

Run of Show
Taskforce Report Public Rollout
January 5, 2021 via WebEx
Washington, DC
Comprehensive Version

Tuesday, January 5, 2021

1pm–2:15pm	Taskforce Report Public Rollout
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1:00pm – 1:13pm	Welcome & Opening Remarks <ul style="list-style-type: none">• Andrew Duke, Policy Associate Director• Kathy Kraninger, Director
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1:00pm–1:03pm	Policy Associate Director, Andrew Duke Speaking
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- Good afternoon everyone. Thank you for joining today's release of the Bureau's Taskforce on Federal Consumer Financial Law report. My name is Andrew Duke and I serve as Policy Associate Director for the Division of Consumer Education and External Affairs, here at the Bureau.
- I want to thank the members of the Taskforce for their work over the last year. They are all committed public servants who have dedicated their lives to improving the marketplace of financial products and services, and I'm grateful for their willingness to serve on this Taskforce.
- I'd like to briefly share the agenda of today's event. First, we will hear from Director Kraninger, who will introduce the report to us. Then Taskforce Chair, Todd Zywicki will provide remarks about the report.

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- We will spend a majority of our time hearing from the members of the Taskforce in a discussion moderated by the Consumer Advisory Board Chair, Eric Kaplan.
- With that, I am now pleased to introduce Director Kraninger.
- Since joining the Bureau in 2018, Director Kraninger has been committed to engaging with stakeholders, working in a transparent way to modernize our consumer financial laws. This Taskforce and its report is a reflection of that commitment. A year after its formation, I'm please that she can join us today to celebrate and highlight the work of this Taskforce as we now consider their recommendations.
- Director Kraninger, the floor is yours.

1:03pm–1:13pm	Director Kraninger Speaking
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Thank you, Andrew, for that introduction. It's a pleasure to be with you all today to present the Taskforce on Federal Consumer Financial Law's two volume report and recommendations on improving the legal framework for consumer financial law. The taskforce has dedicated a year to developing recommendations to harmonize, modernize, and update the country's consumer financial laws and regulations.

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I want to personally acknowledge and thank the members of the taskforce for their yearlong efforts. The taskforce consists of five members who possess more than a combined 150 years of experience in the consumer protection, economic, and legal fields. The members of the taskforce are Dr. Howard Beales, Dr. Thomas Durkin, Jean Noonan, William MacLeod, and Todd Zywicki, the taskforce's chair. Thank you to all of you.

Second, I want to thank all those who participated in the taskforce's March 2020 listening session. I also want to thank all those who replied to the taskforce's Request for Information. Without the feedback from the various stakeholder representatives and groups, the taskforce would not have been able to complete its mission. All that work does not take place in a vacuum. I want to thank the dedicated Bureau staff who supported, met with, and provided insight to the taskforce and enabled the taskforce to bring its report and recommendations to fruition.

Today, I will go over the mission and purpose of the taskforce along with some of the taskforce's key recommendations and how we can utilize these recommendations moving forward.

In October 2019, the Bureau announced its intent to form a taskforce focused on harmonizing and modernizing federal consumer financial laws. We were, in part, inspired by the 1968 Consumer Credit Protection Act, which, among other things, established a commission to recommend to Congress how it could improve credit regulation. In the 52 years since the passage of the CCPA, we have seen the rise of the internet age. The internet has transformed the financial industry, including its products, services, and how it interacts with consumers, and we recognized the need to analyze if, and how, consumer financial laws and regulations should be equally transformed.

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As government regulators, we need to ensure how we regulate and supervise the financial industry keeps up with technological advances. Accordingly, we established the taskforce to identify regulatory gaps and identify regulations that need simplification or modernization. Closing gaps, along with simplifying and modernizing regulations, ensures we can most effectively carry out our mission of empowering, supporting, and protecting consumers.

The taskforce was officially chartered in January 2020, and its five members began working toward the goal of recommending ways to improve and strengthen consumer financial laws and regulations. The taskforce sought ways to resolve conflicting requirements and inconsistencies; reduce unwarranted regulatory burdens considering market or technological developments; improve consumer understanding of markets and products; and identify gaps in knowledge that should be addressed through future Bureau research.

The report we are presenting today takes a holistic approach to the consumer financial law framework. The report presents methods to harness new technologies needed to open financial opportunities to people and communities that have been historically underserved. The taskforce's recommendations are independent of the Bureau's positions and focus on many important areas, including spurring innovation, increasing competition, expanding access to credit, reducing friction in financial markets, and protecting consumers.

The report consists of approximately 100 recommendations, which, like the 1968 commission, we hope are used by Congress to improve consumer financial law. However, our audience goes beyond Congress to state governments and federal and state financial regulators. Additionally, we expect the report will help

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the Bureau as it continues to improve and implement consumer financial protection regulations and policies.

As I read the taskforce's report, I was struck by how many of the recommendations' themes the Bureau already practices. We are committed to providing financial institutions with smart regulations and regulatory certainty as well as fostering responsible innovation within the financial sectors. We know that when you have smart regulations and an innovative marketplace, there is more competition, which can mean more affordable products and services for consumers. Just this past October, the Bureau's Technology & Innovation Office, Office of Fair Lending and Equal Opportunity, and Office of Innovation hosted a Tech Sprint. The Tech Sprint brought together multiple tech teams from the financial industry that were focused on improving adverse action notice disclosures. Improving these disclosures can help educate consumers and thereby increase their chances for accessing future credit, allow financial institutions to determine the barriers consumers face when trying to access credit, and help reveal discrimination on a prohibited basis. The technological innovations proposed during the Tech Sprint will better inform the Bureau as to how to improve these disclosures. Having said that, I know there is more we can do, and I expect the report's recommendations will help us broaden and sharpen our approaches to innovation.

The report's recommendations also discuss reducing friction in various financial markets. One area where friction has been building is around the integration of limited English proficiency consumers into the financial marketplace. Financial services want to be able to take steps to offer LEP consumers products and services, but they are often wary of running afoul of regulations. To reduce the friction between the regulations and financial institutions, in the area of LEP consumers, we are developing guidance to assist the financial industry in determining

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how it can offer products and services to LEP consumers without running afoul of federal regulations. This guidance will mean more people will be able to access affordable credit, services, and products. We are excited for the opportunity to carefully review the report's recommendations to determine what further steps we can take to reduce friction in financial markets.

The last recommendation theme I want to touch on is consumer protection. Consumer protection has been and will continue to be at the core of what we do. Even in the face of the pandemic, 2020 has been one of our busiest years in terms of enforcement actions. In calendar year 2020, the Bureau filed the second-highest number of actions in the Bureau's history, secured approximately \$800 million of dollars in customer relief and penalties, and opened investigations in all of the Bureau's markets and institutions. We will continue to identify and pursue bad actors through our enforcement and supervision actions, and we expect this report's recommendations to help us strengthen our efforts.

The Bureau, along with other regulatory agencies and governments, will be able to use the recommendations of this report to modernize the framework of consumer financial law. However, as the earlier examples highlight, the Bureau is already committed to many of the recommended ideas presented in the report. As such, these recommendations will not require us to build a new path forward, but they will help to better define and illuminate our current path.

I want to thank everyone for joining us today. I also want to reiterate my thanks to Todd and all the members of the taskforce. Their efforts over this past year, along with all the Bureau's associated efforts, will ensure we are best equipped to protect consumers by maintaining fair, competitive, and transparent financial marketplaces. Thank you.

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1:13pm–1:20pm

Taskforce Chair, Todd Zywicki Speaking

Commented [WN(1): Themes currently not included in Dir or Chair remarks. The 50-year cycles, why this effort continued through the pandemic, the intended use of the report, and the makeup of recommendations (audiences not entirely the Bureau, these are not Bureau positions, etc).

- Thank you so much for your kind words and support Director Kraninger. Good afternoon, everyone. Thank you for joining us as we discuss the Taskforce on Federal Consumer Financial Law's report and associated recommendations.
- My name is Todd Zywicki. I serve as the Chair of this Taskforce. I am going to keep my comments brief but will provide a short background on what the Taskforce has accomplished in the year since its start; as well as some of the themes and takeaways from the report we'll be covering today. Before that, I would like to offer a few thanks and introduce the members of the Taskforce.
- First and foremost, I want to thank our Bureau colleagues for working with us this year to help inform the report. Though a document of recommendations can feel like criticism, I want to say that each Member has been immensely impressed with what the Bureau has accomplished in its 10-year history. You have a lot to be proud of. A special thanks the Taskforce Support Team who worked tirelessly to research, draft, and prepare the work we are about to discuss.
- I'd also like to thank everyone who helped inform our work from outside of the Bureau from the respondents to our

Commented [WN(2): Good line that will highlight that the staff are "permanent parttime employees", the staff are your colleagues.

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Request for Information to the consumer and trade groups who met with us to the numerous state and federal regulatory partners who also provided us tremendous insights throughout the year.

- Finally, I'd like to express my biggest gratitude to my fellow Taskforce Members. Working with and learning from you all this year has been a highlight of my career.
- For those who don't know, I am joined on the Taskforce by Jean Noonan, Bill MacLeod, Tom Durkin, and Howard Beales. Each member of the Taskforce has committed their career to improving the health of America's financial system and consumer protection, and each has a distinguished record of public service. It has been honor serving with you.
- When this Taskforce was chartered, it was tasked with examining the existing legal and regulatory environment facing consumers and financial services providers and is now publishing a two-volume report of our findings and recommendations.
- The first volume of the Taskforce's report includes thirteen chapters regarding financial products and services. These chapters explore the history of consumer financial law, provide in-depth analysis of the five core principals of consumer financial protection, and assess emerging topics

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in the field as well as detail the current consumer financial regulatory framework.

- The Taskforce used the insights gained from the first volume to develop a second volume that includes a set of recommendations for the Bureau on ways to harmonize and modernize the application of financial laws and regulations.
- As has been mentioned, the Taskforce is in part inspired by the National Commission on Consumer Finance (NCCF), which was created to conduct original research and provide Congress with recommendations relating to the regulation of consumer credit. Fifty years before the NCCF, we saw the introduction of modern consumer credit. Fifty years after the NCCF, this Taskforce has put together a report that seeks to modernize consumer financial law as we enter the “technology era”
- Overall, the report’s major themes touch on protecting consumers, increasing competition, expanding access to credit, spurring innovation and reducing friction in financial markets. By focusing on these core themes, we believe the Bureau can be well positioned as it enters the “technology era”
- Beyond those themes, we hope you can leave today’s discussion with a few key messages. The first being, that this product is not merely an intellectual endeavor, but it was

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created with real people in mind. It was created to help all consumers, but especially those who have felt like they have been marginalized or barred from the keys to prosperity this country should make available to all its citizens.

- To summarize a nearly 1,000-page government document can never be done in an hour, but four themes are woven through the work that I'd like to highlight now.
- First, consumer protection enhances the financial marketplace by establishing trust by fighting against fraud and deception, and that consumer protection works best when it seeks to prevent harm while not impeding emerging opportunities that enhance consumer welfare.
- Second, the Taskforce encourages the Bureau that maximizing financial inclusion and reducing consumer harm should be the foundation of its work. The report provides a roadmap for helping accomplish these goals
- Third, competition and innovation are critical to financial consumer protection. I imagine we will spend time discussing this more as our program continues.
- Finally, Regulatory modernization and flexibility are required to ensure that the law and the regulatory agencies and judicial system that enforce them continually evolve to reflect

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the everchanging consumer financial services landscape and the needs of consumers.

- With that said, I'd like to hand this discussion off to our moderator, Eric Kaplan, Chair of the Consumer Advisory Board.

1:20pm – 2:17pm	Q&A with Taskforce, <ul style="list-style-type: none">• Eric Kaplan (Moderator)• Todd Zywicki• Jean Noonan• Bill MacLeod• Tom Durkin• Howard Beales
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- Good afternoon everyone, my name is Eric Kaplan. I serve as the Chair of the Bureau's Consumer Advisory Board. Let me just say that I'm very excited for this discussion.

Commented [WN(3)]: Defer to Eric on how he'd like to set the table for the Q&A, but will ask during call on Monday, 1/4.

1:17 pm–1:37pm	General report highlights.
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- Before we dive into specific aspects of the report, I wanted to ask a brief general question to open things up. You all obviously put a great deal of work into this report. However, if you had to highlight only one thing, what would it be? Let's first hear from Jean.

4 minutes	Jean's one highlight.
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- Modernization (ex. esign, wet signatures, etc.). (rules-based regulation supported by examinations)
- Insert recommendations that can be referenced

[Eric transitions to Bill]

4 minutes	Bill's one highlight
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- The proposals to allow innovation and the chartering of new institutions all present threats to the incumbents and status quo. However, if we thwart innovation it will exclude consumers from the prosperity available via financial products and services. (Highlight excluded communities and how fintech can bring banking to consumers who have never had it.) IF YOU HAVE NO STORE THERE IS NOTHING TO PROTECT.
- We need a muscular CFPB to fight for consumers, and that fight includes a fight to promote competition. Competition is a means to an end of consumer welfare. Keeping the status quo is a protection to the established players.
- Insert recommendations that can be referenced

[Eric transitions to Tom]

4 minutes	Tom's highlight.
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Greater use of information and knowledge should be used to improve government's role in protecting consumers. (Tool: Research)

The Bureau needs to be the advocate for consumers, even amongst the other regulators. The CFPB should be that friend and advocate.

- Insert recommendations that can be referenced

[Eric transitions to Howard]

4 minutes	Howard's highlight.
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- There are things the government does that can exclude people, such the CARD ACT & Durbin Amendment.
- Reform of information and disclosures can be more protective of consumers.
- Insert recommendations that can be referenced

[Eric transitions to Todd]

4 minutes	Todd's highlight.
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- Inclusion is promoted by innovation and regulations have the capacity to improve or harm inclusion (Tool focus: rulemaking)

Insert recommendations that can be referenced

1:37 pm–2:13pm	Eric will extemporaneously lead the discussion from here
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Topical References	CONSUMER HARM
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- Overviews of concepts in Chapters 6 & 11 (Howard)
 - Privacy and disclosure recommendations seek to put the onus on companies to determine what leads to consumer harm and provide useful information on which consumers can act
 - Why this is ineffective
 - Recommendations to refocus on defining and mitigating consumer harm
 - Study ways to make disclosures more effective (e.g. perils of information overload)
 - Examine opportunities to use information to improve consumer protections (e.g. data triangulation)
- *Transition to Supervision and Enforcement Recommendations* (Todd)
 - e.g. “TF recommendations also discuss opportunities for regulators to use their supervisory authority to address consumer harms. Jean what are some ways regulators can refocus to rooting out consumer harms in an exam setting?”
- *Supervision and Enforcement Recommendations* (Jean)
 - Exams should focus on what institutions do not how they do it

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- Example: using CMS as primary examination method akin to grading a student based on how s/he studies vs. performs on an exam
- TF suggests limiting the use of compliance monitoring exams to encourage the Bureau to focus on exam structures that review actual practices of regulated entities
- Recommendations on limiting compliance management systems should lead to more exams that focus on what institutions do, and not how they do it, which will provide more well-rounded exams
- *Transition to CBA Discussion (Todd)*
 - (e.g. “Cost-benefit analysis can assist regulators with prioritizing and streamlining efforts to prevent consumer harm”)
 - Role of CBA analysis
 - Regulatory effectiveness means allocating limited resources to the areas that will best protect consumers.
 - Cost-Benefit Analysis is the best way to ensure the biggest consumer harms are the top priorities of the Bureau
 - Recommendation to create Office of Strategy and Policy at the Bureau to improve CBA considerations and ensure Bureau actions are not anti-competitive

Topical References	COMPETITION
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- Thank you [Taskforce member]. Moving onto our second topic, we want to turn the discussion to promoting financial inclusion. Financial inclusion covers an array of areas from advocating competition to fighting discrimination to providing consumers with financial education. The report asserts all of these efforts are central to ensuring everyone is included in the financial marketplace.

[Eric opens topic up to discussion]

Topic Talking Points

- Role of competition (Bill)
 - Competition advocacy should be a central focus of the Bureau as competition helps ensure consumer protection while enhancing consumer welfare.
 - Competition and innovation leads to greater consumer choice, increased financial inclusions, and lower prices.
 - Competition has historically protected against the devastating impacts of discrimination.
 - Fighting discrimination should lead to increased financial inclusion
 - Should address laws that unnecessarily hinder inclusion in a way that balances need for consumer protection
 - Example: perils of CARD Act and Durban Amendment
 - Role of ECOA and Recommendation for expansion of the law
 - Providing consumers with information and financial education is essential to improving competition (Todd)

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Topical References	MODERNIZATION
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- Thank you [Taskforce member]. Now onto our final topic which covers innovation, something the report argues goes hand-in-hand with financial inclusion. In general, the report advocates modernizing regulations and flexibilities that will promote innovation.

[Eric opens topic up to discussion]

Topic Talking Points

- Report advocates for regulatory modernization and flexibilities that will promote innovation (Todd)
 - Principle-based rules will allow the Bureau to accommodate fintech while preserving consumer protections
 - Example – Treatment of pre-paid cards as debit or credit products reflects inflexible regulatory regime that imposes requirements not rooted in preventing consumer harm.
 - Principle-based rules could enable a regime to make signing disclosures faster, more convenient, and assist with responding to emergencies
- Fintech's role in increasing inclusion (Todd)
 - FinTech making credit available to consumers who currently do not have access to financial products/services
 - FinTechs offer products/services at cheaper cost to consumers who are not served by traditional providers
- Fintech chartering (Todd)

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- Why is fintech chartering a benefit to consumers?
 - Chartering would increase competition, eliminate redundancies of 50-state regulation, and increase uniformity in consumer protection standards (balancing need to protect against unfair, abusive, discriminatory practices with the need to maintain opportunities to access products/services fintechs provide)
 - Options for chartering
 - Dual chartering
 - Bureau to issue charters
 - OCC charters
- Thank you [Taskforce member]. I regret that we are running out of time. Hopefully, we've covered a diverse set of topics today. Thank you to the Taskforce for the privilege of moderating today's discussion. Your commitment to this work and to public service is admirable.

2:13pm – 2:15pm	Event Conclusion: Andrew Duke speaking
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- I think I can speak for many on this call in thanking the Taskforce members and staff for their work over the last year. Thank you also to Director Kraninger for her support of this Taskforce and Eric Kaplan for moderating today's event.
- I hope the topics and recommendations covered today were insightful to those joining us today, and this is surely just the

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one step on a path toward improving and modernizing
Federal consumer financial law and its regulatory system.

- This To read the full report, make sure to visit consumerfinance.gov.
- This concludes today's event

END EVENT, 2:15pm, January 5, 2021

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