |
| 10 Draft topic and theme analyses (i.e. Vol I of the report) | August 2020 | Schedules, staff support, and approach have been modified to ensure timely delivery of full report. | Members are writing concurrently to avoid delays. The team paralegal will serve as a copy editor to ensure the report reads as a single document. |
| 11 First Draft Recommendations (i.e. Vol II) | October 2020 | Initial recommendations listed, and team is using bi-weekly calls to review and come to consensus. | The team will return to considering additional recommendations during the team's October meeting (10/5-9). |
| 12 Public hearing | July 16, 2020 | | |

Status Key

| | |
|-------------|-----------|
| Not started | No risk |
| At risk | Delayed |
| Complete | Cancelled |

July 23 Monthly Check-In Summary

| Milestone | Target Deadline | Notes | Risks | |
|-----------|--|--|---|--|
| 13 | ABC Listening Session | September 5, 2020 & September 24, 2020 | This will replace the March 13 ABC Listening Session, and will be used to refine final recommendations. | |
| 14 | Engage Federal and State Partners on potential recommendations | September-October 2020 | Engagements have started while scheduling continues. | |
| 15 | Finalize recommendations | November 1, 2020 | Team plans to be onsite 10/5-9 for last meeting to add new content. | |
| 16 | Refine report contents | November 2020 | Team plans to be onsite 11/16-20 to conduct final revisions of report. | |
| 17 | Submit initial draft to clearance | November 24, 2020 | On schedule to enter clearance on 11/24. | Team working to develop clearance process by early fall. |
| 18 | Final report delivered to Director | January 29, 2021 | | |
| 19 | Provide Bureau Stakeholders a readout | January 8, 2021 | This will not be the first time Bureau stakeholders have gotten to see the report, but it will be the first it is shared in totality. | The team will work to avoid details leaking. |
| 20 | Provide Prudential Regulators a readout | January 2021 | Timing and process to be developed. | |
| 21 | Publish Report | End of January 2021 | | |

Status Key

| | |
|-------------|-----------|
| Not started | No risk |
| At risk | Delayed |
| Complete | Cancelled |

Milestone Schedule

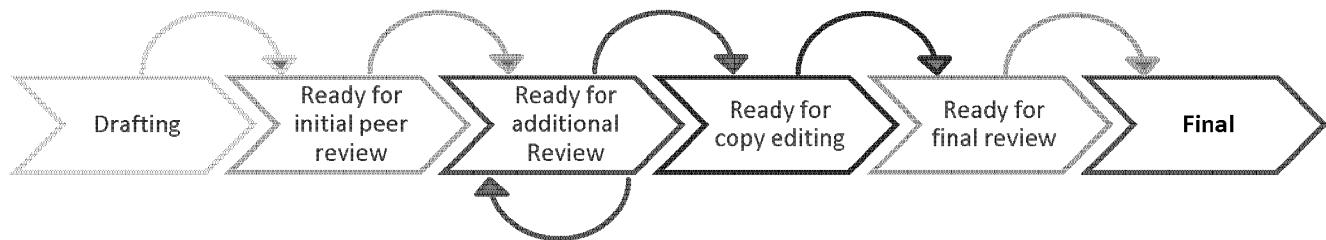
| | Jan - Mar 2020 | Apr - Jun 2020 | Jul - Sep 2020 | Oct - Dec 2020 |
|--|----------------|----------------------------|----------------|---------------------------|
| Initiation | | Present - Mid-March | | |
| 1. Onboard Taskforce Members | | | | |
| 2. Onboard Taskforce Support Staff | | | | |
| 3. Define all opportunities for review | | | | |
| Prioritize, Learn, and Confirm | | February - April | | |
| 4. Public Request for Information | | | | |
| 5. Roundtables | | | | |
| 6. ABC Listening Sessions | | | | |
| 7. Bureau Meetings | | | | |
| 8. Draft Working Table of Contents for Volume I | | | | |
| Analysis | | March - October | | |
| 9. Obtain Research needed to begin crafting full report | | | | |
| 10. Draft topic and theme analyses (i.e. Volume I of the report) | | | | |
| 11. Draft Recommendations (Vol II) | | | | |
| Recommendations & Engagement | | July - November | | |
| 12. Public Hearing | | | | |
| 13. ABC Listening Sessions | | | | |
| 14. Engage Federal and State Partners on potential recommendations | | | | |
| 15. Finalize recommendations | | | | |
| Clear, Socialization & Close Out | | | | October - February |
| 16. Refine report contents | | | | |
| 17. Submit initial draft to clearance | | | | |
| 18. Final Report | | | | |



Report Enters Clearance 11/24

High Level Schedule

| | Jan 2021 | Feb 2021 | Mar 2021 | Apr 2021 |
|---|----------|----------|----------|----------|
| Socialization | | | | |
| 19. Provide Bureau Stakeholders a readout | | | | |
| 20. Provide Prudential Regulators a readout | | | | |
| 21. Publish Report | | | | |
| 22. Send report to Hill offices | | | | |
| 23. Conduct outreach on legislative recommendations | | | | |
| Closeout | | | | |
| 24. Ensure records management requirements are met | | | | |
| 25. Taskforce Members Offboarding | | | | |
| 26. Director reviews report | | | | |
| 27. Create actionable plan to implement Taskforce recommendations | | | | |
| 28. Taskforce Support Staff Offboarding | | | | |
| 29. Taskforce Charter Expires | | | | |

Volume 1: Tracking**Drafting Process:****Chapter Statuses:**

| Chapter | Subject matter | Author | Current status | Ready for next status |
|----------------|--------------------------------------|---------------|-------------------------------|------------------------------|
| 1 | Introduction | Tom D. | Ready for copy editing | 11/11 |
| 2 | Extent and Growth of Consumer Credit | Tom D. | Ready for copy editing | 11/11 |
| 3 | Demand for Consumer Credit | Tom D. | Ready for copy editing | 11/11 |
| 4 | Supply of Consumer Credit | Tom D. | Ready for copy editing | 11/11 |
| 5 | Small Dollar | Tom D. | Ready for copy editing | 11/11 |
| 6 | Consumer Credit Regulator Principles | Todd Z. | Ready for additional review | 9/8 |
| 7 | Information and Disclosure | Howard B. | Ready for copy editing | 11/11 |
| 8 | Competition | Bill M. | Drafting | 9/11 |
| 9 | Innovation | Bill M. | Drafting | 8/31 |
| 10 | Financial Inclusion | Todd Z. | Ready for Initial Peer Review | 9/8 |
| 11 | Privacy and Data Security | Howard B. | Drafting | 8/21 |
| 12 | Financial Literacy and Education | Greg | Drafting | 8/31 |
| 13 | Regulatory Modernization Framework | Ashlie | Drafting Outline | 10/15 |

Recommendation: Tracking**Recommendation Status:**

| Recommendation # | Type/Subject | Discussed | Member Agreement | Final Draft Completed |
|-------------------------|--|------------------|-------------------------|------------------------------|
| 1 | CFPB/ CFPB should adopt a public statement penalty or matrix of how it will assess penalties and its objectives in assessing penalties. Penalties should be determined by consumer harm and adjusted to further deterrence. | Yes | Yes | No |
| 2 | CFPB / The CFPB should consider penalties that FTC would assess in a similar case with the goal of ensuring fair treatment. | Yes | Yes | No |
| 3 | Congress / Congress should establish a civil penalty commission (similar to the Federal Sentencing Commission) to develop a consistent penalty structure for consumer protection violations across the regulating agencies (prudentials, FTC, CFPB). | Yes | Yes | No |
| 4 | CFPB – FTC / Where the CFPB and FTC have dual jurisdiction, which agency is the lead should be based on the expertise of each entity not the ability to assess penalties | Yes | Yes | No |
| 5 | Congress-CFPB-FTC / Retain dual jurisdiction with the FTC to leverage each organization's relative expertise. | Yes | Yes | No |

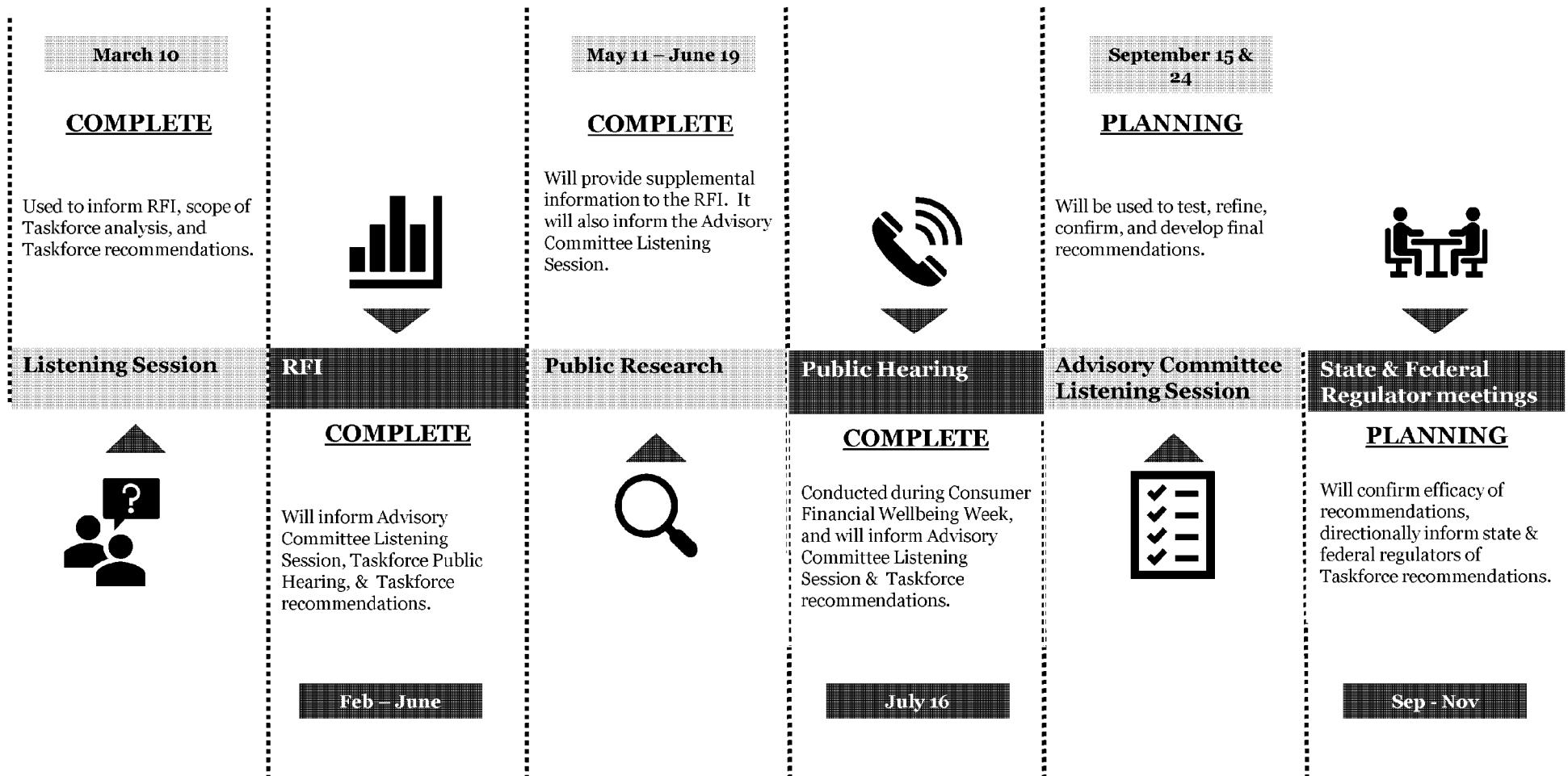
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|----|---|-----|-----|----|
| | | | | |
| 6 | CFPB / CFPB should go through the exercise of identifying what consumer harm means (principles, rather than case-by-case determination of what's a cognizable type injury). | Yes | Yes | No |
| 7 | CFPB / CFPB should engage in cost benefit-analysis and retrospective reviews of its regulations. | Yes | Yes | No |
| 8 | Congress -CFPB / Rethink and research what is needed by a consumer in a disclosure to protect consumers and orient the disclosure system accordingly. | Yes | Yes | No |
| 9 | CFPB / Bring competition, effects on consumer choice, and competitive effects of remedies into deliberations under the Dodd Frank mandate to consider effects on competition. | Yes | Yes | No |
| 10 | CFPB / Incorporate effects on inclusion, access, and choice into rulemaking and enforcement deliberations under the Dodd Frank mandate to consider these issues. | Yes | Yes | No |

| | | | | |
|----|--|-----|-----|----|
| 11 | CFPB / Instead of tools, organize CFPB activity around consumer markets and the way a consumer approaches financial transactions (ex: consumers look at a payday loan and their experience revolves around the total effects of regulation-enforcement-supervision-education for that product) – modeled loosely on the FTC. | Yes | Yes | No |
| 12 | CFPB / CFPB should create an office to help shape CFPB priorities, allocate resources to strategically address problems and opportunities, coordinate action throughout the CFPB, and advance external advocacy similar to the FTC OPP. | Yes | Yes | No |
| 13 | CFPB / CFPB should study how electronic disclosures can be used to inform consumers and improve efficiency of service. | Yes | Yes | No |
| 14 | CFPB / Apply usability testing standards (vs current emphasis on comprehension standards) in the review assessment of disclosures to focus on what is important and of value to consumers. | Yes | Yes | No |
| 15 | CFPB / Build up CFPB capability to research competition issues to enable the Bureau to conduct competition analysis in assessing its actions. | Yes | Yes | No |

| | | | | |
|----|---|-----|-----|----|
| 16 | CFPB and Other Regulators / Research how the consumer protection regime under Dodd Frank affects financial institutions (for example: causing mergers, driving entities from markets) and the resultant effects on overall consumer protection. | Yes | Yes | No |
| 17 | CFPB / CFPB should conduct general ongoing study of the cost structure of different types of products considering overall cost not just regulatory cost. | Yes | Yes | No |
| 18 | CFPB / Update studies on credit reports. New studies should consider accuracy of information in reports and whether information not included in reports should be included. | Yes | Yes | No |
| 19 | CFPB / Research how much small dollar credit use and potential consumer harms are caused by delays in payment processing. | Yes | Yes | No |
| 20 | CFPB / Research the effect of student loans on financial well-being and financial maturation of consumers (how the financial development of consumers is affected with focus on credit scores and mortgage availability). | Yes | Yes | No |
| 21 | Congress / Fix the E-Sign Act and give rule writing authority to CFPB or | Yes | Yes | No |

| | | | | |
|----|--|-----|-----|----|
| | other agencies for electronic disclosures. | | | |
| 22 | Undetermined / We endorse the development of systems of faster payments. | Yes | Yes | No |

Taskforce External Engagement Strategy



Public Communications and Rollout Plan

- 1. June 1:** RFI comment window closes
- 2. June 12:** Publish a blog post from the Taskforce Chair announcing future engagement activities and summarize what's already been done in terms of external engagement.
- 3. July 1:** Post agenda and public hearing invitation details on the events page of the Bureau webpage.
- 4. July 16:** Taskforce Public Hearing
- 5. September 15 & 24:** Taskforce-Advisory Committee Listening Session.
- 6. October 2:** Publish a blog post from the Taskforce Chair thanking stakeholders for feedback and highlight next steps for the Taskforce's work and recommendations.
- 7. September-November:** Engagements will occur with state and Federal partners. Details under development.
- 8. Date TBD:** Additional communications on the release of the report and recommendations.

State and Federal Coordination in Consumer Finance Sphere

Aug 06

Effective partnership between federal and state regulators is an essential aspect of successful regulatory oversight, especially when it comes to the consumer finance industry. The states and the Consumer Financial Protection Bureau (CFPB) recognize this and actively find ways to work together.

Their ability to coordinate and collaborate ensures a balanced regulatory environment that focuses on both the specific needs of consumers as well as nationwide concerns. To maintain this balance, it is imperative that state and federal regulators find ways to work together to protect consumers from harmful practices.

Earlier this year, CFPB established the Taskforce on Federal Consumer Financial Law to assess the current legal and regulatory environment facing consumers and financial services providers. Following thorough analysis of consumer financial laws in the United States, the Taskforce will provide recommendations to CFPB Director Kathy Kraninger on ways to harmonize, modernize and update enumerated consumer credit laws.

This new taskforce found inspiration in part from the National Commission on Consumer Finance of 1968, a body established by the Consumer Credit Protection Act to provide insight on the consumer finance industry. The 1968 commission investigated the regulatory landscape of consumer credit and subsequently reported their findings, analysis and recommendations to Congress.

Their report led to significant legislative and regulatory developments in consumer finance and ultimately helped shape the industry's perspective for years to come. The new taskforce intends to conduct similar research into consumer financial laws and regulations with the ultimate goal of proposing improvements to the existing legal and

regulatory environment.

Recently, the chair of the taskforce met with CSBS staff to discuss its high-level objectives and gain insight on the areas of concern for state regulators in the consumer finance industry. The discussion centered around the different yet equally important perspectives that state and federal regulators contribute to this area. This dialogue is one of the many instances where state and federal regulators come together to further their joint supervisory mission of consumer protection.

Since the establishment of the CFPB in 2010, state regulators have exercised concurrent regulatory, supervisory and enforcement authority with their federal counterpart. As the consumer finance industry has grown and evolved with changes in innovation and technology, state regulators have continued to develop standards to foster a more efficient and effective regulatory system.

Currently, state regulators license and regulate more than 20,000 nonbank financial services providers. This supervisory authority makes state regulators responsible for ensuring these providers operate in compliance with state and federal consumer protection laws while continuing to provide consumers with access to a wide array of financial services. State regulators often act as the first regulatory point of contact for consumers and play a critical role in intaking, reviewing, and following-up on consumer complaints. They also provide a unique perspective of the industry basing many of their regulatory responses off local knowledge and direct ties to the needs of the community.

In addition to establishing the CFPB as the primary federal regulating authority for consumer financial issues, the Dodd-Frank Act recognized the need for state regulators as a force multiplier for consumer protection. This law empowers state regulators to enforce statutory provisions of federal consumer financial laws within their respective states either as a co-enforcer with the CFPB or an independent actor.

In order to facilitate a coordinated system of supervision and information sharing, state regulators and the CFPB in 2013 established the State Coordinating Committee, which

improved regulatory coordination in the oversight of nonbank entities and enhanced the supervisory capacity of both state and federal regulators. In recent years, coordinated efforts between the states and the CFPB proved that this valuable partnership fostered a more efficient and effective regulatory system.

Federal and state regulators share the supervisory mission of protecting consumers from potentially harmful practices of consumer financial services providers. Together, they can achieve this pursuit by maintaining the spirit of coordination and collaboration they have held for many years.

The Conference of State Bank Supervisors looks forward to the CFPBs' continued engagement with the states as the Taskforce undertakes their work.

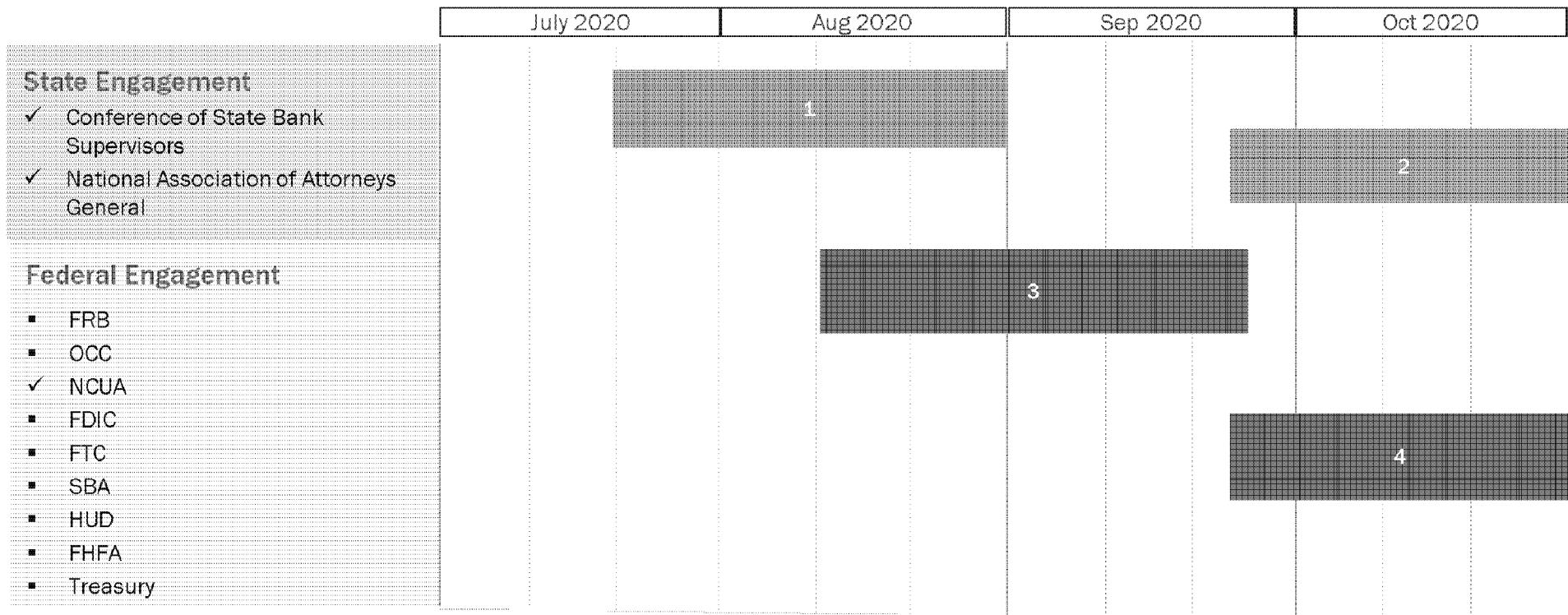


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High Level State & Federal Engagement Plan



| | Event | Target Date | Participant | Event Goal |
|---|--|-------------|--------------|--|
| 1 | Initial engagement | 7/22-8/31 | Todd Zywicki | Chair joins a summer call to share Taskforce scope and initial outline of state-federal issues in scope. Offers an email address for individuals to share areas of state-federal interaction that they would be interested in seeing included in the report. |
| 2 | Share and refine state recommendations | 9/21-10/23 | Todd Zywicki | Chair follows up in fall to share and refine recommendations. |
| 3 | Initial engagement | 8/25-9/25 | Todd Zywicki | Chair joins a summer call to share Taskforce scope and initial outline of federal issues in scope. Offers an email address for individuals to share areas of jurisdictional overlap that they would be interested in seeing included in the report. |
| 4 | Share and refine state recommendations | 9/24-11/15 | Todd Zywicki | Chair follows up in fall to share and refine recommendations. |

Taskforce on Federal Consumer Financial Law

Key points

Key Point 1: The Taskforce on Federal Consumer Financial Law (Taskforce) will examine the existing legal and regulatory environment facing consumers and financial services providers.

- The Taskforce expects to take one full year in order to produce new research and analysis of Federal consumer financial laws in the United States, focusing specifically on:
 - harmonizing, modernizing, and updating Federal consumer financial laws, including implementing regulations;
 - analyzing ways to improve consumer understanding of markets and products; and
 - identifying potential conflicts or inconsistencies in existing regulations and guidance.

Key Point 2: The Taskforce will develop a report containing recommendations for ways to improve and strengthen consumer financial laws and regulations.

- The report will include an analysis of the eighteen enumerated consumer laws and their implementing regulations currently under the Bureau's jurisdiction.
- Report recommendations will seek to:
 - resolve conflicting requirements or inconsistencies in existing consumer financial laws and regulations;
 - reduce unwarranted regulatory burdens in light of market or technological developments;
 - improve consumer understanding of markets and products; and,
 - identify gaps in knowledge that should be addressed through future Bureau research.

Key Point 3: The Taskforce is in part inspired by an earlier commission established by the Consumer Credit Protection Act (Act) in 1968.

- The Act established the National Commission on Consumer Finance (NCCF) to conduct original research and provide recommendations relating to the regulation of consumer credit.

- The Commission’s report contained original empirical data, information, and analyses—all of which undergird the report’s final recommendations. The data, findings, and recommendations from the Commission were all made public and the report led to significant legislative and regulatory developments in consumer finance.
- The establishment of the Bureau follows decades of growth and innovation in financial offerings and credit products available to consumers nationwide since the 1972 NCCF report. Similar to the NCCF, the Taskforce provides an opportunity to provide a new perspective on consumer financial law within the context of recent developments and current products in the United States consumer finance markets.

Recent Bureau actions or announcements

- On June 8, 2020, the Bureau released a blog post that outlined the Taskforce’s commitment to public engagement. <https://www.consumerfinance.gov/about-us/blog/taskforce-federal-consumer-financial-law-charting-path-ahead/>
- On March 27, 2020, the Bureau issued a Request for Information to Assist the Taskforce on Federal Consumer Financial Law. The comment window is 60 days and closes on June 1, 2020. <https://www.consumerfinance.gov/about-us/newsroom/cfpb-issues-rfi-to-assist-taskforce-on-federal-consumer-financial-protection-law/>
- On January 17, 2020, the Bureau announced the appointment of one additional member to the Taskforce via press release. <https://www.consumerfinance.gov/about-us/newsroom/cfpb-announces-additional-member-to-taskforce/>
- On January 9, 2020, the Bureau announced the appointment of four members to the Taskforce via press release. <https://www.consumerfinance.gov/about-us/newsroom/cfpb-announces-membership-taskforce-federal-consumer-financial-law/>
- On October 11, 2019, the Bureau announced its intent to form the Taskforce via press release. <https://www.consumerfinance.gov/about-us/newsroom/cfpb-announces-taskforce-federal-consumer-financial-law/>

Key Q&A

Q1: How were the Taskforce members selected? More specifically, why are there no consumer advocates on the Taskforce?

A1: Consistent with Section 11 of the Taskforce’s Charter, the Bureau sought to assemble members who were experts in consumer financial law with diverse points of view, such as attorneys, economists, and academics with significant experience researching and analyzing consumer financial markets, laws, and

regulations, and a record of involvement in research and public policy, including senior public or academic service. Additionally, the Bureau sought members who were prominent experts recognized for their professional achievements and objectivity, including those specializing in household finance, finance, financial education, public economics, econometrics, and law and economics, and experts from social sciences related to the Bureau’s mission.

The Bureau established and followed a robust selection process, which included a public application period. The Bureau created an internal cross-divisional committee that consisted of Bureau civil servants who reviewed applications, conducted interviews, and made recommendations to the Director for appointment to the Taskforce. Consistent with the criteria established by Section 11 of the Taskforce Charter, the individuals selected are highly skilled and respected professionals who have a wide range of experience, including past public service within the federal government. For example, four Taskforce members served in leadership capacities at the Federal Trade Commission, and the fifth member was a civil servant at the Federal Reserve. Multiple Taskforce members have also served their communities through academia, such as teaching courses on consumer protection law and related subjects.

Q2: Is this Taskforce a Federal Advisory Committee? What is the Taskforce members employment status with the Bureau? How did the Bureau determine their compensation, how much does the Bureau expect to pay in total salaries for Taskforce members, and are you providing them with benefits?

A2: The Taskforce is an intragovernmental committee and not subject to the Federal Advisory Committee Act (FACA). The Taskforce is focused on producing a comprehensive set of recommendations to the Bureau that the Director may or may not accept. Given the scope, timeline, and time commitment required of Taskforce members, the Bureau determined that it was most appropriate to have the Taskforce members serve as federal employees.

Taskforce members’ compensation was formulated in accordance with the Intergovernmental Personnel Act (IPA) and the Bureau’s standard compensation process. Taskforce members serve on an intermittent schedule and are paid at a set hourly rate, so their total compensation depends on the number of hours they work. The Chair of the Taskforce will not receive compensation from the Bureau, but, pursuant to the IPA, the Bureau will reimburse his employer directly for the hours of work he performs, at an hourly rate of \$141.84. The other four Taskforce members are appointed through the Bureau’s expert hiring authority, and they serve as Special Government Employees (SGEs). As SGEs, their service for the government is limited to 130 days within a one-year period. Their pay was determined through the Bureau’s standard compensation process and is at the CN-71 pay band. They are paid at an hourly rate of \$103.39, including locality pay.

Q3: Are you concerned about conflicts of interest given that most of the Taskforce members are continuing with outside employment? Did any members receive ethics waivers?

A3: Taskforce members must comply with the applicable conflict of interest statutes and the Standards of Ethical Conduct for Employees of the Executive Branch, including the provisions governing outside employment and other outside activities found in 5 C.F.R. Part 2635, subpart H. The Bureau is confident that Taskforce members will perform their duties consistent with the highest ethical standards in government service.

One Taskforce member was detailed to the Bureau under the Intergovernmental Personnel Act (IPA) and is considered a regular government employee for purposes of federal ethics statutes and regulations. Four Taskforce members were appointed as Special Government Employees (SGEs) through the Bureau's expert hiring authority and are considered intermittent employees of the Bureau. Agencies benefit from outside perspectives and expertise that would not be possible to obtain if experts were required to forego their private professional lives as a condition of limited government service. Therefore, Congress created the SGE category in 1962, when it recognized the need to apply limited conflict of interest restrictions to experts, consultants, and other advisers who serve the government in an important but limited basis.

Two members of the Taskforce on Federal Consumer Financial Law have received an ethics waiver under 18 U.S.C. § 208(b)(1). As required by 5 C.F.R. § 2640.303, the Bureau formally consulted with the U.S. Office of Government Ethics (OGE) prior to the issuance of each of the waivers. OGE did not object to the issuance of these two waivers from the financial conflict of interest statute. Neither of the Section 208(b)(1) waivers issued to Taskforce members waives conflicts arising from the financial interest of the Taskforce member's non-federal employer. Additionally, all Taskforce members will be prohibited from making a communication to or appearing before the Bureau on behalf of another person or entity to seek official action on any matter, for one year after their Bureau service terminates.

Q4: What is your response to the consumer groups' lawsuit alleging that the Taskforce violates the Federal Advisory Committee Act (FACA)? How will this lawsuit affect the Taskforce's work?

Q4: The Bureau followed the law in establishing the Taskforce, and we are confident that the court will agree. The Taskforce is an intragovernmental committee and not subject to the Federal Advisory Committee Act (FACA). The Taskforce remains focused on its mission—to develop a comprehensive set of recommendations regarding consumer protection laws.

Q5: How does the Taskforce plan to engage with the public?

Q5: The Taskforce has engaged and will continue to engage the public to obtain information that will help inform its report and recommendations. For example, on March 10, 2020, the Taskforce engaged in a listening session with members of approximately 12 consumer advocacy groups, industry trade groups, and market participants, representing a cross-section of Bureau stakeholders. In addition, on March 27, 2020, the Bureau issued a Request for Information to Assist the Taskforce, which seeks input from the public to help identify areas of consumer protection on which it should focus its research and analysis during the balance of its one-year appointment. Looking forward, the Bureau intends to

announce details for a public hearing later this summer, at a time and in a format that enables participation consistent with the safety of all participants. The Taskforce also intends to participate in a public listening session with the Bureau’s four advisory committees, which will take place this fall. Insights from the RFI, the public hearing, independent research, and the advisory committee listening session will help inform the recommendations that will ultimately be in the Taskforce’s final report.

Q6: Why hasn’t the Bureau paused the Taskforce’s work given the impacts of COVID-19?

A6: The Director established the Taskforce to objectively and independently evaluate the current regulatory framework, and the Bureau will use the Taskforce’s analyses and recommendations to, among other things, help inform the Bureau’s discretionary research and rulemaking agendas. Consistent with those goals, the Taskforce Charter provides that the Taskforce is expected to deliver its findings to the Director no later than January 2021. The Taskforce is working diligently to meet this target date.

The Taskforce’s independent status within the Bureau enables it to continue its analysis while the Bureau’s full-time resources are devoted to addressing the Covid-19 pandemic’s immediate effects on the consumers and the market for consumer financial products and services. Thus, the Taskforce has been analyzing and will continue to analyze consumer financial law generally, while at the same time the Bureau has devoted and will continue to devote substantial resources to addressing the pandemic’s economic effects. The Bureau recognizes that many stakeholders have limited resources that they can currently devote to engaging with the Taskforce and may not, for example, have been able to submit as detailed comments to the Request for Information as they would have in normal circumstances. The Bureau is planning additional public engagements, including a public hearing and advisory committee listening session, to ensure that stakeholders have additional opportunities to provide feedback. In addition, the Taskforce’s research includes reviewing and analyzing prior reports, comments, and other analysis that stakeholders have released publicly.

Q7: How do you foresee the Taskforce conducting a thorough review of all Federal Consumer Financial Laws given the one-year timeline and limitation on the number of days the Taskforce members are able to work? And what will be the cost?

A7: The Taskforce, as led by a Chair and a full time Staff Director, will allocate its time and resources efficiently and effectively and continually prioritize its work. Bureau resources and a core group of Bureau employees will assist in the development of the report. The original cost estimate was approximately \$2.5 million, but we are tracking to come in under budget.

Bureau timeline

10/11/2019: Bureau announced Taskforce and opened application window.

10/25/2019: Application window closed.

1/9/2020: Bureau publicly announced Taskforce members.

1/29-31/2020: Bureau orientation conducted for Taskforce members.

3/27/2020-6/1/2020: RFI to assist Taskforce is open for public comment.

6/8/2020: Taskforce released a blog outlining its public engagement plan.

11/24/2020: Initial draft of Taskforce report to be completed.

1/31/2021: Taskforce report will be delivered to the Director.

Statutory authority

- The Director established the Taskforce pursuant to the Bureau's executive and administrative powers under Sections 1013(a) and 1021(c) of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

Factsheets & quick references

- [CFPB Announces Taskforce on Federal Consumer Financial Law](#)
- [CFPB Announces Membership of Taskforce on Federal Consumer Financial Law](#)
- [CFP Announces Additional Member of Taskforce on Federal Consumer Financial Law](#)
- [Consumer Financial Protection Bureau Issues Request for Information to Assist Taskforce on Federal Consumer Financial Protection Law](#)
- [Taskforce on Federal Consumer Financial Law charting a path ahead](#)

Other recent activity

- Not applicable

Background

The Taskforce members are:

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- Dr. J. Howard Beales, III, Emeritus Professor of Strategic Management and Public Policy at the George Washington University and former Director of the Bureau of Consumer Protection at the Federal Trade Commission;
- Dr. Thomas Durkin, Senior Economist (Retired) at the Federal Reserve Board;
- William MacLeod, partner at Kelley Drye & Warren, LLP, Immediate Past Chair of the Antitrust Section of the American Bar Association, and former Bureau Director at the U.S. Federal Trade Commission;
- L. Jean Noonan, Partner at Hudson Cook, former General Counsel at Farm Credit Administration, and former Associate Director the Bureau of Consumer Protection's Credit Practice at the Federal Trade Commission; and
- Todd J. Zywicki, Professor of Law at George Mason University (GMU) Antonin Scalia Law School, Senior Fellow of the Cato Institute, and former Executive Director of the GMU Law and Economics Center.

Todd Zywicki is serving as the Chair of the Taskforce. Matt Cameron, Assistant Director of the Office of Stakeholder Management, serves also as Staff Director of the Taskforce.