Community Bank Advisory Council minutes

MARCH 20, 2013

Consumer Financial Protection Bureau

Meeting of the Community Bank Advisory Council

The meeting was called to order at 9:30 a.m. The members introduced themselves, and Chair Robin Loftus, reviewed the agenda and goals for the day. Four CBAC meetings are planned for this year; two in person and two via telephone.

Board members present:

Robin Loftus
Timothy Zimmerman
Guillermo Diaz-Rousselot
Tyrone Fenderson
Donald Giles
Jack Hartings
Melany Kniffen
Jo Ann Merfeld
Kim Saunders
Laurie Steward
Glen Thurman
Huey Townsend
Larry Wilson

CFPB staff present:

Director Richard Cordray
Deputy Director Steve Antonakes
Lisa Applegate
Stacy Canan
Peter Carroll
Kelly Cochran
Jenefer Duane
Rebekah Emanuel
Delicia Hand
Gail Hillebrand
Naomi Karp
Zixta Martinez
Yuh Wen Ling
Patrick Orr
Dan Sokolov
Gary Stein
Corey Stone
Will Wade-Grey

Welcome and meeting overview

The meeting was called to order at 9:30 a.m. The members introduced themselves, and ChairRobin Loftus, reviewed the agenda and goals for the day. Four CBAC meetings are planned for this year; two in person and two via telephone.

Council governance

Delicia Hand, staff director, reviewed recent changes to the CBAC charter which were made subsequent to CBAC requests at the October 2012 meeting. At the last meeting, CBAC members suggested that:

- members' terms might be staggered to facilitate overlapping new council members with existing experienced members;
- the Bureau should modify the charter language to clarify that council committee members must be council members; and,
- to change language about the staff director attendance at council committee meetings from "must attend" to "may attend."

Staff Director Hand reviewed the above changes to the charter and reviewed similar changes made to the CBAC bylaws to bring the two governance documents in alignment. Changes to the bylaws were accepted unanimously by the Council.

Council governance: CBAC questions and comments

- A CBAC member asked whether it has been determined which CBAC meeting will be the official annual meeting, at which new members will be appointed. Staff noted that this has not yet been determined and CBAC members voted unanimously that the fall October meeting be designated as the official annual meeting.
- CBAC members noted that the charter needs to be updated to reflect that the CFPB will also now pay for limited travel for council members.
- A CBAC member requested that council members should be provided with a list of the staff members they meet today, along with contact information.

CFPB inquiry into overdraft programs

Corey Stone, assistant director, Credit Information Collections and Deposits Market

Gary Stein, Deposits Markets Program manager

Assistant Director Corey Stone and Program Manager Gary Stein led a discussion on the CFPB's inquiry into checking account overdraft programs and how they impact consumers.
The Bureau's inquiry is focused on four main areas:

1. Transaction re-ordering that increases consumer costs
2. Missing or confusing information
3. Misleading marketing materials
4. Disproportionate impact on low-income and young consumers

The CFPB is seeking insight into community banks' decision-making process in determining how to handle overdraft fees. The CBAC members discussed some of the programs offered at their credit unions. The following themes were raised in the discussion:

- A CBAC member noted that his bank receives very few complaints about overdrafts. How many complaints on overdrafts does CFPB receive, and does the level of complaints differ between large versus small banks, automated versus ad hoc systems, and check versus debit card overdraft? The staff replied that, when it comes to checking accounts, overdrafts are one of the most frequent subjects complained about. Additionally, more complaints about larger banks are received. The number of complaints grew after the recession, since consumers are more financially squeezed and awareness of the problem has grown. CFPB understands that some consumers who overdraft a good deal like using overdrafts as a money management tool. They seem expensive, but may be more cost-effective than a payday loan. One of CFPB's goals is to build consistency between different regulators' approaches to overdraft fee regulation.

- A CBAC member commented that commercial overdrafts are more difficult to track, since overdraft fees factor into other charges, and some nominal consumer accounts are used for business. The CFPB inquiry is only looking at consumer accounts, since CFPB has no authority on commercial overdrafts.
- A CBAC member commented that the younger generation does have new ways of managing information, but these methods are not necessarily worse. Technically

sophisticated consumers are often careful managers of their money. They may not look at monthly statements, but they can use online banking to monitor checking account activity several times a week.

- A CBAC member noted that her bank waits a month after account opening to issue debit cards, so that it can monitor how consumers handle their accounts. Based on this information, some consumers don't get debit cards.
- A CBAC member noted that the same groups of people tend to overdraft, regardless of which bank they use. This group is not defined by economic status but by its behavior.

Because the discussion ran longer than the allotted time, staff agreed to explore continuing the conversation through a follow-up call between CFPB and CBAC members.

Mortgage rules implementation overview

Lisa Applegate, mortgage implementation lead, Research, Markets and Regulation

Dan Sokolovdeputy associate director, Research, Markets and Regulation (RMR)

Mortgage Implementation Lead Lisa Applegate and Deputy Associate Director Dan Sokolov provided an overview of the plans for mortgage implementation and ways in which the council members will be engaged in these plans. The primary goal of regulatory implementation is to ensure that industry implements rules accurately, expeditiously and evenly. It is the CFPB's responsibility to coordinate closely with other regulators to facilitate regulatory consistency and to provide industry with the clarity and engagement needed to accomplish this. It is also necessary to educate consumers on their new protections. Hopefully the implementation will make the CFPB a smarter regulator and improve their focus for future rulemakings.

The CFPB's plans for achieving these goals fall into four categories:

1. Explaining the regulation (plain-language guides, videos, speaking engagements, other job aids)
2. Interpreting the regulation (oral interpretation, updates to official interpretations)
3. Providing implementation tips ("tips" and "checklists")
4. Clarifying supervisory expectations (exam procedures, check-ins with supervised entities, examiner training)

Feedback is critical to implementation and the Bureau will be engaging with federal and state regulators, participants in mortgage origination and servicing businesses (individually and through their trade associations), industry service providers, and consumer, community, and fair lending groups.

Mortgage rules implementation overview: CBAC questions and comments

CBAC members raised the following issues for the Bureau's consideration:

- A CBAC member suggested that one goal of regulatory implementation should be to ensure that credit availability does not decrease when new rules go into effect. Staff replied that CFPB is obliged to weigh the costs and benefits of any regulatory act. This may include gathering feedback from a panel of small businesses or from industry as a whole; this is an integral part of the Bureau's process.
- Members commented that interagency consistency in the interpretation of regulations is important and asked whether there is a process to deal with significant differences between different examiners' interpretations? Bureau staff responded that the CFPB has been coordinating closely with other regulators to facilitate consistency across regulators.
- A CBAC member suggested that the training given to examiners be posted publicly online, so that bank compliance officers have the same information examiners do. As was done with Basel III, it would be helpful for regulators to provide training on what the rules are and their expected impact. Staff replied that Director Cordray is engaged with leadership at other regulators to address this issue.
- A CBAC member enquired whether confidential information from the prudential regulators' compliance exam can be given to CFPB. The staff did not have an answer, but said that prudential regulators can ask general questions about interpretation without naming a specific bank.
- A CBAC member suggested that comments from industry on interpretatory gray areas should be collected and published.
- A CBAC member asked whether there is a process for testing examiners. Staff answered that this is still being worked out in the Office of Supervision Policy. Examiners are periodically retrained and tested to achieve different levels of examination expertise.

- A CBAC member commented that small banks cannot be the innovators in implementation. Most likely community banks will lag behind to see what larger banks and associations tell them, and their feedback will be more meaningful towards the end of the implementation period.
- A CBAC member commented that smaller banks are more stressed by the need to keep up with ongoing regulatory changes.
- A CBAC member reiterated that the implementation guides should be concise and written in layman's terms, not legalese, with specific, easy-to-grasp examples. Mr. Sokolov said that key terms will be kept consistent in both the regulation and the implementation guides.

Working lunch: Project Catalyst overview

Rebekah Emanuel, strategy project leader

Will Wade-Gery, senior counselor, RMR

CFPB staff Strategy Project Leader Rebekah Emanuel and Senior Counselor Will Wade-Gery provided an overview of Project Catalyst's mission to support the creation of consumer-friendly products and services in the financial services space. Staff then reviewed Project Catalyst's key objectives which are: establishing and maintaining open and consistent communication with the innovator community, participating in innovative initiatives that inform the Bureau's policy work and providing information and other resources that support the Bureau as a forward-looking organization. Staff discussed the project's trial disclosure program, authorized by Section 1032(e) of Dodd-Frank, designed to enable in-market testing of alternative disclosure models which can potentially improve on existing disclosure mandates. Staff also discussed the various forms of engagement the Bureau is seeking from CBAC members and their contacts to help educate and information share with the CFPB.

Project Catalyst overview: CBAC questions and comments

- A CBAC member asked how attendees for the launch were selected. Staff responded that the Bureau talked to anyone who was interested, and selected invitees from the interested parties. Part of the project's intent is to level the playing field, so that smaller players in the industry or those from novel sectors also know who to call.

- A CBAC member asked whether the safe harbor provision of the trial disclosure program protects against legal problems. Staff responded that it protects against federal regulatory authority and private liability on federal disclosure law, but not from state laws. CFPB will work with state regulators if state law is seen to obstruct innovation. In response to comments from industry, CFPB has stated that industry can consult informally with the Bureau before putting together a formal proposal. Institutions can collaborate to solve the collective action problem here, and iterative testing is allowed.
- A CBAC member suggested that trade associations could propose better disclosure requirements to CFPB based on their members' experiences with trials.
- A CBAC member asked for examples of the sort of innovation the Bureau is looking for. Staff responded that Project Catalyst is intended to keep the door open for new ideas without specifying which ones, although the waiver in 1032(e) only applies to disclosure programs. Some of the hot topics at industry roundtables were:

    - Ways to present disclosures and products differently in mobile or online banking
    - Short-term credit using new sources of data on creditworthiness, such as social data
    - Big data
    - Prepaid cards and remote capture of checks are examples of past consumer-friendly innovations.

- A CBAC member said there is a lag between innovation and its impact on community banks. CFPB has an opportunity to play matchmaker between vendors and community banks and help banks judge the value of innovations. Another CBAC member suggested using electronic disclosures to make the mortgage closing process simpler. Disclosure rules were written in a paper-bound era, and perhaps need to be rewritten. Prepaid card providers' experience in particular shows that there is a consumer demand for electronic account information.

- A CBAC member stated that the overabundance of lengthy, incomprehensible disclosure statements in all areas of life means that most are useless. Consumers don't want them, don't read them, and the money spent on them is wasted. Director Cordray agreed; the trial disclosure program is intended to come up with disclosures that have actual benefit to consumers and are less burdensome to consumers. Consumer-friendly forms, which present basic information along with a link to more detailed online information, might be a reasonable compromise.

- A CBAC member described her bank's experience with a five-page disclosure form with provisions telling consumers to safeguard their mobile devices, most of which was found to be useless because no disclosure form can contract away banks' liability under Reg E of the Electronic Fund Transfer Act (EFTA).
- Staff commented that innovators' instinct may be to stay under the regulatory radar screen, rewarding less conscientious innovators. Project Catalyst, in contrast, is intended to encourage innovators to come to CFPB and openly discuss their plans and their possible risk to consumers.
- Several CBAC members commented that fair lending rules sometimes penalize banks for financial programs that are sincerely intended to help consumers. A CBAC member gave the example of a bank that was cited for offering a special rate on auto loans to seniors. Products targeted to young, first-time borrowers also risk fair lending violations. A member added that fear of violating fair lending rules translates into fewer consumers being offered credit, because banks have to rely on rigid criteria rather than using loan officers' judgment. Staff responded that there seems to be a bugaboo around fair lending; maybe the Bureau needs to communicate better on this issue. Also, there is a special purpose credit program exemption to the Equal Credit Opportunity Act which allows targeting of economically disadvantaged populations or those with special social needs. This program is underused because institutions are unsure whether they fit the category.
- A CBAC member asked whether CFPB is seeking out ideas from high school or college students, who are more plugged into emerging technological trends. Staff said that college professors are being engaged.
- CBAC members commented that there should be a balance between financial institution liability and consumer liability. How much responsibility do consumers have to be prudent custodians of the financial information stored on mobile devices?

Policy update: financial institutions and suspected elder financial exploitation

Jenefer Duane, senior policy analyst, Office for Older Americans

Naomi Karp, policy analyst, Office for Older Americans

Senior Policy AnalystJenefer Duane and Policy Analyst Naomi Karp provided an overview of how financial institutions should deal with suspected financial exploitation of older people, which came up at the previous CBAC meeting. CFPB staff emphasized that the law provides institutions opportunities to protect consumers by reporting irregular account activity to the authorities. Key issues discussed included:

- CFPB's study on reverse mortgages was released last year, and a study on senior certifications and designations is due out in April 2013; it will contain recommendations to the SEC and to Congress. A financial education program called Money Smart for Older Adults, modeled on FDIC's Money Smart, is in the works.

- Building relationships with other organizations is important; financial institutions, senior citizens organizations, and the offices of attorneys general all recognize that elder abuse is a problem and are often available to coordinate their efforts.

- Often, when family members handle older relatives' money, they are doing so for the first time. They may not be aware that they have a fiduciary duty to keep the older person's money separate and keep records of how it is spent. Plain-language lay fiduciary guides will be produced to teach guardians and federal government administrators how to do their job and how to protect elders from common scams and frauds. A national guide and four example state-specific guides will become available in the next three months.

- Nursing home or assisted living facility operators may also be in a position to notice abuse; for instance, when bills aren't getting paid because the person in charge of paying them is using money for unauthorized purposes. An intervention guide geared towards nursing home staff is being prepared.

- CBAC members were provided with a list of possible indicators of elder financial exploitation and asked to help spread awareness of the problem.

Financial institutions and suspected elder financial exploitation: CBAC questions and comments

- A CBAC member raised concerns about how banks can be protected from liability if they report suspected victimization. Staff responded that law enforcement can't act unless the elder wishes to file a complaint, and if he or she does not, the report disappears into a black hole. In Illinois, bank staff has been trained to identify signs of abuse, but the state's financial problems mean that reporting problems doesn't get any results, which frustrates staff and makes them less likely to attempt to intervene again. In the old days, banks could simply call family members, but today financial privacy laws make that problematic. CBAC members noted that in some instances because of the limitations, some bank staff have violated the law in order to protect older consumers. CFPB staff did not comment on the legality of contacting family members and noted that consent-based solutions might be easier. Some age-friendly banking ideas are:

    - Asking account holders to provide an emergency contact person as opt-in. Account holders can give third party access to statements to another family member, separate from the one who has power of attorney, who can act as a set of watchful eyes. Banks could contact customers turning 65 to ask them to institute an advance financial directive, in case their ability to manage their finances declines.

    - One new approach that has been tried in California is the FAST or financial abuse specialist team. This is a multi-disciplinary team of legal, medical, law enforcement, and social work personnel who work together to figure out the best approach to suspected abuse. This way, when a social worker doesn't understand how to read a title document, for example, she can get the expert help she needs.

- A CBAC member urged the staff to include FAQs and lots of plain-language examples in their educational guides. Banks, not government entities, are naturally the first line of defense here. Another CBAC member suggested that educational materials be available on video.

Bureau's future outlook

Steve Antonakes, acting deputy director

Acting Deputy Director Steve Antonakes led a discussion with CBAC members about the Bureau's post-Mortgage Outlook. When Congress passed the Dodd-Frank Act, it populated the CFPB's agenda with certain items the Bureau would be required to act on and the CFPB has been focused on these mandates since opening its doors. For other issues, the CFPB puts out requests for information and holds field hearings. The CFPB has identified 4 structural problems in the market as it works on consumer protection:

1. Debt traps. When the business model for the product seems to depend upon trapping a significant portion of the customers (more than 20 percent) in a long-term debt cycle, such as car title and payday loans (including internet payday loans which will soon be the majority of that market and pose special challenges for enforcement).
2. Deceptive and misleading marketing, as in the case of credit card add-ons. These practices are already against the law, so a CFPB role here may be enforcement.
3. Oversight on mortgage servicing, credit reporting, and debt collection. Consumer education is needed on how important a person's credit report is to their lives and how to improve it.
4. Discrimination. The CFPB can do more to better signal to the market so there is less uncertainty around this issue.

Bureau future outlook: CBAC comments and questions

Acting Deputy Director Antonakes asked CBAC members to share the challenges they experience and the best practices they have developed. The following commentary was shared:

- A CBAC member asked for more information on the consumer complaints CFPB is collecting. Acting Deputy Director Antonakes clarified that the majority of complaints received relate to large retail banks, proportionately to their market share. Credit card, mortgage, and debt collection complaints are the most common.

- A CBAC member noted that consumer groups and media sometimes portray all banks as consumers' adversaries, which is not the case and hurts consumer trust. Consumers see that community banks are being painted with the same brush as the large institutions responsible for the problems in the system. Another CBAC member asked the Bureau to differentiate between large banks and community banks in its public statements, wherever possible. Staff replied that the Bureau understands this problem. Community banks do bear a disproportionate share of the cost of compliance. However, there is not much empirical data on the cost of complying with each regulation; the study which will be discussed later is an attempt to address this, and could trigger a discussion about which regulations have outlived their usefulness.
- A CBAC member expressed concern over the preemption right allowed for national banks but not for their subsidiaries in other states.
- A CBAC member said that her bank is seeing more and more bogus credit bureau disputes, when correct information is on the credit report but consumers don't like it. There may be a scam urging people to send form letters to get banks to write off debt. Bureau staff requested that these form letters be sent to the enforcement division.
- A CBAC member noted that debt settlement companies making outlandish promises widely advertise and this business practice could be harmful to consumers.
- A CBAC member expressed concern that credit scores can affect consumers' access to auto insurance, housing, employment, and so forth. A small mistake can have a long-term impact, especially on young people with shorter credit histories. Is this system really helping consumers? Another CBAC member added that credit scores sometimes drop when consumers do the right thing; for instance, cancelling a credit card or paying off an auto loan can lead to a lowered score. This highlights the fact that two individuals with the same credit score may not truly have the same risk, but taking less quantifiable facts into account risks violation of fair lending rules.
- A CBAC member asked whether the Bureau intends to mandate more transparency in credit scoring, or to ensure that credit scoring is rational and makes sense. Perhaps there is an opportunity to create a new type of score which could be fairer and easier to understand. Staff replied that the Bureau is just starting to look at this new area. In fact,

one credit reporting agency hired its first compliance officer after the rule defining larger nonbank participants was finalized.

- A CBAC member asked how examination resources will be allocated between banks and non-banks. Staff responded that that this will change over time, as calculations of expected consumer risk change. Examiners are expected to be prepared for both. The fundamental goal is to level the playing field between institutions.

In response to the conversation shifting to payday lending, Acting Deputy Director Antonakes asked for members' comments on payday loans. CBAC members commented that:

- A 36 percent interest rate cap may not be sustainable for banks.
- Community banks can control risk better than storefront payday lenders.
- Experience with the FDIC small dollar loan program shows there is a need for such loans.
- It's more difficult for young people or immigrants with thin credit files to get started with credit; the secondary market doesn't like loans to such people.
- It's hard to define the difference between someone with no credit and someone who's used all their credit.
- Maybe storefront payday lenders should be reporting credit like banks to better quantify risk.
- When banks do short-term small-dollar loans, they may get pushback from prudential regulators.
- Small-dollar loans can build long-term consumer relationships: making a $500 loan might gain a customer's loyalty for decades.

The discussion shifted from pay day to student loans and the following comments were made:

- Some community banks quit making student loans because the disclosure requirements for such loans are so burdensome.
- Some bankers conceal the fact that a loan will be used as a student loan to bypass disclosure requirements, so that they can afford to make the loan.
- With private student loans, a CBAC member commented, the lender can capitalize interest every quarter even while a borrower is in school, which causes huge growth in the amount owed.

Mortgage rules discussion

Peter Carroll, assistant director, RMR

Kelly Cochran, assistant director for Regulations

Assistant Directors Peter Carroll and Kelly Cochran presented an overview of the Bureau's new mortgage rules, which were issued January 2013 and will go into effect January 10, 2014 to allow for an implementation period. After the presentation, CBAC members asked questions about the rules and next steps. Themes covered in the presentation included:

> (1) the general ability-to-repay requirement, which applies broadly to closed-end transactions secured by a dwelling and requires the creditor to make a reasonable, good faith determination that the consumer can repay the loan, and
>
> (2) Qualified Mortgages (QM), which restrict certain loan features, caps points, and fees, and imposes certain underwriting requirements, as well as establishing guidelines for safe-harbor on loans below the higher-priced mortgage threshold and rebuttable presumption for the higher-priced loans.
>
> (3) The mortgage servicing final rule amends Regulation Z (TILA) and Regulation X (RESPA). The rule covers servicing for all borrowers and includes requirements on periodic statements, ARM interest rate adjustment notices, and error resolution and information requests.
>
> (4) Other rules recently issued include: rules implementing Dodd-Frank changes to Loan Originator Compensation and Qualification, HOEPA, Escrows, and Appraisals.

Plain-English versions of the regulations will be released in the spring on the Regulations page of the CFPB website. CFPB is still working on the definition of APR as part of the TILA and RESPA Regulations.

Mortgage rules discussion: CBAC questions and comments

Ability to Repay, Qualified Mortgages and Balloon loans

- Re QM, a CBAC member asked when the determination of whether 50 percent of first lien mortgages were made in rural or underserved areas will be made. Staff responded that the previous year's mortgages will be considered.

- In response to a question from a CBAC member, staff clarified that interest-only loans are not prohibited but must be underwritten according to standards on ability to pay. Interest-only or negative amortization loans cannot be qualified mortgages.

- A CBAC member asked how the 500 first lien mortgages provision was arrived at. Staff responded that the CFPB wanted to target creditors who are relatively small. This 500 – lien number is also consistent with the escrow rule exemption. 90 percent or more of community banks in the $1 billion and under range will be covered under this definition.
- A few CBAC members said they would most likely not be eligible for an exemption under this definition. They reiterated that the definition seemed contrary to the Bureau's goal to count loans that are sold off, since balloon loans are not sold. A CBAC member suggested allowing unlimited throughput of loans to secondary markets. Staff responded that ignoring loans that are sold off would allow some very large banks to be exempted.
- A CBAC member suggested the 500 limit should be increased because if a $2 billion bank makes less than 500 first lien mortgages, it's not serving its market. Another CBAC member noted that, with this rule, her bank's customers may be offered a balloon loan one year and not another, as the bank frequently goes under and over the 500 limit from year to year. This could hurt consumer trust. Also, when the same borrower refinances, that will count as a new first lien mortgage.
- A CBAC member commented that there should be a distinction between mortgages sold on the secondary market, which are low-risk because they must meet secondary market requirements, and portfolio loans. Otherwise, this provision risks forcing lenders out of low-income urban markets. And in that case, the consumer loses.
- Staff asked how often institutions do solely balloon loans and not adjustable rate mortgages ARMs. Two members commented they do solely balloons. Staff followed up to ask, why there was a preference for a balloon loan and not an ARM would be held in a bank's portfolio. And why not price an ARM like a balloon if they are sold on?
- CBAC members responded that many banks do not want to deal with the disclosures required on ARMs; consumers who expect to move frequently take a balloon or ARM for the lower rate; the rate differential between balloon loans and ARMs has to do with disclosure requirements; this is why some banks don't do ARMs. When the interest rate on an ARM resets, it can trigger a higher-priced mortgage definition with escrow requirements, and a lot of community banks avoid escrow.

- A CBAC member asked whether an exception to ability to repay could be made for minority banking institutions that are not CDFIs. That is not currently planned, but CFPB is still receiving comments and will monitor how the rules work in the market.

Rebuttable presumption:

- A CBAC member commented that "insufficient residual income" in the rebuttable presumption language should be defined; otherwise, it invites litigation.

QM concurrent proposal:

- A CBAC member asked why, under the small creditor portfolio QM, loans must be held in a portfolio for three years. Staff responded that the intent was that small creditors should have incentives aligned with consumers and bear the risk, rather than becoming origination shops. But, banks are not required to hold the loan throughout its life so that they have the flexibility to sell if needed.
- A CBAC member emphasized that the small creditor portfolio QM proviso is very important. Why should geography define eligibility to make a loan? His bank cannot tolerate a rate of APOR plus 1.5 percent, but with APOR plus 3.5 percent it is viable.
- A CBAC member commented that the less than 500 first lien loans requirement should be eliminated, so that banks can continue to serve their customers.
- A CBAC member suggested that, if the intent is to maintain access to mortgages, the requirement should apply to 500 portfolio loans alone, so that the amount of loans made does not fluctuate each year. Several members responded that their banks portfolio more than 500 new portfolio loans per year.
- A CBAC member noted that the rate determination does not take into account the fact that, in rural communities, smaller loans are more common because of lower property values. The APR will naturally be higher on a $50,000 loan than on a $150,000 one.
- A CBAC member inquired whether Habitat for Humanity loans be exempted under the concurrent proposal? Staff clarified that the nonprofit provision applies to nonprofit institutions, not to loans for nonprofit purposes.

Mortgage servicing rule:

- A CBAC member asked whether the ARM notice applies to all banks regardless of size. Staff responded that it does. The initial ARM notice only applies to the first time the rate adjusts, for new ARM loans. The existing 20(c) ARM notice requirement applies to all ARM loans. Periodic statements can be electronic.

Force-placed insurance:

- A CBAC member commented there is a long delay between the first failure to maintain insurance coverage and the beginning of bank charges. Staff explained that banks cannot begin charging before 45 days, but can charge retroactively. Once a consumer provides proof of insurance, the charges must be refunded. Banks can charge a fee above the cost of insurance. Many small banks buy umbrella coverage on the bank's interest for their whole portfolio.

Servicing for delinquent borrowers:

- A CBAC member asked whether there is an opportunity built in for a consumer who is three or four payments behind to start making payments again. Consumers are now sometimes forced not to send in any payments before the whole intervention process is gone through. Staff responded that CFPB did not want to mandate in detail how loss mitigation should work. The options presented to consumers are up to the servicer and investors.
- The requirement that lenders must wait 120 days before filing for foreclosure could be a safety and soundness issue; when borrowers find out about this rule, they will go 90 days past due. What if a borrower abandons the house? Staff replied that the rule applies to a formal foreclosure filing in state court; it does not prohibit taking other actions a prudential regulator might require to maintain safety and soundness. There is no specific provision on abandoned property.

Loan originator compensation:

- A CBAC member asked whether only mandatory single-premium credit insurance is prohibited, or any single-premium credit insurance? Staff responded that the rule applies to insurance that is financed by the creditor.

- A CBAC member commented that this regulation seems to miss the underwriter. The underwriter is in charge of approving loans regardless of what the originator brings in.

High-cost mortgages and HOEPA:

- A CBAC member asked who will pay for the counseling required for high-cost mortgages. The creditor can choose to pay or ask the consumer to pay. Consumers must complete the counseling.
- Another CBAC member commented that the rule should allow flexibility in how counseling is done, since there may not be HUD-certified financial counselor in the area. Online counseling via Skype might be a solution, but members commented that rural consumers are less likely to have broadband internet.

Escrows rule:

- In response to a question about the definition of "underserved," staff responded that the definition of "underserved" is based on the number of creditors in a county. Over time, more nuanced measurements may be developed.
- A CBAC member asked why that definition is not used for the small creditor portfolio QMs. Staff replied that the size thresholds are the same, but Dodd-Frank specifically created the escrow exemption for rural and underserved areas.

Appraisals rule:

- A CBAC member asked whether appraisals can be emailed; most consumers request it. Staff responded that they can be, subject to e-sign.

General comments:

- Bureau staff commented that the Bureau tried to provide clear, bright lines in the rules to address concerns about litigation risk; on the other hand, there is a concern that precise requirements will seem unduly restrictive in five years.
- A CBAC member stated that the litigation risk is still uncertain since attorneys have not gone into action yet. For instance, well-intentioned ATM accessibility rules led to a lot of perceived frivolous litigation. Bankers want specific criteria so that they can know how to protect themselves from litigation.

- A CBAC member said that the 500 first lien mortgage provision should be adjusted. Staff said that that proviso is in the final rule, but the Bureau is still considering comments.
- A CBAC member commented that the lack of balloon loans in metropolitan areas will be a problem. Staff replied that the Dodd-Frank legislation guided CFPB on balloon loans.
- A CBAC member expressed her fear that the rules will lead to a mortgage lending space dominated by a few large players and do not leave enough space for community banks to continue to serve their markets.
- A CBAC member commented that community banks need CFPB to recognize when regulation causes consumers to suffer and ask Congress to fix it. The term "high-priced mortgage loan" or HPML sets banks in an adversarial position by its nomenclature alone. With today's low interest rates, even a 5.5 percent rate may be defined as high-priced. And even for a small loan, counseling is required.
- A CBAC member asked about the difference between a high-cost mortgage loan and high-priced mortgage loans. The former is a new definition given in Dodd-Frank, while the latter refers to loans over the APOR plus 1.5 percent threshold. Both definitions are now based on APOR, but there is a difference in the spread.
- A CBAC member asked whether the new disclosure rules apply to new production of loans after Jan 10th, 2014. Staff said that requirements regarding origination apply to loans after that date, but servicing requirements and the ARM disclosure rule will apply going forward to existing loans.
- A CBAC member asked the Bureau to reconsider the 5,000 loan provision in the small servicer exemption, which could exclude her bank.
- A CBAC member said that CFPB should count only portfolio loans, not those sold on the secondary market, since banks are taking the risk on portfolio loans.
- Staff reminded the members that clarifying guidance and videos on the mortgage rules will soon be publicly posted on the website, and they will cover a lot of the same information covered during the CBAC meeting.

Consumer education in community banks across the country

Camille Busette, assistant director for Financial Education

Per Olstad, deputy associate director for Consumer Education and Engagement

Assistant Director Camille Busette and Deputy Associate DirectorPer Olstad were introduced and asked CBAC members to share their banks' strategies for consumer financial education.

- A CBAC member shared that her bank has a club for seniors on financial issues (such as elder abuse warning signs, money management in retirement, passing on a business or farm to the next generation, and wills). The bank also provides programs for women and sessions in high schools. Some of the educational modules are written by the bank and some are from outside sources.
- A CBAC member shared that his bank also has a school program and a military program. He has not seen a lot of success in attracting people to educational opportunities; offering free food is a big draw. Ms. Busette commented that, overall, financial education does not often attract enthusiasm unless a big event such as retirement or going through foreclosure grabs consumers' attention.
- A CBAC member shared that, in her bank in St. Louis, working with immigrants is very important. She offers classes to introduce immigrants to the U.S. financial market. Immigrants are mostly unbanked when they enter the country; the bank has had to learn how to work with customers who pay even large bills in cash. A simple, three-bullet-point poster at the checkout line (in English, Bosnian, and Spanish) has been successful in stopping scams.
- A CBAC member noted that financial institutions on military bases like his must offer financial education and can be evicted from the base if the base commander judges their efforts are inadequate. On-base institutions must educate varying populations, from soldiers in basic training straight out of high school to officers to former convicts.
- Another CBAC member's s bank concentrates on lending to churches. The bank collaborates with elementary schools, a college, and housing authorities and housing unions in its financial education programs. These programs have seen good participation.
- A CBAC Member's bank participates in National Teach Kids to Save Day. The bank's website provides common sense tools intended to drive consumers towards financial education, such as financial freedom tips and links to resources. The bank also works with church leaders who have generally embraced the idea that financial stress detracts from spiritual health.

- A CBAC member's bank runs school programs with bank tours starting in first grade. It offered free financial counseling for the community during the height of the financial crisis; counseling was available in the evening with free food, but got a very poor response.
- A CBAC member said her bank uses social networking to educate consumers on fraud prevention and safe travel, among other topics. The financial institutions in her area joined together to run financial education programs using FDIC's Money Smart and Dave Ramsay's Financial Peace University. A fee is charged for the latter, but will be refunded if participants attend 75 percent of the sessions over six weeks; so far, everyone has completed the program. The bank is also exploring the possibility of using a financial education video game for children called Money Island.
- A CBAC member's bank runs an evening seminar for first-time homebuyers and evening financial education, but participation has been disappointing. Financial education should be universal in high schools, just as driver's education is universal.
- A CBAC member's bank uses the Banking Is program for high school students. In Texas, there is an unfunded mandate that graduating high school seniors must have some financial literacy education, so the Texas Bankers Association is funding the Teach the Teacher program to help high school teachers develop a financial education curriculum. Teachers themselves may not have a high degree of financial literacy. The Independent Bankers Association of Texas would like to have a keynote speaker from CFPB at its meeting this year.
- A CBAC member's bank participates in the Banker in Every Classroom program, which is sponsored by the Mississippi Bankers Association, and in Money Smart. In one program, the bank managed to attract sellout crowds by offering a $1000 loan to everyone who completed a financial education class. The bank also offers an adult literacy class, which not only helps consumers manage their finances, but has changed lives. Illiteracy is a huge handicap in today's world. Ms. Busette commented that illiteracy is an often-overlooked obstacle to many consumer education efforts. Maybe more visual approaches, such as videos, could reach consumers with poor reading skills.

Costs of compliance study overview

Dan Sokolov, deputy assistant director, RMR

Yuh Wen Ling, policy analyst, RMR

Deputy Assistant Director Dan Sokolov and Policy Analyst Yuh Wen Ling provided an overview of the Bureau's efforts to examine regulatory compliance costs. The study is an attempt to learn more about the costs of regulation by studying banks' real-world experience with major federal consumer protection regulations for deposits and transactions.

The study will focus on Regulation DD in the Truth in Savings Act and Reg E of the Electronic Fund Transfer Act, and will not attempt to assess the cost of every regulation. A case study approach will be used, giving an in-depth picture of how these regulations affect a small number of banks. Participation in the study is voluntary and anonymous; participants are currently being recruited. A public report will be published in late 2013. Ms. Ling asked members for their ideas on what would make this a successful study and CBAC member provided the following comments and questions:

- A CBAC member asked how many banks will be studied. Seven banks will be recruited, both rural and urban institutions, of which two will be below $1 billion in assets.
- A CBAC member commented that the study should avoid studying outliers; average, middle of the road banks within their asset class should be recruited. Are there criteria for participation in the study? Ms. Ling said that consumer-focused banks are desired; also, banks which have recently gone through mergers and acquisitions might have business processes which are in flux. Stability of business processes might be an indicator that a bank is likely within standard deviations for the industry. Credit unions will not be included in the sample for now.
- A CBAC member pointed out that it may be challenging to pinpoint cost in smaller banks, because they have few dedicated compliance staff and employees often wear several hats. Standardizing salary figures across organizations is another challenge.
- A CBAC member asked what type of measure will be used: is it cost per account, cost per dollar deposit, cost as percentage of assets, or percentage of noninterest expenses? Ms. Ling said that this has not yet been decided. Members commented that cost per account or cost as percentage of assets would be the most helpful denominator. Seeing both the dollar amount and percentage would be useful. The baseline cost could vary depending

on a bank's size and processes. Breaking up data by size of bank, type of accounts, and type of activities would all be of interest.

Adjournment

Chair Loftus thanked the members for their participation. The meeting was adjourned at 5:44 p.m. The next meeting will be held on May 29, 2013.