

November 2017

# Consumer Advisory Board

November 1-2, 2017



## Meeting of the Consumer Advisory Board

The Consumer Advisory Board (CAB) of the Consumer Financial Protection Bureau (CFPB) met in person at 9:00 a.m., Eastern on November 1, 2017. The CAB met at the Hilton Tampa Downtown located at 211 North Tampa Street, Tampa, Florida.

<b>Board members present</b>	<b>CFPB staff present</b>
Chair, Ann Baddour	CFPB Director, Richard Cordray
Vice Chair, Lynn Drysdale	Julian Alcazar
Randi Adelstein	Mary Kate Binecki
Seema M. Agnani	Olivia Calderon
Tim Chen	Matt Cameron
Kathleen C. Engel	Kristen Donoghue
Judith L. Fox	Crystal Dully
Julie Gugin	Gregory Evans
Neil F. Hall	Patrice Ficklin
William Howle	Delicia Hand
Brian D. Hughes	Manny Mañón
Julie Kalkowski	Zixta Martinez
Ruhi Maker	Karen Meyers
Brent A. Neiser	Hector Ortiz
Ohad Samet	Janneke Ratcliffe
Dr. Howard B. Slaughter Jr.	David Silberman

James M. Wehmann

Gary Stein

Raul Vazquez

Chi Chi Wu

Josh Zinner

November 1, 2017

## Welcome and Member Introductions

**Director Richard Cordray, Consumer Financial Protection Bureau**

**Delicia Hand, Staff Director, Advisory Board and Councils Office**

**Zixta Martinez, Associate Director, Division of External Affairs**

**Ann Baddour, Chair, Consumer Advisory Board**

Chair Ann Baddour opened the CAB meeting and welcomed attendees. She thanked staff and CAB members Sylvia Alvarez and Lynn Drysdale for their roles in organizing the community activities in Tampa, Florida. She welcomed new and returning members. Next CAB members and staff then introduced themselves.

Director Richard Cordray welcomed new and returning members and thanked them for their participation. He administered the oath of office for new CAB members and provided opening comments including a discussion of the CAB's past work with the Bureau. He also provided an update on recent activities related to the Bureau's work including: an update to the arbitration rule, a final rule providing new protections for prepaid cards and accounts, updates to the Know Before You Owe mortgage rule, release of a new data point on student loans, issuance of a report about reverse mortgages, issuance a no-action letter to Upstart Network, and the final payday lending, vehicle title, and other small-dollar loans rule. Director Cordray also provided an overview of recent enforcement actions. Assistant Director Delicia Hand highlighted what the Bureau was looking for from Board members in the upcoming discussions and provided an overview of the agenda.

## Information Exchange: Know Before You Owe: Overdraft

**Gregory Evans, Senior Counsel, Office of Regulations**

**Gary Stein, Deputy Assistant Director, Card, Payment, and Deposit Markets**

Staff from the Bureau's Office of Regulations and Office of Card, Payment, and Deposit Markets led a discussion on the Bureau's Know Before You Owe: Overdraft initiative. Staff also discussed the recently released data point on frequent overdrafters. The Bureau previously released

research describing the overdraft market in general, but this data point is specifically focused on frequent overdrafters. Staff provided the Bureau's definition of a frequent overdrafter used in the data point, discussed the Bureau's reasoning behind examining this issue and how they examined it, and highlighted key points found in the research. Staff also highlighted the Bureau's ongoing testing of Regulation E opt-in form prototypes.

Members asked if the Bureau has any data on the percentage of force-pay transactions. Staff replied they have data on overdrafts by transaction type but that the data do not permit the Bureau to see what the available balance was when the transaction was authorized. This led to discussion on overdraft fees paid by non-opted-in accounts. There was discussion around the Bureau's findings, particularly questions about why consumers overdraft. Members stated that the clarity of the opt-in model form was very important. Members also expressed interest in the findings of the Bureau's qualitative interviews. Some members discussed the overdraft data point the CAB Cards, Payments, and Deposit Markets subcommittee drafted. Members discussed some actions suggested on a survey on the topic. Some CAB members discussed the potential use of focus groups of consumers who opted in as a way to gain understanding of their knowledge of overdrafts. Members discussed other methods to increase consumer education on overdrafts. Additionally, there was discussion on how financial institutions were presenting opt in and what, if any, role incentives for financial institution employees might play in this area. Members also mentioned the CFPB Consumer Complaint Database as a potential source of behavioral research in this area.

## Information Exchange: CAB Perspectives on Enforcement Priorities

**Patrice Ficklin, Assistant Director, Office of Fair Lending and Equal Opportunity**  
**Kristen Donoghue, Principal Deputy Enforcement Director, Office of Enforcement**  
**Karen Meyers, Deputy Enforcement Director for Policy and Strategy, Office of Enforcement**

Staff from the Bureau's Office of Enforcement and the Office of Fair Lending and Equal Opportunity updated CAB members on recent enforcement actions. Staff highlighted recent activity, such as Home Mortgage Disclosure Act (HMDA) enforcement activity, and various priorities. They asked for input from CAB members on relevant trends and themes observed in their industries and regions.

CAB members discussed the auto lending market and some noted that they notice an increase in the subprime auto lending with disparate impact on minorities. The discussion also included topics such as junk extended warranty clauses and abuses and disparate impacts in the sale of auto add-ons. Some members voiced concerns with buy-here-pay-here auto companies, such as costs to repair vehicles.

Members and staff also discussed reviewing company practices under Unfair, Deceptive or Abusive Acts and Practices (UDAAP) across industries. Members shared insight on land installment contracts, particularly rent-to-own contracts. CAB members discussed problems with credit freezes and deceptive practices aimed at steering consumers toward credit monitoring. Staff asked that members encourage people to file complaints with the Bureau in these instances through the Bureau's Consumer Complaint Database. CAB members discussed mortgage lending and servicing. Some members suggested that some of the newer servicers were reverting to older practices. Members discussed the bulk CFPB publications available for consumers and encouraged others members to get these publications and distribute them. Members discussed loans for other products and services, such as funeral financing, student loans, and products sold door to door. Additionally, members discussed issues with lenders and servicers in cases of disaster. CAB members discussed synthetic currency-related scams, expressing concerns about consumer protection and questioning the Bureau's authority in this space. Staff explained that in order for the Bureau to have jurisdiction, the product would have to qualify as a consumer financial product or service.

## Administrative Session: Working Lunch – Governance Review

### **Delicia Hand, Assistant Director, Advisory Board and Councils Office**

During the Governance Review session, the Advisory Board and Councils Office briefed CAB members on the functions of the CAB governing documents, specifically, the charter, and the bylaws. As the Bureau is now subject to the Federal Advisory Committee Act (FACA), minor changes were made to the documents to include FACA language. Staff provided details on the changes, such as several updates to the Notice of Meeting section. Other changes included an

explanation of the roles of the Chair and Vice Chair and the succession of leadership. Lastly, staff noted there was now a yearly FACA report published with the budget metrics for the CAB and the outcomes yielded.

## Information Exchange: Faster Payments

### **Gary Stein, Deputy Assistant Director, Card, Payment, and Deposit Markets**

A staff member from the Office of Card, Payment, and Deposit Markets provided background on the Bureau's work on faster payments. He covered several topics such as the potential time lag between purchases and payment processing, the benefits, downsides, and risks of faster payments, as well as Bureau activity in this area. This included the Bureau's publishing of a set of consumer protection principles—regarding concepts such as consumer control, privacy, and access—for developers of the faster payment system to keep in mind during the building of the system. The Bureau also introduced a principle on ensuring there was an accountability framework for all players in the market. Other topics in this discussion included the Federal Reserve's Faster Payments Task Force, piloting of a real-time payment system by The Clearinghouse, and the role the Federal Reserve plays in faster payments.

CAB members and CFPB staff discussed cashless societies. Members noted that the difference between the US and other countries is that the US has a strong regulatory system on cards. Some CAB members commented on faster payments stating that the fraud infrastructure around faster payments and credit cards needs to transform. Some CAB members discussed concerns about adverse impacts of cashless systems on underserved populations of consumers. Members stated that there are layers of competition in the market that will influence the direction of faster payments. Members applauded the Bureau for putting out the principles at a key point in the process. There was a discussion on how faster payment systems could accommodate consumers during natural disasters. Additionally, members discussed the possibility of the Federal Reserve taking on an operational role with faster payments. There was also a discussion on the Early Warning Zelle system and Early Warning's role as a specialty consumer reporting agency and how that might impact their provision of faster payments.

## Information Exchange: Financial Empowerment Initiatives

### **Olivia Calderon, Senior Advisor, Office of Financial Empowerment**

In this session, staff from the Office of Financial Empowerment provided an overview of the Bureau's empowerment work and solicited feedback on the new *Your Money, Your Goals Focus*

*on People with Disabilities companion guide.* The Bureau's Office of Financial Empowerment provides tools, information, and skill-building resources to low-income and economically vulnerable consumers. The Office provides training and technical assistance to organizations across the country to help these populations build their financial capacity. The Office is also building the financial skills of young people, encouraging saving among low-income individuals at tax-time, and integrating financial coaching into existing organizations and programs where recently-transitioned veterans and people who are economically vulnerable come to receive other services such as job training, education, housing and social services.

The discussion then moved to *Your Money, Your Goals..* Staff talked about how and why the *Focus on People with Disabilities* companion guide was created in partnership with disability organizations and the Federal Deposit Insurance Corporation (FDIC). Staff explained that the guide contains tips, tools, and skill-building resources based on insights from people with disabilities and from organizations that serve the disability community. Staff shared the eleven new tools in the guide along with specialized information to help organizations and their staff provide accommodations to meet the needs of people with disabilities and their families.

CAB members asked how individuals and institutions can receive the tools. Staff replied that all of the tools and resources are available for order for free online. Members also asked if there is a way to find out what organizations are already using the companion guide for disabilities. Staff explained how to find the list of organizations that are using the guide. There was discussion on how the Bureau can further scale the programs, with members offering ideas such as using innovative technology and partnering with nonprofit organizations, state health and human services, medical and law schools, assisted living facilities, and local municipalities. Members and staff also considered ways to facilitate financial education in schools. Members and staff discussed the relationship between the tools focused on consumers with disabilities and financial wellbeing. Several members commended the Bureau for this work.

## Subcommittee Breakout Sessions

### **William Howle, Chair, Card, Payment and Deposit Markets Subcommittee**

The Card, Payments, and Deposits Markets subcommittee devoted a majority of the subcommittee meeting to discuss digital financial literacy. The subcommittee discussed the role

of technology, banks, and community groups. The session opened with a presentation on the Bill and Melinda Gates Foundation led by Christopher Calabia from the Foundation. The presenter discussed the Foundation's global reach and scale, its interest and efforts in vaccine and drug development, and its work in global development. In the space of financial services for the poor, the Foundation is pushing digital financial services, and the presenter talked about issues and challenges in this area. Members asked how the Foundation is thinking about the regulatory side, about deposit insurance, and about error and unauthorized use protection. Members also asked if the Foundation has done any work in the United States on this topic. One member asked what players are important to making this successful in different countries. The presenter identified the government, central banks, other regulatory authorities, and the private sector.

Next Bureau staff provided an update on work the Bureau has done on mobile financial services, including the 2015 Mobile Financial Services report. They discussed how using mobile financial services can be a force to help low-income consumers improve their financial outcomes and spoke on how faster payments could help in this area. Other topics of discussion were: integrating information about mobile financial services into the suite of empowerment and education materials, how to address barriers or help people avoid security or safety issues, and Bureau collaboration with financial institutions to move people into mobile banking through in-person connections. Members noted that consumer trust in mobile phones is the key to advancing mobile financial services, which will require consumer education. There was discussion on unbanked Americans, why they might be unbanked, and their access to banks. Members suggested that one resource could be the FDIC Committee on Economic Inclusion, which led to members' discussing work that the committee has done in this area.

### **Joshua Zinner, Chair, Consumer Lending Subcommittee**

The Consumer Lending subcommittee received an overview of the key issues that fall under the subcommittee's scope. Subcommittee members shared initial thoughts on the Bureau's final rule for payday, vehicle title, and certain high-cost installment loans. Additionally, the subcommittee spent time planning for discussions for upcoming meetings.

Members and staff discussed the process for the next day's discussion on payday lending with the full CAB. Members spent time highlighting topics such as why consumers take out these types of loans, what happens if small dollar lending isn't available, and the consequences for

those consumers who might be unable to pay these loans back. Subcommittee members discussed the lack of payday lending in New York and how those consumers are still obtaining the loans online. There was a discussion on financial education and tools to help consumers manage their finances and avoid a wide range of predatory lending. The subcommittee also discussed the possibility of the market's moving to longer-term loans with the same characteristics of payday loans. Members expressed interest on the comments the Bureau solicited about collecting data from student loan servicers and also requested an update on the request for information (RFI) on alternative data.

### **Lynn Drysdale, Chair, Mortgages and Small Business Lending Markets Subcommittee**

The Mortgages and Small Business Lending Markets subcommittee held conversations about small business lending trends in their communities as well as discussed continuing issues in the contract for deed market. Members also discussed New York specific demographic maps which highlighted areas that are not being served in the small business lending space. Section 1071 of the Dodd-Frank Act, requires that the Bureau write rules to require financial institutions to collect women-owned, minority-owned, and small business lending data for the purpose of facilitating enforcement of fair lending laws and enabling communities, governmental entities, and creditors to identify business and community development needs and opportunities of women-owned, minority-owned, and small businesses . Subcommittee members and staff discussed the Community Reinvestment Act (CRA), as it relates to small business. Next, members discussed land installment contracts and issues with these contracts, as well as ongoing litigation. Additionally, Subcommittee members discussed land contracts and UDAAP. The subcommittee also discussed Fanny Mae and Freddie Mac and loan servicing.

### **Adjournment**

CAB Chair Baddour adjourned the first day of the meeting on November 1, 2017 at 4:45 p.m. Eastern.

November 2, 2017

### **CFPB Consumer Advisory Board Meeting Public Session**

Zixta Martinez, Associate Director of the Division of External Affairs, welcomed audience members to the CAB public meeting and introduced CAB members and CFPB staff. Director Cordray welcomed the chair, vice chair, CAB members, and members of the public. Following Director Cordray's remarks, Hector Ortiz, Policy Analyst from the Office for Older Americans, led a discussion on the Bureau's work on "Know Before You Owe: Reverse Mortgages."

Following the reverse mortgages discussion, Janneke Ratcliffe, Assistant Director of Office of Financial Education, shared the results of the Bureau's nationwide survey, which used the financial wellbeing scale to examine the financial wellbeing of U.S. consumers. Ms. Ratcliffe also provided a demo of the online tool. After this discussion, the CAB adjourned for a working lunch. During the working lunch discussion, Patrice Ficklin, Assistant Director of the Office of Fair Lending and Equal Opportunity, provided an overview of the Bureau's first No-Action Letter (NAL), which was issued to Upstart Network.

Chair Baddour reconvened the public meeting at 2:00 p.m. Eastern. CAB members Joshua Zinner and Ohad Samet presented on trends and themes in the debt collection market. Lastly, David Silberman, Associate Director of the Division of Research, Markets, and Regulations, provided an overview of the Bureau's final rule for payday, vehicle title, and certain high-cost installment loans. The video of the public session is available on [consumerfinance.gov](http://consumerfinance.gov).

## Adjournment

Chair Baddour adjourned the meeting of the CFPB Consumer Advisory Board on November 2, 2017 at 5:31 p.m. Eastern. Following the meeting's adjournment Zixta invited members of the public to provide comment. The public testimony is also available on [consumerfinance.gov](http://consumerfinance.gov).

## Certification

I hereby certify that, to the best of my knowledge, the foregoing minutes are accurate and complete.



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Delicia Reynolds Hand  
Assistant Director, Advisory Board and Councils Office  
Consumer Financial Protection Bureau