March 2014

Credit Union Advisory Council meeting summary

March 12, 2014

Consumer Financial Protection Bureau

Meeting of the Credit Union Advisory Council

The Credit Union Advisory Council (CUAC) of the Consumer Financial Protection Bureau (CFPB) met in person at 8:30 a.m. on March 12, 2014. The meeting was held at 1700 G Street NW, Washington, DC 20552.

Council members present:

Carla Decker, Chair
Rose Bartolomucci, Vice Chair
Bernard Balsis, Jr.
John Buckley
Ron Ehrenreich
Kevin Foster-Keddie
Helen Godfrey Smith
Mitchell Klein
Maria Martinez
Marcus Schaefer
Camille Shillen
David Wright

CFPB staff present:

CFPB Director, Richard Cordray
Peter Carroll
Kelvin Chen
Kelly Cochran
Joseph Devlin
Ren Essene
Eric Goldberg
Delicia Hand
Joan Kayagil
Noerena Limon
Chris Lipsett
Patrick Pangan
Nora Rigby
Stephen Shin
Gary Stein
Brian Webster

CFPB Ombudsman staff present:

Wendy Kamenshine
Paul Sotoudeh

03/12/2014

Welcome and meeting overview

Delicia Hand, CAB staff director
Carla Decker, CUAC chair

The Credit Union Advisory Council (CUAC) meeting took place at 1700 G Street, NW, Washington, D.C on March 12, 2014. Delicia Hand, staff director, welcomed the members and reviewed the day's agenda. Ms. Hand briefly discussed the process of members cycling out of the Council. She also discussed the CFPB's desire to keep ex-members engaged in the Bureau's and the Council's activities.

Overview of the CFPB Ombudsman's office

Wendy Kamenshine, ombudsman, CFPB Ombudsman's Office
Paul Sotoudeh, associate ombudsman, CFPB Ombudsman's Office

Ombudsman staff provided an overview of the CFPB Ombudsman's Office which was anticipated in the Dodd-Frank Act. The Ombudsman's Office is a neutral third-party and assists in resolving issues that the public may have as they interface with the Bureau. The Ombudsman's Office has many ways to assist in resolving an issue including making recommendations to the CFPB.

Ombudsman staff explained the ombudsman office's three tenets:

1. Independence—The CFPB's Ombudsman's Office is not part of the Bureau's business lines and also is not in the Director's Office. The Office reports to the Deputy Director and the Ombudsman meets monthly with the Director.
2. Impartiality—The CFPB's Ombudsman's Office does not advocate for one side, but rather advocates for a fair process.
3. Confidentiality—The Office has safeguards for confidentiality, so individuals and companies can share information with the Ombudsman without fear of retaliation or retribution. It will not share information outside the office without the consumer's or institution's approval. The few exceptions to confidentiality include a threat of imminent risk of serious harm; an allegation of government fraud, waste, or abuse; or if required by law.

CUAC comments and questions

- A CUAC member asked what proportions of inquiries are from individuals or from advocacy groups. Ombudsman staff said that the majority of its time is spent with individuals.
- CUAC members asked if the Ombudsman's Office received complaints about the mortgage process. Ombudsman staff said that they have fielded inquiries about the mortgage process generally, but also loan modifications and foreclosures specifically.

Regulatory outlook

Overview of the Bureau's Agenda for 2014

Kelly Cochran, assistant director of regulations, Office of Regulations
Joseph Devlin, regulations counsel, Office of Regulations
Eric Goldberg, senior counsel, Office of Regulations
Thomas Pahl, managing regulatory counsel, Office of Regulations
Nora Rigby, regulations counsel, Office of Regulations

CFPB staff presented an update on the CFPB's regulatory outlook in the coming months. The Bureau is in the process of deciding whether it will renew the provision of the remittances rule regarding estimates. The CFPB is also considering a proposal for streamlining annual privacy notices. The Bureau will be working on other issues in the upcoming months including: mortgage issues, improving the definition of rural and underserved, qualified mortgages and balloon loans. The Bureau released Advanced Notices of Proposed Rulemaking on prepaid cards and debt collection with the goal of closing regulatory gaps.

As for the Home Mortgage Disclosure Act (HMDA), the Dodd-Frank Act added a number of new variables that require reporting information related to age and credit score. The Bureau is reviewing how to work with these requirements and how they impact institutions in the field. The Bureau targeted August 2015 as the implementation date for the integrated mortgage disclosure forms under the Truth in Lending Act (TILA) and Real Estate Settlement Procedures Act (RESPA).

CUAC comments and questions

- CUAC members stated that the underwriting criteria are higher for ARM than balloon, depending on the structure. In rural areas, property that does not conform with secondary market characteristics often drives the need for balloon loans.
- A CUAC member commented that the member's institution uses balloons primarily for business loans rather than consumer loans. Institutions prefer multiple options to manage rates, spread risk, and make different investment choices based on individual cases.
- CUAC members also discussed the confusion and difficulties surrounding denial and withdrawal under HMDA.
- CUAC members also mentioned the need to update various statutes that affect the industry in order to reflect rapidly changing and evolving technologies.

Regulatory outlook

U.S. Postal Service- Office of the Inspector General- "Providing Non-Bank Financial Services for the Underserved"

Kelvin Chen, attorney advisor, Office of Card Markets

CFPB staff discussed a recent U.S. Postal Service Inspector General's Report on reaching underserved communities. The report has drawn significant interest from the banking industry because the Inspector General recommended that the Postal Service offer certain banking products as a way to increase its revenue. There are debates whether the statute allows the Postal Service to offer such products under current law. As of now any recommendation will have to be enacted by Congressional legislation.

CUAC comments and questions

- Some CUAC members expressed interest in the possibility of partnering with the Postal Service on products in the future.
- Some CUAC members were skeptical that the Postal Service can provide adequate customer service and were also concerned about adding undue competition to the credit unions' market share. Members also discussed issues with reaching underserved communities. CUAC members implied that a partnership with the Postal Service and large banks in that market would have a negative impact on those segments of the credit union industry.

Regulatory outlook

Commentary on recent data breaches

Chris Lipsett, senior counselor, Office of the Director

CFPB staff discussed data breaches in light of recent department store credit and debit card information data breaches. The CFPB, staff explained, is trying to learn more about these incidents to see how it can help protect consumers from fraud and disruption due to data breaches of this sort. Staff explained that most fraud stems from smaller breaches rather than larger incidents and gross fraud damage averages around $10-12 billion per year. Staff was interested in hearing about the tools CUAC member institutions use to protect their customers and their institutions from fraud. Council members expressed concerns that the financial institutions are left to deal with the regulatory repercussions of fraud even though the breach occurs at the third party retail company level. Data breaches are much more harmful to smaller institutions and credit unions which do not have the institutional capacity to deal with widespread fraud.

Annual Privacy Notice and Remittances

Joseph Devlin, attorney, Office of Regulations
Eric Goldberg, senior counsel, Office of Regulations
Nora Rigby, regulations counsel, Office of Regulations

CFPB staff led the discussion on the annual privacy notices and the remittances policy. The CFPB is planning to offer an alternative notification procedure, particularly if the consumer does not have the option to opt out, which would allow institutions to post the policy online and to send out a shorter notice directing costumers to the online privacy notice. Staff asked CUAC members to explain how their institutions currently produce and disseminate their notices. A CFPB staff member led the discussion on the remittances rule, which went into effect in October. The rule exempts institutions that make 100 remittances or less per year.

CUAC comments and questions

- A CUAC member commented that a number of institutions ended their remittance business as a result of the rule. Those that have stayed in the business have raised their prices as a result of the rule.

- A CUAC member noted that the number of returned remittances increased dramatically. One member has seen customers switch from remittances to pre-paid cards.
- Some CUAC members stated that they include the privacy notices with their quarterly statements; others send them out separately. CUAC members suggested that both practices are costly to members' institutions.
- CUAC members expressed strong support for the proposed alternative notification process.
- Most Council members' institutions do not have a requirement to offer opt-out notices. The member whose institution shares information stated that the alternative notification process would require a cost-benefit analysis of changing their policy.

Working Lunch: Acknowledgements

CFPB Director, Richard Cordray
Delicia Hand, CAB staff director

Director Cordray and Delicia Hand thanked the members who will be rotating off the Council for their service and hard work. Ms. Hand emphasized that the CFPB will continue to seek the feedback of former members. In particular, former CUAC members may continue to receive updates from the Bureau and be invited to engage with staff who have an interest in learning more about the operations of small financial institutions.

Title XIV Mortgage Rules: Check in with CUAC Members

Brian Webster, program manager, Office of Mortgage Markets

CFPB staff led the CUAC discussion on the impact of the Title XIV mortgage rules on credit unions post-implementation by asking Council members to provide feedback on their progress implementing the title XIV mortgage rules. CUAC members provided a wide range of comments and feedback which are itemized below.

CUAC comments and questions

- CUAC members suggested that most of the regulatory squeeze related to mortgages is coming from other regulators. One issue has been with the uniform foreclosure time frame, which has tacked on 30 days to the end and delayed institutions' abilities to act on delinquent debts. The regulation has also caused changes in pricing related to high-priced mortgages.

- CUAC members mentioned that some of the smaller credit unions have started partnering with the larger credit unions or Credit Union Service Organizations (CUSOs) to deal with the new regulations. Others have stopped providing the types of mortgage affected by the new regulations.
- Other members suggested that the original implementation time-span of a year is not enough time for some members, despite devoting significant staffing to the implementation process. One member suggested increasing communication with software providers beforehand to get a better sense of how much time and effort the implementation will require.
- A CUAC member said he received positive feedback from customers on the new mortgage notices. The new regulation does not seem to have led to more loan denials.
- A CUAC member started using the same mortgage statement for both business and consumer loans and as a result was able to eliminate business loan coupons.
- CUAC members stated that the National Credit Union Administration's (NCUA) change in the basis of delinquency from months to days created some volatility.
- CUAC members brought up the issue of credit scores as a significant barrier to serving certain customers. Members' institutions feel pressure from non-CFPB regulators about credit scores and loan-to-value ratio, although those topics are not addressed in the CFPB regulation.

Home Mortgage Disclosure Act: Small Business Perspectives

Ren Essene, mortgage data assets team lead, Office of Mortgage Markets
Joan Kayagil, senior counsel, Office of Regulations

CFPB staff discussed the Home Mortgage Disclosure Act (HMDA) reforms and the SBREFA rulemaking process. The Bureau is working to make operational improvements across the board, streamline data collection, and reduce the burden of compliance through technological improvements. Regarding the new HMDA regulations, the Bureau aims to have a Notice of Proposed Rulemaking released sometime this year. Staff asked for the CUAC's input on the proposed changes to the HMDA.

CUAC comments and questions

- CUAC members said that HMDA reporting is already complex and labor-intensive. Technological advances are welcome; however, the additional reporting is going to be strenuous. The rule often seems to disadvantage small firms because costs are more difficult to bear for them than for large institutions.

- A CUAC member suggested conducting some outreach to the banking industry to remind institutions of the purposes and role of HMDA.
- Some CUAC members stated that they see no benefit in the regulations, only additional costs.
- One member pointed out that the HMDA data reveals a problematic level of lending discrimination; yet there have been few repercussions for entities that practice discriminatory lending.
- A CUAC member reported using HMDA data to improve their own fair lending practices.
- CUAC members shared concerns over credit scores and the validity of relying on credit scores as an unbiased metric for loan worthiness, particularly for customers in rural areas. Social media and gamification can be a huge boon to help address the financial literacy problem for the youth population.
- CUAC members recommended communicating with systems providers to help estimate true implementation time and costs. Members use different systems which often do not allow interaction and share of data.

Know Before You Owe Initiative: Perspectives on Closing Time

Noerena Limon, Policy Analyst, Office of Mortgage Markets
Brian Webster, program manager, Office of Mortgage Markets

CFPB staff discussed the Bureau's "Know Before You Owe" closing time initiative. The goal of the initiative is to simplify and streamline the mortgage closing process for consumers, particularly in relation to the amount of documents and potentially confusing language. One possible solution is the adoption of electronic closing. Other solutions include slowing down the closing process and providing the documentation further in advance so that customers have more time to read them and understand them. The CFPB seeks to implement a pilot process towards the end of the year.

CUAC comments and questions

- CUAC members discussed the possibility of using technology such as DocuSign.

- A CUAC member reported that some states and jurisdictions do not allow electronic signatures on mortgages. However, e-signing could help to shrink the number of in-person signatures.
- A CUAC member also expressed concern that moving the process online would actually have a negative effect by eliminating in-person counseling with the lenders. Customers, particularly first-time homeowners, are often hesitant to do much research close to closing on a home.
- CUAC members were excited about moving more of the process online but were skeptical that the amount of paperwork required would significantly lessen. As far as improving the consumers' understanding of the loan documents, members suggested the creation of a short version, or a list of the most important highlights and bullet points. Similar documents and glossaries could be used electronically as well. Educational documents can be embedded into the documentation, but members recommended making the content entertaining and user-friendly for consumers.
- CUAC members suggested that the CFPB avoid tackling many complex issues at once. Closing brings in a number of other parties and systems that will not be amenable to drastic changes at the closing level.

Adjournment

Ms. Hand and Chair Decker thanked the Council members for their participation and input throughout the course of the day. In particular, staff thanked the members rotating off the Council for their service to the Bureau. The CUAC meeting was adjourned on March 12, 2014 at 4:04 p.m.