

May 28, 2020

Briefing memorandum for the Director

Taskforce on Federal Consumer Financial Law Monthly Check-in

DATE	Thursday, May 28, 2020
TIME	2:00 pm – 2:30 pm Eastern
LOCATION	Dial-in
PARTICIPANTS	Matt Cameron, Taskforce Staff Director Todd Zywicki, Taskforce Chair Kirsten Sutton, Chief of Staff Leonard Chanin, Acting Deputy Director
STAFF CONTACT	Matt Cameron, Taskforce Staff Director, x [Redacted]
POLICY ASSOCIATE	Andrew Duke, Policy Associate Director, CEEA, x [Redacted]
DIRECTOR APPROVAL	Delicia Hand, Deputy Associate Director, CEEA, x [Redacted]

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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.

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 attached Chapter Outline in tab 2 to discuss the evolution of the report's contents and its progress. 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 fourth monthly check-in with the Staff Director and Taskforce Chair. Your last interaction with the Taskforce Chair and Staff Director was the April 30 Monthly Check-in. Below is a brief update that the Staff Director and Chair will expound upon during the monthly check-in.

Support Staff

- During previous check-ins, we stated that staffing up was the team's top priority. We are pleased to report staffing is now complete.
- Senior Counsel: Ashlie Tarpley, an attorney formerly in the private sector has accepted a 16-month, temporary position with the Bureau. Her first day with the Taskforce was May 11, 2020.
- Senior Advisor: Department of Transportation (DOT) approved a detail for Ross Rutledge to join the Taskforce on Consumer Financial Protection. Ross is scheduled to start with the team this week, May 26, 2020; pending final paperwork from DOT.

Internal Bureau & External Engagements

- The Staff Director will utilize the attached outreach plan executive summary in **Tab 3** to discuss a proposed public external engagement strategy for the Taskforce as well as a communications and rollout schedule – to include a blog from the Taskforce Chair on consumerfinance.gov highlighting the road ahead. The blog is currently undergoing clearance and will be shared with you once completed.
- Jean Noonan, a member of the Taskforce, took the lead on developing a Request for Information (RFI). The Bureau issued the RFI on March 27, 2020. It has a 60-day comment period, which will close on June 1, 2020. To ensure that the Taskforce's work is informed by past public input as well, Jean is reviewing all summaries and comments from the Call for Evidence RFIs.
- Taskforce support staff is researching, summarizing, and recording publicly available stakeholder views to supplement responses to the RFI to help provide maximum public input and ensure Taskforce members are made aware of the diversity of views held by consumer groups and trade organizations in case the COVID-19 pandemic limits the ability of stakeholders to submit comments.
- The Taskforce is planning to host a 60-minute public hearing on July 16, 2020 during Consumer Financial Protection week. The team will repurpose the March 10 Listening Session discussion prompts, with slight modifications based on insights from the public research effort and RFI comments. In addition to the Taskforce members own research and insight, the RFI, public research, and Public Hearing will help the Taskforce develop recommendations for volume 2 of the final report.
- The Taskforce plans to join a 90-minute Listening Session with the advisory committees on September 3, 2020. The purpose of the listening session will be to test, refine, and confirm select recommendations.
- Additionally, the Taskforce has begun engaging with partners in the Division of Consumer Education and External Affairs (CEEAA) to begin conceptualizing intergovernmental engagements. The current recommendation is to arrange for meeting with National Association of Attorneys General (NAAG) and Conference of State Bank Supervisors (CSBS) to discuss strategies for improving interactions between Federal and state regulators. Likewise, the Taskforce intends to develop a strategy for engaging with the other Prudential Regulators to seek input to the report. The goal is to hold these engagements in the September-November time period.

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.
- For the first volume 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 one will have approximately thirteen chapters and is on schedule to have first drafts completed by June 19, 2020 at which time Taskforce support staff will begin review of the report.
 - The topic of regulatory flexibilities during times of acute marketplace disruptions like the current pandemic has been added to a chapter on the regulatory framework.
- For the second volume of the report, members will use insights gained from the development of volume one and external engagements to collaboratively author an unanimously agreed upon set of recommendations by January 31, 2021. The full report is on schedule to enter clearance on November 24, 2020. We are developing a clearance and socialization process for the report.

Upcoming Taskforce Interaction with the Director

- Per your request from our last check-in, you are scheduled to meet with Taskforce members Todd Zywicki and Howard Beales on June 2, 2020 to discuss the topic of data privacy and security. Staff from the Office of Strategy's security initiative will participate in this meeting as well.

Attachments

Tab 1: Taskforce Milestone Schedule Draft.

Tab 2: Draft Taskforce Chapter Outline.

Tab 3: Taskforce External Engagement Strategy - Executive Summary.

Tab 4: Taskforce Key Points Document.

May 28 Monthly Check-In Summary

	Milestone	Target Deadline	Notes	Risks
1	Onboard Taskforce Members	January 2020	Orientation completed Jan. 31	
2	Onboard Taskforce Support Staff	March 2020	Final team member set to join on 5/25, and this will be marked as complete.	
3	Define research approach and timeline	March 2020	A comprehensive list of topics and themes have been recorded, now the Members are refining topics and contents	Initial Table of Contents and assignments have been drafted
4	Request for Information (RFI)	April 2020	A 60-day public comment period will remain open through June 1, 2020.	Feedback from public may be limited due to COVID-19, so the team will relay heavily on Call for Evidence feedback as well as public research
5	Stakeholder Roundtables	March 10, 2020	March 12 Listening Session with Stakeholders was a success, and helped inform the RFI	
6	Advisory Committee Listening Sessions	March 12-13, 2020	COVID-19 has impacted the teams external engagement strategy, and alternative engagement strategy has been developed and is being socialized	
7	Bureau Meetings	April 2020	Discover meetings were unofficially completed virtually on April 28.	

Status Key

Not started	No risk
At risk	Delayed
Complete	Cancelled

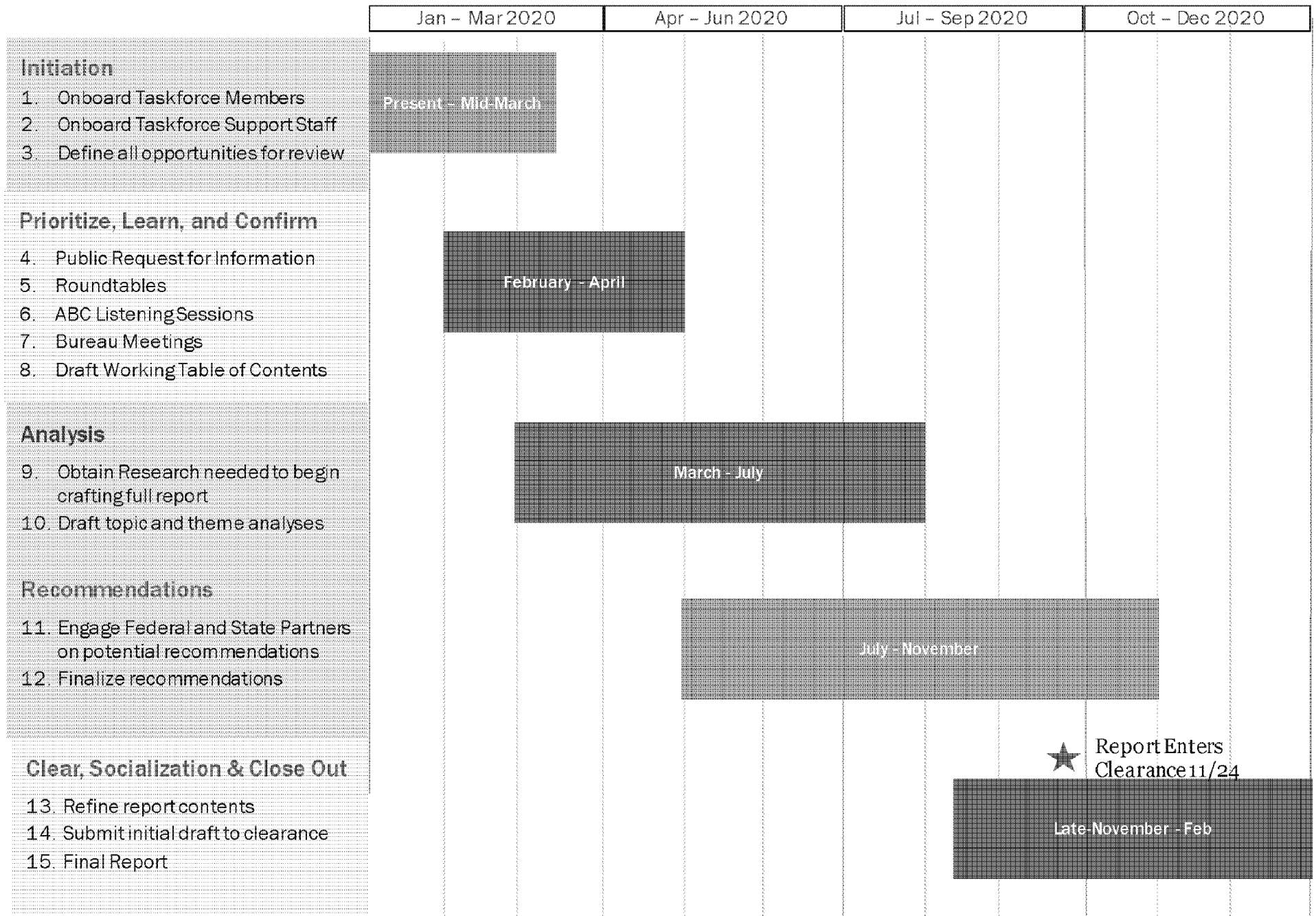
March 26 Monthly Check-In Summary

	Milestone	Target Deadline	Notes	Risks
8	Draft Working Table of Contents	April 2020	Table of Contents for volume 1 is included in briefing memo, tab 1.	Report recommendations will be supported by analysis outlined in volume 1 as well as by feedback from RFI and public engagement.
9	Obtain all research needed to begin crafting full report	June 2020	Bureau partners in RMR and Supervision have been responsive and helpful.	
10	Draft topic and theme analyses	August 2020	Team has assigned chapters for each Taskforce member to lead drafting, and intends to review initial drafts virtually 6/16-19.	Members are writing concurrently to avoid delays. The team paralegal will serve as a copy editor to ensure the report reads as though it was drafted by a single author.
11	Engage Federal and State Partners on potential recommendations	September-October 2020	Strategy for engagement to be developed by end of May.	
12	Finalize recommendations	October 31, 2020	Refined milestone to simply state that the team is working to refine all recommendations by end of Oct.	
13	Refine report contents	November 2020	Team will be onsite 11/16-20 to conduct final revisions of report.	
14	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.

Status Key

Not started	No risk
At risk	Delayed
Complete	Cancelled

Milestone Schedule



High Level Schedule

	Jan 2021	Feb 2021	Mar 2021	Apr 2021
Socialization 16. Provide Prudential Regulators a readout 17. Provide Bureau Stakeholders a readout 18. Publish Report 19. Conduct outreach on legislative recommendations	January 2021 – End of February			
Closeout 20. Ensure records management requirements are met 21. Taskforce Members Offboarding 22. Director reviews report 23. Create actionable plan to implement Taskforce recommendations 24. Taskforce Support Staff Offboarding 25. Taskforce Charter Expires	Early January 2021 – Mid-March			

Volume 1: Detailed Outline

I. Introduction (Tom)

- a. History of Consumer Financial Protection Reform Efforts
 - i. Early History: The Russell-Sage Foundation
 - ii. The National Commission on Consumer Finance
- b. The scope of the Taskforce report
- c. Summary of the Taskforce Findings and Recommendation
- d. Appendix: Recommendations of the NCCF in 1972

Status: First draft completed by TAD, Reviewed by TZ and returned for somewhat minor edits. This chapter will be a work in progress as the Report develops.

II. Extent and Growth of Consumer Credit (Tom)

- a. Development of consumer credit economy
- b. Consumer Credit Growth
- c. Consumer Credit Growth and Means of Repayment
- d. Distribution of Consumer Credit Within the Population
- e. Measurements of Consumer Credit

Status: First draft completed by TAD, Reviewed by TZ and returned for minor edits.

III. Demand for Consumer Credit (Tom, Todd)

- a. Neoclassical Economic Theory of Consumer Credit Demand
 - i. Life-cycle model
 - ii. Time-shifting of consumption model
 - iii. Evidence
- b. Behavioral Economics Theory of Consumer Credit Usage

Status: First draft completed by TAD, Reviewed by TZ and returned for major edits

IV. Supply of Consumer Credit (Greg & Tom)

- a. Intermediation
- b. Costs of lending
- c. Revenues
- d. Breakeven APRs
- e. Price & competition

Status: First Draft completed by TD and to be sent to TZ soon

V. Small Dollar (Greg, Tom, Todd, & Howard)

- a. There is no solution
- b. Juster and Shay: Credit rationing
- c. Lifecycle model
- d. Cycle of "Debt"/ "Debt Trap"
- e. History: Competition & Regulatory Segmentation

Status: First draft completed and TD making final edits before sending to TZ

- VI. Information and Disclosure (**Howard**)
 - a. Costs of Information and imperfect information
 - b. Markets for information
 - i. Consumer Credit Cards (e.g., creditcards.com)
 - c. Information asymmetry
 - d. Transaction costs
 - e. TILA
 - i. Reduced costs of shopping

Status: First draft complete and sent to TZ for edits, this will eventually be renumbered as Chapter 7

- VII. Consumer Credit Regulator Principles (**Todd**)
 - a. History of consumer financial protection
 - i. State regulation: Substantive regulation
 - ii. Federal regulation: Disclosure regulation
 - iii. Dodd-Frank
 - b. Three-legged stool (competition, common law, regulation)
 - c. Rise of Federal Presence
 - d. Sources of market failure
 - i. Information asymmetry
 - ii. Market power/markets where consumers don't choose
 - 1. Debt Collection
 - 2. Credit Reporting Agencies
 - 3. Mortgage Servicers
 - iii. Externalities
 - e. Evaluating Regulation
 - f. Measuring regulation

Status: First draft in progress and to be completed by end of month

- VIII. Competition (**Bill**)
 - a. Competition value
 - b. Regulatory segmentation
 - c. Dodd-Frank (adverse impact → promoting consolidation)
 - i. Competition promoted product improvement and innovation
 - d. FinTech / New competitive landscape
 - e. Competition/innovation
 - i. Walmart

Status: First draft in progress and goal of completion by end of month

IX. Innovation **(Bill)**

- a. FinTech: Potential & Risk
- b. Open banking
- c. Regulatory Framework
 - i. Flexible regulatory framework for innovation
- d. Principled v. Prescriptive
 - i. Cooperative Regulator
 - 1. Potential for partnering between regulatory and trade for market improvements
 - 2. Tech sprints
 - ii. Regulatory sandbox
- e. Regulatory modernization
- f. Alternative data

Status: First draft in progress

X. Financial Inclusion **(Todd)**

- a. Importance and why it matters
- b. Market incentives to expand access
 - i. Credit scoring
 - ii. Competition
- c. Regulations Expand Access: Equal Credit Opportunity Act
- d. Regulations that block access

Status: Draft to start once chapter 7 is complete

XI. Privacy and Data Security **(Howard)**

- a. Use of data
 - i. Costs and benefits
- b. Price discrimination (virtues and concerns)
- c. Data breaches
- d. Payment security
- e. Fortress mentality/Big Data
- f. Global Data Protection Regulation (GDPR)
- g. Alternative data: Secondary uses of data
- h. Credit Reporting

Status: Preliminary research and preparing memo for distribution in advance of meeting with Director Kraninger

XII. Financial Literacy and Education **(Greg and Todd)**

- a. What consumers should know
- b. Heuristics
- c. Savings
- d. Effectiveness

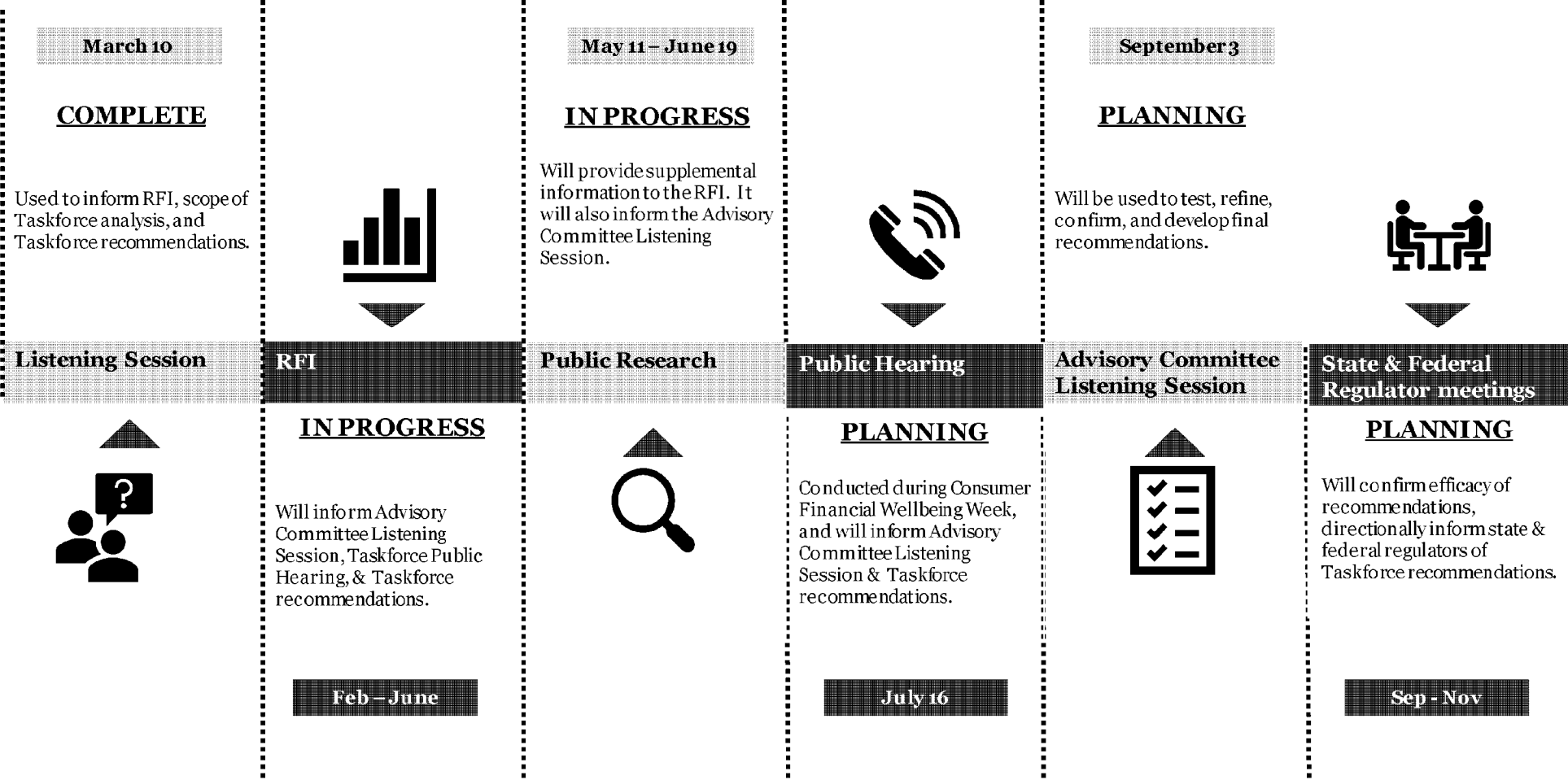
Status: Draft to start once chapter 4 is complete

XIII. Regulatory Modernization Framework **(All, to be fleshed out more)**

- a. Interagency
 - i. Current state: Considerations of overlaps & gaps, overlap, gaps
- b. Federalism
- c. Competitive mandate
- d. Regulations as code/Tech Sprint/Sandboxes
- e. Assessment

Status: Outlining and information gathering continues

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. **August 18:** Post Advisory Committee agenda on Bureau website, which will include discussions prompts for Taskforce-Advisory Committee Listening Session.
6. **September 3:** Taskforce-Advisory Committee Listening Session.
7. **September 4:** Publish a blog post from the Taskforce Chair thanking stakeholders for feedback and highlight next steps for the Taskforce's work and recommendations.
8. **September-November:** Engagements will occur with state and Federal partners. Details under development.
9. **Date TBD:** Additional communications on the release of the report and 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 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/>.
- 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 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 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/>.

Key Q&A

Q1: Why is there a lack of diversity in the Taskforce members? More specifically, why are there no consumer advocates on the Taskforce?

A1: The Bureau established and followed a robust selection process, which included a public application period. During the public application period, the Bureau received interest from 89 individuals and conducted 13 interviews. Those conducting interviews sought to identify individuals who were experts in consumer financial law and academics with diverse points of view, such as attorneys and economists 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. Based off the applicant pool of interested candidates, we believe the individuals selected will provide diverse perspectives, which will help the Bureau to protect consumers in the financial marketplace.

Q2: Are Taskforce members staff, and are you providing them with benefits? Additionally, are you concerned with conflicts of interest or did any members receive ethics waivers?

A2: Four Members of the Taskforce were appointed through the Bureau's expert hiring authority and are considered employees of the Bureau. One member was detailed to the Bureau under the Intergovernmental Personnel Act (IPA) and is considered a Bureau employee for purposes of the government ethics statutes and regulations. Taskforce members are scheduled to serve on an intermittent schedule and are paid at a set hourly rate. Taskforce members are not eligible to receive benefits, such as health care or retirement.

As Federal government employees, each member must comply with the conflict of interest statutes and the Standards of Ethical Conduct for Employees of the Executive Branch. Two members of the Taskforce on Federal Consumer Financial Law have received an ethics waiver after the Bureau formally consulted with the Office of Government Ethics prior to the issuance of each of the waivers. The Office of Government Ethics did not object to the Bureau issuing these two waivers from the financial conflict of interest statute.

Q3: 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?

A3: 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.

Q4: Will the Taskforce make decisions about Bureau functions such as regulation, supervision, enforcement, or any Bureau action?

A4: No. The Taskforce is an independent body that exists within the Bureau structure but operates outside of normal Bureau processes. It will provide recommendations through a final report that will be considered by the Director. Recommendations from the Taskforce do not bind the Bureau and all final decisions rest with the Director.

Q5: Is this Taskforce a Federal Advisory Committee?

A5: No. The Taskforce is an intragovernmental committee and not subject to the Federal Advisory Committee Act (FACA).

Q6: How much will the Taskforce cost?

A6: The Taskforce is forecasted to cost between \$2.5 to \$3 million. Much of the projected expense is attributed to salaries for both Taskforce members, who serve on an intermittent schedule and are paid at a set hourly rate, and a support staff of about seven to eight full time employees.

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.

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

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](#)

Other recent activity

- **Not applicable**

Background

The Taskforce members are:

- 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, Staff Director of the Office of Advisory Board and Councils, serves also as Staff Director of the Taskforce.