

FOREWORD

The following report was researched and authored by five Members, one of who served as Chair of the Taskforce; and six support staff, overseen by a Staff Director. This group will be referred to as the Taskforce on Federal Consumer Financial Law (or simply the Taskforce).

The Taskforce was created by Director Kathleen Kraninger to be an independent body within the Bureau and chartered to develop a report and recommendations to improve consumer financial protection and modernize Federal consumer financial laws and regulations. Given the independent nature of the Taskforce, the views espoused in the report may not be representative of current Bureau positions or policy. Additionally, the Bureau Director will select which of the Taskforce recommendations will be accepted or advocated for by the Bureau. Recommendations proposed seek to improve the lives of every American consumer, regardless of race, creed, gender, ability, or status, with a particular focus on improving access, inclusion, and choice.

The Members were selected based on three primary factors:

- 1) expertise in consumer protection and consumer financial products or services and recognition for professional achievements and objectivity in economics, econometrics, or law;
- 2) significant research background analyzing consumer financial markets, laws, and regulations; and
- 3) past record of senior public and/or academic service.

Each member selected brought unique experiences and views and is impressively accomplished, well respected, and immensely capable in the field of consumer financial protection and Federal consumer financial law. To fulfill the Taskforce mandate, the Members leveraged their combined 150 years of professional experience as well as the extensive expertise that exists within and outside of the Bureau.

As every American has a stake in a fair, efficient, and modern system of consumer finance. However, given the limited number of positions on the Taskforce, tremendous effort was taken to ensure the great diversity of the American consumers' views, opinions, and experiences were given voices; a commitment that became more challenging when the global pandemic hit just weeks after the Taskforce was formed. On this note, the Taskforce would like to specially thank and commend the Bureau staff for engaging in open and constructive dialogue about the marketplace and the work of the Bureau and helping to identify opportunities to improve the Bureau's mission. Other efforts taken to maximize the diversity of viewpoints were foundational to our work as well. Support staff were encouraged to challenge the views of the Members by bringing their personal experiences and professional expertise into the conversation.

A particular objective of the Taskforce was to seek as much valuable public input as possible, a goal that immediately became challenging as a result of the onset of the global health pandemic just weeks after the Taskforce began its deliberations. Despite these challenges, the Taskforce redoubled its efforts to seek public contribution through written comments and virtual

engagements with stakeholders inside and outside the government, information which is included throughout the final report. Indeed, writing the report in real time as consumers and regulators rose to the challenge of responding to the pandemic and its economic effects constantly reminded the Taskforce of the importance of protecting and empowering consumers as well as ensuring a modern and resilient consumer financial protection framework that can swiftly respond to the needs of America's consumers. The Taskforce issued a Request for Information; conducted a robust public research effort; met with trade, consumer advocates, academics, and the Bureau's advisory committees in meetings listened to by hundreds of public observers; and conducted over twelve intergovernmental engagements with partner state and Federal regulators to hear as many perspectives as possible. Economic analyses and empirical research are the foundation of this report, and it advocates for the interest of only one stakeholder – the consumer.

One hundred years ago marked the dawn of the modern American consumer finance system, as increasing urbanization and the dawn of a wage economy led the Russell Sage Foundation to lead national efforts to erect a new regulatory framework that would better meet the needs of American workers. Fifty years ago, the National Commission on Consumer Finance was convened in response to the emerging national structure of consumer financial markets and the growing need for a larger federal regulatory presence to address those challenges. Today, as revolutions in technology, the economy, and consumer needs raises new opportunities and threats for American consumers, it is a propitious time to once again review the framework of consumer financial protection.

The report serves several purposes, which are reflected in its two-volume structure. The first volume is thirteen chapters. The opening part provides a historical and economic overview of consumer financial while the second part covers the five traditional key principles that form the core of federal consumer financial law and policy: the legal framework of consumer protection, consumer information and disclosure, competition, innovation, inclusion and access to financial products and services, and regulatory modernization and flexibility. Finally, the closing part of the volume discusses more contemporary and future looking topics that are of import to the Bureau's work, including data privacy and security, financial empowerment (including financial education, issues involving younger consumers, and household savings), and modernization and flexibility in the regulatory framework. Volume Two builds on the insights shared in Volume One to develop a set of recommendations that will improve and strengthen the application of financial laws and regulations.

Readers will notice that some important sectors and topics are not addressed at length. The Members used a three-pronged test to help determine the scope of the following report: (1) was a sector or subject already substantially and adequately addressed by recent activity by the Bureau or some other source, (2) did the Members possess a comparative advantage in offering insights or was it beyond the scope of expertise or the Taskforce's charter, and (3) did the Taskforce have something meaningful or constructive to contribute to identifying important problems and possible solutions. For example, mortgages and mortgage service providers are hugely important topics for consumers and the economy; nevertheless, they are only covered tangentially given the recent and extensive modernization efforts the Bureau has done in the space. And some issues the Taskforce commended to ongoing work of the Bureau and other sources of expertise. Due to the time-limited nature of the Taskforce's work, numerous recommendations suggest

further research and deliberation before a position should be formed. The importance of topics should not be measured by the number of pages or recommendations devoted to them, and the potential for improving consumer financial protection should remain a perennial subject of examination.

Unlike many government work products, this report seeks to make the complex subject of law, economics, and consumer financial protection approachable and easy to understand. Readers will notice that the background and recommendations are written in plain language while scholarly studies, analyses, and denser material can be found in footnotes and references. Policy makers should consider the report in totality, but other readers will not be lost should they choose to review a single chapter or section. Important themes are repeated to help accomplish this goal.

In Volume Two, recommendations are grouped in topics for ease of navigation. Topics range from organizational structures to emerging issues with newer subjects such as alternative data to general concepts like inclusion. It is important to note that, if implemented, many recommendations span across multiple topics. To aid in navigating this extensive slate of recommendations, the Taskforce has developed a “Dashboard” that tracks Volume Two and summarizes the topics of recommendations and the primary audiences to which those recommendations are directed.

Structurally each topic has a short outline, or preamble, that sheds light on issues that the recommendations seek to address. These preambles reference principals discussed with greater detail in Volume One. The preambles are followed then by a series of recommendations. Each recommendation includes the specific government audience that has authority to act on the recommendation; the suggested mechanism or action that can be taken to implement the recommendation; and where reasonable, a potential measure of success the recommendation should have.

As mentioned above, the average person, entry level Legislative or Executive employee, seasoned economist, or invested stakeholder should all find the report engaging, informative, and accessible. The Taskforce believes that Volume One will be useful for any policymaker but hopes that it will be particularly useful for new Bureau employees to help ground them in the history, economic theory, and law of consumer financial protection and Federal consumer financial law. The research and analysis presented in Volume One is a framework for thinking about how to approach consumer financial protection law and economics. It is intended to lay a foundation of knowledge and principles to which policymakers, bureau employees, and the public can return to as new issues in consumer finance and financial protection arise. It may also serve as foundational thinking or guiding principles for future Bureau actions (rule makings, supervisions or enforcement actions, assessments, research, policy guidance, consumer education, et cetera).

Where Volume One is more conceptual and drafted to have a longer lasting impact, Volume Two is more pragmatic and temporal in nature. The recommendations are being made at a point in time. Government executives, policy makers, and their staff should consider how the current financial regulatory regime and framework has evolved when viewing these recommendations in the future.

Regardless of what the future holds, it is worthwhile to remind readers that a crisis of confidence in the financial system inspired the creation of the Bureau. Building a new agency from scratch is a challenging task in even the best of times. To do so in the wake of a consumer-finance fueled global financial crisis is a remarkable feat for which the Taskforce expresses consensus admiration and appreciation on behalf of America's consumers. . (For an overview of some of the accomplishments of the Bureau over the past decade, see Appendix X).

The technological revolution that is reshaping consumer finance holds the potential for the Bureau to take its mission to new frontiers, and once again “to implement and, where applicable, enforce federal consumer financial law consistently for the purpose of ensuring that all consumers have access to markets for consumer financial products and services and that markets for consumer financial products and services are fair, transparent, and competitive.”