

Joint Advisory Committee Meeting

September 15, 2020



Meeting of the CFPB Advisory Committees

The Consumer Financial Protection Bureau's (CFPB) Consumer Advisory Board (CAB), Community Bank Advisory Council (CBAC), and Credit Union Advisory Council met in via conference call at 2:30 p.m. Eastern on September 15, 2020.

Advisory committee members present	CFPB staff present
Consumer Advisory Board	Director Kathleen L. Kraninger
Chair Brent Neiser	Manny Mañón
Nikitra Bailey	Howard Beales
Nadine Cohen	Thomas Durkin
Sameh Elamawy	Jean Noonan
Manning Field	William MacLeod
Clint Gwin	Todd Zywicki
Dr. Ronald Johnson	
Eric Kaplan	
Timothy E. Lampkin	
Sophie Raseman	
Rebecca Steele	
Timothy A. Welsh	
Community Bank Advisory Council	
Chair Aubery Guzzo	
John Erik Beguin	
Maureen Busch	
Patrick Ervin	

Shan Hanes

Bruce Ocko

Valerie Quiett

Heidi Sexton

Credit Union Advisory Council

Chair Sean Cahill

Arlene Babwah

Teresa Campbell

Rick Durante

Doe Gregersen

Brian Holst

Racardo McLaughlin

Eric "Rick" Schmidt

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Welcome

Kathleen L. Kraninger, Director

**Manny Mañón, Acting Staff Director, Section for Advisory Board and Councils,
Office of Stakeholder Management**

CFPB Section for Advisory Board and Councils Acting Staff Director Manny Mañón convened the joint advisory committee meeting and welcomed committee members, Taskforce members, and members of the listening public. He provided a brief overview of the meeting's agenda and introduced CFPB Director, Kathleen Kraninger. Director Kraninger provided remarks on the purpose and objectives of the Bureau's Taskforce on Federal Consumer Financial Law. The Taskforce has been instructed to develop and deliver a report to the Director with a set of recommendations to improve the consumer financial protection system. Depending on the Taskforce recommendations, the Bureau may make referrals to Congress for legislative action, write new or amend existing regulations, and/or develop new systems of coordination among federal regulators.

Listening Session with the Bureau's Taskforce on Federal Consumer Financial Law

Director Kathleen L. Kraninger

Todd Zywicki, Taskforce Chair, Office of the Director

Thomas Durkin, Taskforce Member, Office of the Director

Howard Beales, Taskforce Member, Office of the Director

Jean Noonan, Taskforce Member, Office of the Director

William MacLeod, Taskforce Member, Office of the Director

The listening session began with a welcome from Taskforce Chair Todd Zywicki. He thanked participants for joining and introduced fellow Taskforce members. He also provided a brief description of what the Taskforce has been doing since its inception in January 2020. The Taskforce is partially inspired by the National Commission on Consumer Finance from the late 1960s, which was created to conduct original research and provide Congress with recommendations relating to the regulation of consumer credit. Similarly, the Bureau's

Taskforce has been examining the existing legal and regulatory environment facing consumers of financial service providers and will publish a two-volume report of findings and recommendations.

The first volume of the Task Force report will cover five overriding topics regarding financial products and services. Those themes are: 1. the review of the legal framework of consumer protection; 2. consumer information and education; 3. how to harness competition and innovation of financial services for the benefit of consumers; 4. how to maintain and expand inclusion and access to financial products and services; and 5. a study of the regulatory framework and how to modernize and provide flexibility in an evolving world. The second volume will include recommendations on ways to improve and strengthen the application of financial laws and regulations. Zywicki explained the format of the meeting noting that each Taskforce member would present one of the five key focus areas of the report and open the conversation for feedback from members.

Following Zywicki's remarks, Taskforce member Thomas Durkin highlighted the portion of the report on the review of the legal framework of consumer protection. He noted that consumer financial protection is promoted by an extensive framework of laws, regulations, recommendations, and procedures. He asked members if there are areas in which the consumer protection laws are inadequate. He also asked how the Bureau can best use its regulatory tools.

Members responded with commentary on the legal framework. A member asked about necessary changes needed to consumer financial protection laws considering the current pandemic and given that some lenders may be hesitant to provide services to consumers. A member discussed creating more certainty without restricting lenders; a balance of clear guidelines and flexibility for institutions to deliver products. The member said that consumers bear the cost of uncertainty. The member highlighted "Know Before You Owe" and complex disclosures as examples of the need for this balance. Another member encouraged the use of the Consumer Complaint Database as an early warning system for consumers for awareness of any trends in consumer protection issues.

A member commented that the absence of a national data privacy standard that addresses data security requirements and preempts state laws has created a patchwork of conflicting privacy standards across the country, which creates a very challenging compliance task for financial

institutions that do business across state lines and a myriad of risks for consumers. The member said that a uniform national privacy and security standard would promote the best interests of consumers and allow a significantly better framework for financial institutions to protect consumers' non-public confidential information.

Taskforce member Howard Beales highlighted the portion of the report on consumer information and education. He stated that financial inclusion is enhanced by expansion of consumer education, especially for vulnerable and protected populations. He asked members if providing information for consumers in disclosures is an adequate way to protect consumers. He also asked how those disclosures can be updated for the electronic age. He said that the Taskforce was interested in hearing thoughts on anything the federal government can do to enhance financial mobility and enhance inclusion in the financial system.

Members responded with commentary on consumer education. Several members discussed disclosures. A member commented that she encourages the use of data disclosures and smart disclosures as well as personal data access to help consumers make decisions. The member also flagged the need for exploration of new consumer protection rules for major crises and market disruptions such as the current disruption due to COVID-19. Another member said that financial education should be tied to financial mobility and empowerment. The member recommended the creation of tailored disclosures, written in plain language, to meet the objectives of consumers and to allow consumers to make more informed choices. This would strengthen the financial stability of Americans and particularly those who are underserved or financially vulnerable. Several members said that disclosures are often not helpful and are too lengthy. A member said that there needs to be more summary-level, pertinent information and required standards, related to price, value, benefits and risks. A member proposed disclosures with readable information in a concise format with more detailed information available when needed.

A member shared examples of disclosures that have provided consumer education: Social Security Administration's messaging on the age for retirement claims; Department of Labor's illustration on annuitization and lifetime income; and disclosures regarding minimum payments on credit cards. Another member discussed buy-rate financing at auto dealerships as a consumer education opportunity.

A member provided an overview on machine-readable data disclosures, also known as “smart disclosures.” The member said that the intention of smart disclosures was to empower consumers to use third parties that specialize in making sense of the machine-readable data disclosures that the service providers make available. The member went on to say that with smart disclosures, regulators and lawmakers can have financial service providers make information about products available in machine-readable forms and encourage the creation of objective comparison-shopping tools. The member also said that access to personal financial data is an important component of smart disclosures and noted that the implementation of Dodd Frank Section 1033 is important in making disclosures effective. The member further provided specific information on this concept.

A member agreed that financial education is a key to financial mobility. The member shared suggestions on how regulators can foster innovation and sharing around financial education to increase financial mobility. The member said the Taskforce should consider how financial institutions can partner with regulators to encourage innovation and to also consider the creation of a forum that financial institutions could use to share their learnings in a non-competitive way. Some members suggested that the federal government use ad campaigns, partner with schools and community groups to enhance financial mobility. A member suggested that the Bureau provide a bot on the CFPB website that helps explain disclosures so that consumers can have clear understanding.

Taskforce member William MacLeod highlighted the portion of the report on competition and innovation. He noted the need for competition and innovation within and across financial sectors to give consumers access to financial products that work well for them. He asked members if they believe competition is working well and whether there are areas to identify that could work better. He also asked if there are conditions that are limiting competition.

Members responded with commentary on competition and innovation. A member discussed student debt and suggested that higher education institutions should provide disclosures and consumer education on student loans. The member said this would foster competition based on which institutions provide the better returns on investments. Another member agreed that competition can lead to innovation; however, the member said that the regulatory framework can discourage innovation that would help consumers. The member said that credit unions have been discouraged from underwriting loans using alternative data because they are not

allowed to offer products that aren't based on the FICO model. Another member noted that when credit unions use alternative data, they generally receive regulatory criticism based on the Equal Credit Opportunity Act and safety and soundness concerns. Members agreed that without the use of alternative credit data, some consumers are essentially credit invisible and very difficult to bank.

A member discussed challenges that make it difficult for responsible lenders to compete. The member also shared potential drawbacks of the use of alternative data for credit scoring, such as consumers facing unsustainable debt if creditworthiness is not properly measured. Another member said that apps and aids should be rated using an objective "good housekeeping"-type seal of approval so they meet standards set by a group of community financial leaders, counselors, planners, and coaches.

A member noted that many low-to-moderate-income (LMI) families and consumers of color are often relegated to abusive lenders that don't offer true competition. The member said that recent research by UC-Berkeley shows that Latinx and Black mortgage borrowers end up paying an additional \$765 million annually in extra mortgage fees from both face to face and fintech lenders compared to otherwise equivalent White borrowers. The member asked if the Taskforce considered the utility of fair lending assessments to complement market competition.

Taskforce Chair Todd Zywicki highlighted the portion of the report on inclusion and access to financial products and services. He noted that inclusion and access are drivers for wealth creation and financial development. He asked members if there are regulatory issues that should be addressed at the federal level to promote greater access to consumer financial products or services to traditionally underserved or underbanked individuals. He also asked members to discuss why consumers are outside the financial system, what the primary barriers are to inclusion, and what public policies might help to overcome them. Lastly, he asked how potential new entrants, such as fintech or traditional non-financial companies, might play a role to increase inclusion.

Regarding inclusion and alternative data, a member said rent payments, utility payments, and other forms of debt that can be tracked, can be modeled and can be evaluated through data analysis. The member said that this should help deal with barriers to credit access, especially for underserved populations. However, the member noted that it is important to understand the

algorithms and data. Another member said that enabling third parties to process product information for consumers is a critical part of driving real competition because a third party could help consumers make true estimates of costs, such as the cost of owning a bank account. The member suggested that the Bureau consider effective comparison shopping. The member also expressed concern about the difficulty consumers face when trying to switch payment accounts and encouraged the Bureau to consider this issue as well.

A member said that the Bureau and other governmental entities should utilize their data to ensure that consumers receive accurate information, such as ratings for a lender. The member also encouraged using data to personalize disclosures. The member said it is important that consumers with lower credit scores have access to a safe third party to receive advice and understand disclosures. Another member said that to build wealth, a creative combination of credit and assets is needed especially for LMI communities.

Taskforce member Jean Noonan highlighted the portion of the report on the regulatory framework related to modernizing and providing flexibility in an evolving world. She asked committee members to consider how to protect consumers from new threats while enabling providers to provide new products that would benefit them. She also asked how state and federal government and financial service providers should deal with an environment in which consumers are connected to financial products through the internet and smartphones. Lastly, she asked how the federal government can react quickly to market disruptions like 9/11, or the current pandemic, and at the same time provide a stable regulatory environment for consumers.

A member said that the Bureau should consider regulating the commercial sale of consumer credit trade lines to authorized users, where the authorized user has no access to the actual credit represented by the trade line. The member added that the tax identification numbers of at-risk groups, including minors under the age of 18, are frequently used in identity fraud. The member recommended that the Bureau coordinate with the Social Security Administration and major credit bureaus to place an automatic freeze on tax IDs for those under the age of 18.

Several members discussed challenges with the credit dispute or credit repair process. A member said that the credit dispute process is fraught with uncertainty and abuse by bad actors, which creates consumer burden and harm. The member suggested a centralized consumer dispute process, which would provide the Bureau with clarity and ease of identification of bad

actors as well as give the consumers one easy, centralized way to dispute legitimate errors on their credit report. Another member also suggested a national framework for the credit repair dispute process. The member shared concerns about fraudulent credit repair organizations. A member said that climate issues could be considered as a disruption to the financial system. The member said that an all-hands-on-deck interagency and federal/state coordinated approach is needed for risks to the system. The member discussed the creation of deployable crisis consumer education information and various CARES Act-type interventions and assistance. The goal should be to help families, small businesses, and individuals; and also to block the spread of community economic harms from emerging risks.

Adjournment

Acting Staff Director Manny Mañón adjourned the meeting of the CFPB advisory committees on September 15, 2020, at approximately 4:30 p.m. Eastern.

Certification

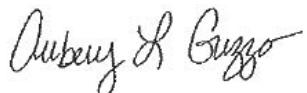
I hereby certify that, to the best of my knowledge, the foregoing minutes are accurate and complete.



Matt Cameron
Assistant Director, Office of Stakeholder
Management
Consumer Financial Protection Bureau



Brent Neiser
Chair, Consumer Advisory Board



Aubery Guzzo
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Sean Cahill
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