

Taskforce Talking Points

1. Bureau Taskforce on Federal Consumer Financial Law (Taskforce) Quick Hits

a. What

i. The Taskforce was chartered in January 2020 to:

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.

b. When

- i. On October 11, 2019, the Bureau announced that it was establishing a Taskforce on Federal Consumer Financial Law.
- ii. On January 9, 2020 and January 17, 2020, the Bureau announced the Taskforce Members.
- iii. On January 5, 2021, the Taskforce will publish the final report during an event at the Bipartisan Policy Center.

c. Leadership & Approach

- i. The Taskforce consists of five members who possess unique perspectives and experiences.
- ii. The Taskforce is Chaired by Todd Zywicki. Other members are Howard Beales, Tom Durkin, Bill MacLeod, and Jean Noonan.
- iii. The members leveraged over 150 years of experience in the consumer protection, economic, academic, and legal fields as well as numerous internal and external engagements in crafting the report.
- iv. A key guiding principle of this report was to provide recommendations that would improve the consumer protection framework by increasing access to financial services and products. A special focus was given to solutions to challenges for those who have been historically marginalized, such as minorities, youth, and immigrants.
- v. The members took a technocratic approach to the assignment and have developed a product that is nonpartisan. Stated differently, we believe there are things that individuals with any affiliation (professional, political, or other) should discuss and debate with open minds.

2. Why is this work important?

- a. Approximately every 50 years, the US economy and consumer financial protection has undergone significant changes
 - i. The 1920s witnessed a great migration of Americans from living in rural societies to more urban city centers and mass immigration from abroad. This societal evolution created new demands for credit, which ushered in the foundations for the modern credit economy.
 - ii. The late 1960s through the 1970s witnessed increased interstate commerce in part due to technological advances, particularly in transportation and telecommunications. These advances helped create a more mobile population as well as the emergence of regional national department stores. The latter establishing debt collection centers. These factors led to the rise of the national economy and the advent of robust consumer financial protection. Both marked by the passage of the 1968 Consumer Credit Protection Act, and the creation of the National Commission on Consumer Finance.
 - iii. Now, 50 years later, technological advances have led to the 'internet age' which have led to increasingly rapid changes. Providers of financial services and products have already begun the move from paper-based administrative systems to new and unprecedented offerings while also presenting novel new threats to consumers.
- b. New threats and opportunities in today's economy
 - i. We are 50 years into the modern era of consumer financial protection, which means the original regulatory regime has undergone 50-years of gradual evolution as politicians, regulators, and society has responded to emerging trends and needs over the years. These changes have led to laws, regulations, rules, policies, and practices that are inefficient, and in some cases, unintentionally negatively impact consumers access to financial products and services.
 - ii. Similarly, there is a widespread (if not universal) recognition that the consumer protection regulatory regime has become unwieldy and inefficient due to small tweaks being applied over 50 year. The need to consider wholesale changes is supported by general societal dissatisfaction with opportunities: minorities have felt equal access is not universal; immigrants have trouble thriving due to access issues; youth express sentiments of an inability to get ahead; and even well to do participants of the system feel that it is archaic. The latter sentiments were sadly highlighted during the pandemic with antiquated systems requiring consumers required to take certain actions in-person and the governments ability to fully respond to emergencies thwarted by archaic laws that have lived past their usefulness.

- c. Principles that undergird consumer protection
 - i. The Taskforce seeks to provide a wholistic review in efforts to modernize the framework. The Taskforce position is that the underlining values that helped develop American into the strongest, most reliable economy on Earth should remain. The application of the laws upholding these values need to evolve to keep up with modern times. This report seeks to develop a framework that will harness modern technologies to open opportunities to those who have been left out historically (and today).
 - ii. In addition to examining what has and has not worked historically, the Taskforce Report uses five interrelated principles that should be maximized when recommending systematic changes to the current legal and regulatory framework: consumer protection, information and education, competition and innovation, regulatory modernization and flexibility, and inclusion and access.
 - iii. Each of these principles are examined, at length, in chapters 6-10. It is notable that chapter 10 focuses on inclusion as the hallmark of a modern, effective regulatory regime should be one that seeks universal inclusion for those seeking access to financial products and services. Stated differently, each of the regulatory principles should advance the cause of equal access to the financial products and services. Afterall, one can protect consumers from all marketplace harms by eliminating the marketplace. The Taskforce assumes that fair and equal access to the marketplace is a necessary and sufficient foundational principle, while protecting the participants of the marketplace is the Bureau's purpose.
- d. Key takeaways on how the principles help increase access to financial products and services
 - i. **Consumer protection** enhances the financial marketplace by establishing trust by fighting against fraud and deception. Chapter 6 highlights how a three-legged stool consisting of markets, common law, and regulatory agencies help maintain strong framework to protect consumers. It also discusses the value of principles-based regulation as an alternative to prescriptive rules-based regulation and analyzes the CFPB's five major regulatory tools and internal organization are discussed.
 - ii. **Information and education** are necessary for consumers to understand, trust, and navigate the financial marketplace. Chapter 7 highlights that acquiring information imposes a cost. Even when information is readily available, consumers make decisions with less than perfect information. There are strong incentives in competitive markets to provide consumers with the information that is most important to them. Well-intentioned disclosure requirements have grown over time, to the point where the sheer volume of information that sellers must disclose likely overwhelms its utility and may lead to consumer decisions that are worse, not better.
 - iii. **Competition and innovation** are critical to financial consumer protection and access to affordable credit while also leading to the evolution and/or creation of

new product and service offerings that are often cheaper and can meet the needs of new and existing entrants into the financial marketplace. Chapters 8 highlights that consumers benefit from competition in consumer financial markets as in other consumer markets. Congress recognized this value in identifying the maintenance and promotion of competition in financial services is one of the statutory objectives of the Bureau. Chapter 9 highlights that innovation in consumer financial products and services has always been an engine for reducing prices, improving quality, and expanding competition and inclusion in consumer financial services. We review the benefits, risks, and regulatory challenges that innovation presents. Innovation advances competition and enhances consumer choice in financial services markets, but existing laws have uncertain application to new practices or services, creating the potential for harmful practices and challenging regulatory agencies to foster innovation's benefits while also protecting consumers.

- iv. **Regulatory modernization and flexibility** are required to ensure that the guardians of common law and regulatory agencies (discussed in consumer protection) continue to evolve and meet the needs of an everchanging populace (as exemplified in the history sections of the report). Well intentioned actions can lead to harmful outcomes, such as the Card Act hurting young people's ability to access credit as they seek to enhance their financial wellbeing. Chapters 11 and 12 provides a look at financial education and how best to help consumers understand the never-ending evolution of products and services while also examining current trends that require modernization (such as data security, trends in savings, and cost of education). Chapter 13 provides outline of our existing regulatory framework as outlines opportunities for improvements.

3. Process for drafting, contributions to, and structure of the report

a. Process & contributions

- i. The report consists of research and analysis focusing on:
 - 1. harmonizing, modernizing, and updating Federal consumer financial laws, including implementing regulations;
 - 2. analyzing ways to improve consumer understanding of markets and products; and
 - 3. identifying potential conflicts or inconsistencies in existing regulations and guidance.
- ii. The Taskforce has spent the year examining the existing legal and regulatory environment facing consumers and financial services providers
- iii. This review included in-depth meetings with key stakeholders within the Bureau, at other federal financial regulatory agencies, and at state regulatory agencies.
- iv. The Taskforce enthusiastically engaged the external stakeholders via a listening session with trade and consumer groups, via an RFI, a public listening session with the combined advisory boards, a public listening session with a panel of

distinguished experts, and over 12 engagements with other State and Federal regulators.

b. Structure of the two-volume report

- i. Volume I contains research and analysis conducted by the Taskforce.
 1. It consists of 13 chapters providing an overview of the history of consumer credit, regulation, and special topics in consumer finance, highlighting problems, areas of needed inquiry, and opportunities for the future.
 2. The chapters explore the areas of small dollar credit, consumer disclosures, competition, innovation, financial inclusion, privacy and data security, financial literacy, consumer protection tools, and the accompanying regulatory framework.
- ii. Volume II contains the recommendations of the Taskforce to strengthen consumer financial protection law.
 1. Volume II consists of approximately 100 recommendations directed toward the Bureau, Congress, the States, and other federal financial regulators.
 2. The Taskforce's recommendations focus specifically on 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.
 3. Key themes of the recommendations include: lowering costs for consumers, increasing competition, expanding access to credit, protecting consumers, reducing existing friction in various markets, eliminating outdated or counterproductive regulations, encouraging principles-based regulatory approaches, spurring innovation, and understanding the future of financial products.
 4. The recommendations in Volume II of this report are not binding but are instead a blueprint for stakeholders to improve the financial regulatory system.