September 2014 – September 2015

Annual report of the Consumer Advisory Board

Letter to the Director from Consumer Advisory Board Chair and Vice Chair

Richard Cordray, Director
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, D.C. 20552

Dear Director Cordray,

On behalf of the Consumer Advisory Board (CAB or Board), we are honored to present our annual report, which details the activities and progress made during the past reporting year.

During this year, the CAB continued to focus on ensuring that the Bureau had the benefit of our best advice on a variety of consumer financial issues and emerging market trends as it carries out its mission to protect consumers and make consumer financial markets work for consumers. The CAB met three times this year: twice in Washington, D.C. and once in Omaha, Nebraska. Having engagements in the field where consumers live and work, like the one we did in June 2015 in Omaha, continues to add significant value to our work. While in Omaha, we had the opportunity to hear from local advocates, industry leaders, and members of the community and learned about a wide range of issues impacting consumers in Nebraska.

As in prior years, in addition to our full Board meetings, the CAB worked through its three committees: Cards, Payments and Deposit Markets; Consumer Lending; and Mortgages. Through these committees, the CAB has continued to engage meaningfully among its members and with Bureau staff through in-person meetings and conference calls, providing our collective and individual perspectives on the ongoing work of the CFPB. Our committees focused on identifying key observations and principles for regulation on a range of topics, such as small dollar lending (payday), consumer reporting, alternative data, mortgage origination and servicing, faster payment principles, prepaid cards, and innovation in financial technology.

This annual report provides greater detail about these committee discussions. Meetings of the full CAB were open to the public and are reflected in summaries posted to consumerfinance.gov.

Thank you for the opportunity to serve consumers through the CAB. We look forward to what next year brings and continuing to fulfill our shared mission of protecting consumers in the financial marketplace.

Sincerely,

William J. Bynum, Chair

Maeve Elise Brown, Vice Chair

Table of contents

1. Executive summary

The Consumer Financial Protection Bureau (CFPB or Bureau) is the nation's first federal agency focused solely on consumer financial protection.[1] The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) created the CFPB to protect consumers of financial products and services and to encourage the fair and competitive operation of consumer financial markets. The Bureau's mission is to help consumer finance markets work by making rules more effective, by consistently and fairly enforcing those rules, and by empowering consumers to take more control over their economic lives.

The CFPB's Consumer Advisory Board is authorized by §1014(a) of the Dodd-Frank Act. The Consumer Financial Protection Bureau's Consumer Advisory Board (CAB or Board) was chartered and established in September 2012. The statutory purpose of the CAB is "to advise and consult with the Bureau in the exercise of its functions under the Federal consumer financial laws, and to provide information on emerging practices in the consumer financial products or services industry, including regional trends, concerns, and other relevant information."[2]

In fulfillment of its responsibility as articulated in Section 14 of the CAB Charter and of the CFPB's commitment to transparency, the CFPB's Consumer Advisory Board is pleased to present its Annual Report to the Director. This report primarily summarizes the activities and progress of the Board's committee meetings held over the last reporting year, September 2014 to September 2015. The discussion portion of the report is divided into sections aligned with the CAB's statutory responsibilities, and the report also includes, in Appendix B, separate written statements submitted by Board members relating to the report.

In this last reportingyear, the Consumer Advisory Board:

- Held three meetings – September 2014 in Washington, D.C., February 2015 in Washington, D.C., and June 2015 in Omaha, NE.

---

[1] Previously, seven different federal agencies were responsible for rulemaking, supervision, and enforcement relating to consumer financial protection. The agencies which previously administered statutes transferred to the Bureau are the Board of Governors of the Federal Reserve System (Federal Reserve, Federal Reserve Board, or Federal Reserve Board System), Department of Housing and Urban Development (HUD), Federal Deposit Insurance Corporation (FDIC), Federal Trade Commission (FTC), National Credit Union Administration (NCUA), Office of the Comptroller of the Currency (OCC), and Office of Thrift Supervision (OTS).

[2] Dodd-Frank Act, Pub. L. No. 111-203, § 1014(a).

- Organized three policy committees, which have each met approximately twenty times:
    - Cards, Payments, and Deposits Committee;
    - Consumer Lending Committee; and
    - Mortgages Committee.

- Examined and discussed a variety of topics and issues including:
    - Trends and themes in financial services;
    - Home Mortgage Disclosure Act Database and rulemaking;
    - Know Before You Owe (TILA-RESPA Intergrated Disclosures);
    - Mortgage Settlement booklet;
    - Marketing services agreements;
    - Arbitration;
    - Overdraft;
    - Marketplace lending;
    - Limited English Proficiency issues;
    - Financial Education;
    - FOIA and ethics review;
    - Credit invisible consumers;
    - Small dollar lending;
    - Innovation in financial technology;
    - Alternative data;
    - Debt collection;
    - Student lending;
    - Virtual currencies;
    - Prepaid cards; and
    - Consumer complaint operations.

Detailed summaries of the above topics discussed during full Board meetings can be found at consumerfinance.gov/advisorygroups.

This report fulfills the Consumer Advisory Board charter requirement to submit an annual report to the Director.

Members of the community shared their views at the June 2015 Consumer Advisory Board meeting in Omaha, NE.

2. Role of the Consumer Advisory Board

Section 1014(a) of the Dodd-Frank Act states:

The Director shall establish a Consumer Advisory Board to advise and consult with the Bureau in the exercise of its functions under the Federal consumer financial laws, and to provide information on emerging practices in the consumer financial products or services industry, including regional trends, concerns, and other relevant information.[3]

The Consumer Advisory Board provides feedback on a range of topics, including consumer engagement, policy development, and research, from a range of external stakeholders including academics, industry participants, community members, and consumer advocates. The CAB consults on a variety of cross-cutting topics, reports on meetings, and provides minutes and/or summaries of their meetings. Members of the Bureau's Board serve for limited, specified terms.

Consumer Advisory Board member, Gene Spencer speaking at a CAB meeting on Thursday, February 9, 2015 in Washington, D.C.

[3] Dodd-Frank Act, Pub. L. No. 111-203, § 1014(a).

3. Committees

Based on the success of the 2013 CAB Committees, the CAB again organized committees as authorized by section 13 of its charter, which allows the Board to establish and dissolve committees in consultation with the Bureau. As provided in the charter, committees report to the Board (not directly to the Bureau) and may include participants who are members of the Board and/or staff of the Bureau. Committees may, from time to time, call on individuals who are not members of the Board or staff of the Bureau, for the sole purpose of providing specific domain expertise and knowledge.

The charter directs that each committee will be led by a committee Chairperson who shall be appointed and may be removed by the Chairperson of the Board. Meetings of the Board's committees will be called by the committee Chairperson and shall be conducted via teleconference unless the Bureau's staff and committee Chairperson determine that an in-person meeting is necessary.

Following the process outlined in the CAB charter and bylaws, members of like expertise and backgrounds are organized into three committees: Card, Payments, and Deposit Markets; Consumer Lending; and Mortgages. The schedule of CAB committee meetings follows below.

Consumer Advisory Board Committee Meetings [This table includes in-person meetings]		
Cards, Payments, and Deposit Markets	**Consumer Lending**	**Mortgages**
November 20, 2014	November 13, 2014	November 6, 2014
January 28, 2015	January 29, 2015	February 5, 2015
February 18, 2015	February 18, 2015	February 18, 2015
June 17, 2015	April 1, 2015	April 23, 2015
August 3, 2015	April 29, 2015	June 17, 2015
	May 26, 2015	September 17, 2015
	June 17, 215	
	August 20, 2015	
	September 22, 2015	

In January 2015, each committee chair led a process to identify committee priorities, including issues about which committee members wished to learn more, to identify and highlight trends, and to raise issues with Bureau staff members. The reporting year's priorities are outlined below.

- Cards, Payments, and Deposit Markets
  The Cards, Payments, and Deposit Markets Committee focused on work relating to prepaid cards, mandatory arbitration and class action waivers, third party payments, financial industry data breaches, financial technology, and virtual currencies.

- Consumer Lending
  The Consumer Lending Committee focused on work relating to the consumer lending lifecycle, fromorigination to collection. Specific issue areas included student loan servicing, alternative data, and small dollar lending.

- Mortgages
  The Mortgages Committee focused on work relating to Title XIV mortgage reforms, collaborated and provided feedback during the design of the Your Home Loan Tookit and the Spanish translation, discussed the effects of GSE down payment revisions and mortgage insurance reductions, marketing services agreements and their impact to consumers and real estate markets, access to credit issues, Know Before You Owe, foreclosure and servicing issues post recent RESPA regulations, as well as analyzing the impact of CFPB enforcement actions in the mortgage markets more generally.

Over the course of the year, all of the committees made progress on their agendas. What follows are summaries of the reporting year's CAB Committees' work.

Cards, Payments, and Deposit Markets Committee

The Card, Payments and Deposits Committee met five times between September 2014 and September 2015, twice in person as part of CAB meetings and three times by phone. Committee membership changed in January 2015. The final meeting of 2014 was a discussion with Professor Dan Ariely of Duke University, which focused on the manner in which consumer behavior with respect to financial products—especially spending and saving—is influenced by both environmental factors and structures built into financial products.

The 2015 meetings covered the Bureau's regulatory proposal on prepaid products, the upcoming Credit Card study and the published Arbitration study, the Guiding Principles for Faster Payment Networks published by the Bureau in July, improving the financial products experience of the elderly, and the implications of innovation in financial services and the Bureau's options to encourage positive innovation and discourage innovation that could harm consumers. In connection with the latter, the Committee engaged in an on-line conversation with Jake Fuentes, CEO of Level Money.

The unifying theme of much of the Committee's work was the impact the Bureau is having and can have on a fast-changing financial services environment, and in particular how the Bureau can ensure that consumers are well served. With respect to the Arbitration Report, for example, the Committee considered the extent to which the Bureau's existence, its rulemaking and supervisory actions, and the consumer complaint handling system impact the efficacy of and need for class actions (in contrast to arbitration) to protect consumers. The Committee will continue to work with the Bureau on this topic as it considers proceeding to rulemaking.

With respect to the elderly, the Committee's focus has been on helping the Bureau best understand how to effectively reach the elderly (for example, to prevent elder financial abuse) and also the pitfalls that innovation and technology could present for older users of financial services. For example, will those whose fingerprints have faded be able to use fingerprint identification technology, will the print on mobile screens be large and clear enough for older eyes to read, and will faster payment technology limit the ability to prevent scams aimed at the elderly?

Most broadly, the Committee has been advising the Bureau on strategies to ensure that there are positive synergies between innovation and consumer protection. These include embedding incentives into liability structures so that, for example, the creators and operators of new and faster payment systems maximize protection against fraud; working with other regulators and the industry to make sure that consumer voices are heard as systems, operating agreements and regulations are being developed, rather than coming in after the fact; focusing attention on data security and privacy; paying attention to the channel effects of innovation and the impact on consumers of changing channels for financial services delivery (including in particular the role of mobile and of non-depositories); and better understanding consumer behavior and how consumers understand, use and interact with technology.

Consumer Lending Committee

The Consumer Lending Committee met nine times between September 2014 and September 2015, twice in person as part of CAB meetings and seven times by phone. Committee membership changed in January 2015 to account for newly appointed members. During this timeframe, the committee discussed important topics in the consumer financial marketplace such as student loan servicing, alternative data, and small dollar lending. A majority of the committee's time was spent on small dollar lending given the CFPB's March 2015 announcement that it would be considering proposals to regulate small dollar loans.

In November and December 2014, the committee spent two meetings focused primarily on the student lending marketplace, particularly on servicing. An expert in the student lending and servicing field briefed the committee during this timeframe.[4] Committee members received an overview about the expert's company, which provides private student loans to the higher education industry. The committee discussed ways in which private student lending could be done in a responsible manner by providing frequent disclosures of the amounts borrowed and by providing flexible repayment plans if the student encounters financial difficulties.

Then in January and February 2015, the committee focused on preparing for 2015 and deliberated on which topics in the consumer lending marketplace would be discussed. The committee began with its attention on alternative data. Committee members reviewed how this data is being used today and how it might be used in the future for consumer loan underwriting, with a particular focus on small dollar lending.

In March 2015, after the CFPB announced that it was considering proposals for small dollar lending through the Small Business Regulatory Enforcement Fairness Act (SBREFA) process, the committee focused on this issue. Robust committee discussions on this topic occurred over several meetings, which led to an outline of principles and considerations. These principles and considerations were presented and discussed during the Consumer Lending Committee session of the June 2015 Consumer Advisory Board meeting in Omaha, Nebraska. Details of this

[4] During the CAB Consumer Lending Committee call on December 5, 2015, Joe DePaulo, CEO of College Ave Student Loans, was the expert in student lending and servicing.

discussion are outlined in the June 2015 meeting summary. The committee has also included the summary document that was used by the committee for the meeting as an appendix to this report. [5] The input and feedback discussed during the Consumer Advisory Board at the June 2015 meeting spanned four areas: consumer impact, areas where there is still potential for consumer harm, the proposal's impact on the small dollar lending industry, and the future of the small dollar lending marketplace. Input from the Consumer Advisory Board has been incorporated as well.

In September 2015, the committee met for the last time during this reporting period and received a briefing by CFPB staff on the Department of Defense's final rule relating to the Military Lending Act. Committee members also shared their thoughts about the year's work and ended the meeting with appreciations for the service of those committee members with expiring CAB terms.

Mortgages Committee

The Mortgages Committee met six times between September 2014 and September 2015, twice in person and four times by phone. This year the CAB's Mortgages Committee focused on (1) work related to new education materials for potential home buyers, (2) continuation of Title XIV mortgage reform implementation, (3) policy changes relating to down payment requirements, and (4) marketing services agreements (MSAs) in relation to RESPA Section 8 prohibitions. Summaries of the discussions in each of these areas are below. Observations on servicing issues and differences in the recovery of particular segments of the housing market were common themes during the committee discussions.

(1) New educational materials for potential home buyers:

- Committee members had the opportunity to review an early draft and provided feedback to CFPB staff on the "Your home loan toolkit," a step-by-step guide. The toolkit was created to help potential home buyers make better choices along their path to owning a home. The toolkit helps home

[5] See Appendix C for the CAB Consumer Lending's summary document on small dollar lending. Please note that the summary document does not reflect consensus views of the committee or the CAB. Additionally, it does not represent the views of the CFPB.

buyers know the most important steps that need to be taken to get the best mortgage for their situation. The goal is that potential home buyers who read the toolkit will be better able to understand the costs of financing a home purchase. The toolkit includes a description of the five-page Closing Disclosure which sums up the terms of the loan and what the borrower will pay at closing, making it is easier for a borrower to confirm the details of the loan.

- Members also discussed and provided feedback for the Spanish-language version of of the "Your home loan toolkit," and discussed the possibility of the creation of materials and disclosures in langagues other than English.

(2) Implementation of the Title XIV mortgage rules:

- Committee members shared their observations about industry implementation of the new regulations and training sessions.
- Committee Members raised concerns about the availability of smaller loans and the cost of smaller loans.
- Members discussed concerns about the prospect of allowing safe harbor treatment for loans that are held on balance sheets by any lender of any size, rather than those made by non-profit agencies.

(3) Policy changes relating to down payments:

- Committee members discussed changes in policy including the Fannie Mae and Freddie Mac announcement in late 2014 on expanding the availability of certain loans with a maximum loan-to-value (LTV) ratio of 97%. The Federal Housing Administration (FHA) followed with an announcement in the beginning of January of 2015 to reduce annual mortgage insurance premiums (MIPs) by 0.5% on new loans. These changes were made to expand access to mortgage credit and make monthly mortgages more affordable to qualified and creditworthy borrowers. Committee members discussed access to credit and particular challenges that low-income households have experienced in achieving homeownership.

(4) Marketing services agreements (MSAs):

- Committee members discussed MSA practices and loopholes in the RESPA Section 8 prohibition on kickbacks and referral fees. Some members express an interest in eliminating the MSA practice completely. Additionally, members discussed adding requirements, such as disclosure, to create more transparency to the consumer.

- Servicing:
    - Committee members discussed the disproportionate cost of servicing low-balance loans, and urged CFPB staff to research and determine the average

cost of servicing low-balance loans and best practices to reduce the cost of servicing.

- Access to Credit:
    - Committee members discussed differences between markets relating to apprisls and the possibility that appraisers may have over corrected. Access to credit for consumers with Limited English Proficiency (LEP) continues to be a concern for committee members.
    - Some committee members highlighted that consumers with LEP issues may be less likely to have established credit relationships than English speakers.

4. Conclusion

In closing, in its third year, the Consumer Advisory Board has continued to share vital advice, expertise, and technical information with the Bureau and its staff. Board members would like to thank the Consumer Financial Protection Bureau for the chance to help further the Bureau's mission of helping to make markets for consumer financial products and services work for Americans. This joint report and attached individual remarks are presented in the spirit of cooperation and collaboration.

APPENDIX A:

Consumer Advisory Board Biographies[6]

Chairperson Bill Bynum currently serves as CEO of Hope Enterprise Corporation/Hope Federal Credit Union in Jackson, MS, a position he has held since 1994. Previously, Mr. Bynum held positions as Director of Programs for the NC Rural Economic Development Center in Raleigh, NC and the Associate Director of Self- Help in Durham, NC. From 2002-2012 he served as chairman of the Treasury Department's Community Development Advisory Board.

Vice Chairperson Maeve Brown currently serves as Executive Director of the Housing and Economic Rights Advocates, an organization that she co-founded in 2005. She has over 25 years as a public interest attorney, in varies organization in Southern and Northern California. She has published articles on affordable housing issues and authored a chapter in the American Bar Association's Legal Guide to Affordable Housing Development (first edition and updated), is bilingual in Spanish and French and conversant in Japanese, Farsi, Italian and German.

Gary Acosta currently serves as the CEO and co-founder of the National Association of Hispanic Real Estate Professionals (NAHREP). NAHREP is the nation's largest minority real estate trade association. In 2012, Mr. Acosta received the Investing in Communities Award from the Mortgage Bankers Association and was recognized as one of the 100 most influential Hispanics in America by *Hispanic Business Magazine*. He currently sits on the Diversity Committee of the MBA and the Board of Governors for the National Housing Conference.

Ann Baddour is state director of financial access programs at Texas Appleseed, a public interest law center, where she has overseen projects aimed at bringing low-income and

[6] Consumer Advisory Board biographies reflect the membership of the CAB between September 2014 and September 2015.

immigrant consumers into the financial mainstream since 1999. She is actively involved in reform of regulations governing payday and auto title lending in Texas to build greater consumer protection into these transactions. Her work in the areas of immigrant financial education and improving consumer disclosure and protection in remittance transactions has been instrumental in laying the groundwork for national oversight of remittances. She has presented at economic and asset building conferences across the United States and in Benin, Mexico, and the European Union. She has been recognized for her work by the FDIC and the El Paso Invest in the American Dream Initiative. Prior to working for Texas Appleseed, she was a research analyst with the Texas Legislative Council.

Jo Ann Barefoot is CEO of Jo Ann Barefoot Group LLC in Washington, DC. She previously was Co-chair of Treliant Risk Advisors, Partner and Managing Director at KPMG Consulting and CEO of Barefoot Marrinan & Associates. Ms. Barefoot also served as staff member at the U.S. Senate Banking Committee's Subcommittee on Housing and Urban Affairs. In 1978, Ms. Barefoot became the first woman Deputy Comptroller of the Currency, leading the OCC's newly-formed consumer protection unit. Ms. Barefoot serves on the Board of the Center for Financial Services Innovation (CFSI). Beginning in July 2015, Jo Ann will also be a Senior Fellow at the Mossavar-Rehmani Center for Business & Government at Harvard University's John F. Kennedy School of Government. In that role she is writing a book on consumer protection regulation and innovation, in addition to her other writing and consulting.

Don Baylor, Jr. currently serves as a Senior Associate at the Urban Institute, where he co-leads their State & Local Policy Advisory Group. He previously worked at the Austin-based Center for Public Policy Priorities as a lobbyist, policy analyst, and Director of OpportunityTexas. Mr. Baylor's prior positions include Legislative Director for the New York, Association of Community Organizations for Reform Now (NY ACORN) and Senior Consultant for KPMG Public Sector Consulting Practice in Sacramento, CA.

Steve Carlson is the co-founder and CEO of Ascend Consumer Finance, and currently advises a number of fin-tech start-ups. Prior to Ascend, he was at Intuit where he led Marketing and Business Development for Mint.com and Quicken. Additionally, Mr. Carlson has held senior executive roles at HSBC and Washington Mutual, and has advised a range of financial services firms, as the co-founder of Sung Carlson Associates.

Laura Castro de Cortés currently serves as Director of Business Product Development for Meta Payment Systems. She was President of Latino Banking Solutions (LBS), whose clientele has included Wells Fargo Bank, Allied Insurance Group, Principal Financial Group, Brotherhood Bank and Trust, Liberty Bank and many more banks throughout the Midwest. Prior to Latino Banking Solutions, Castro de Cortés was Vice President of Emerging Markets with Centris Federal Credit Union. Laura was also director of Latino Banking for Commercial Federal Bank, a $13.3 billion dollar federal savings bank in Omaha, NE.

Elizabeth Costle currently serves as Senior Advisor at the AARP Public Policy Institute where she specializes in age-friendly banking and other consumer issues. Previously, Ms. Costle served as Vermont Commissioner of Banking, Insurance, Securities and Health Care

Administration. Ms. Costle has also worked as a Senior Consultant for Health Insurance Policy in the Office of Policy and Representation at Blue Cross Blue Shield Association; as Assistant General Counsel at Fannie Mae; as General Attorney at Satellite Business Systems; and as an Associate at Arnold & Porter.

Prentiss Cox is currently an Associate Professor of Law at the University of Minnesota Law School, where he has taught since 2005 and directs the Consumer Protection Clinic. Previously, Mr. Cox served as the Manager of the Consumer Enforcement Division for the Minnesota Attorney General's Office. He has also served as a Judicial Clerk for the Honorable P.H. Marshall at the United States District Court for the Northern District of Illinois. Mr. Cox is the author of a number of publications on a range of financial topics, including fraud, deceptive practices, and foreclosures.

Patricia Garcia Duarte has served as President and CEO for Trellis (formerly Neighborhood Housing Services of Phoenix) since 2006. Previously, she worked as the Arizona Manager for the Community Partnerships Office at JPMorgan Chase/Bank One. She has held various housing and economic development responsibilities with Mercy Housing South-West; Neighborhood Housing Services of Phoenix; and Chicanos Por La Causa, Inc.

Julie Gugin currently serves as the Executive Director of the Minnesota Homeownership Center, a position she has held since 2007. She has over 20 years of non-profit leadership experience; previous positions include Vice President of Operations for Twin Cities Habitat for Humanity and Director of Supportive Housing at the Wilder Foundation. She is a co-founder of the Framework Homeownership, LLC, a non-profit technology start-up company for homebuyer education. She co-chaired the statewide Minnesota Foreclosure Partners Council and currently serves on the National Industry Standards (for homeownership education and counseling) committee.

Patricia Hasson currently serves as President of Clarifi, a community based non-profit financial counseling & education agency that has promoted lifelong financial literacy since 1998. Her prior experience includes more than 12 years as a banking executive with diverse consumer and commercial lending background. She currently serves on a number of local and national bank & community advisory boards and has been appointed to the oversight board for the Philadelphia Mayor's Office of Community Empowerment & Opportunity.

Adam Levitin is a Professor of Law at the Georgetown University Law Center. Professor Levitin has also served as special counsel for the Congressional Oversight Panel for the Troubled Asset Relief Program; as the Robert Zinman Scholar in Residence at the American Bankruptcy Institute; and as the Bruce W. Nichols Visiting Professor of Law at Harvard.

Brian Longe currently serves as the CEO of the Wolters Kluwer's Financial & Compliance Services division, which specializes in providing solutions and services to help financial organizations of all sizes manage risk and maintain compliance with regulations at a local, national and global level. Prior to joining Wolters Kluwer in 2005, Brian held numerous leadership positions in companies that specialize in developing information technology and solutions. Brian also serves on the national board of directors for Operation HOPE, a non- profit organization dedicated to financial literacy and empowerment.

James (Jim) McCarthy currently serves as President and CEO of Miami Valley Fair Housing Center, Inc. in Dayton, OH, a position he has held since 1998. Previously, he was a paralegal for Noel W. Vaughn, Attorney at Law. Since 2006, Mr. McCarthy has served as the chair for the National Fair Housing Alliance in Washington, DC and is actively involved with the Affordable Housing Options Committee of Montgomery County, OH, the Dayton Community Reinvestment Institute, and the Dayton Fund for Home Rehabilitation, among others. Mr. McCarthy is currently helming the rollout and implementation of the Miami Valley Inclusive Community Fund, an innovative program used to reclaim neighborhoods blighted by REO neglect, by reinvesting in neighborhoods of color to counteract the devastating damage resulting from the foreclosure crisis and its aftermath.

Jennifer Mishory currently serves as the Executive Director for Young Invincibles. Ms. Mishory's prior experience includes testifying before Congress about private student loans and about federal financial aid; authoring publications on topics such as consumer awareness about student loan decisions and the impact of student debt on buying a house; representing young consumers in numerous capacities, including as a consumer advocacy negotiator in the 2012 negotiated rulemaking around federal student loans and as a consumer representative to the National Association of Insurance Commissioners.

Joann Needleman Joann Needleman is leader of Clark Hill's Consumer Financial Services Regulatory & Compliance group. Joann has extensive litigation experience in state and federal courts, successfully defending creditors against claims brought under the Fair Debt Collection Practices Act and Fair Credit Reporting Act as well as state statutes. She provides counsel, consultation and litigation services to financial institutions, law firms and debt buyers throughout the country. Joann is the current President of the Board of Directors of the National Association of Retail Collection Attorneys (NARCA).

William Nelson currently serves as Associate Director for Military Programs at the University of North Georgia, where he manages a team responsible for overseas deployments for over 1,000 ROTC cadets annually. Mr. Nelson recently served as the executive director for USA Cares in Kentucky, a position he had held since 2008. Mr. Nelson also worked as a military family financial planner in New England and Kentucky. Mr. Nelson served on active duty for twenty years in the U.S. Navy, retiring in the rank of Commander in 1992.

J. Patrick O'Shaughnessy is currently the President and CEO of Advance America, Inc., a provider of consumer financial services with offices in 29 states. Prior to joining Advance America, Patrick worked in the investment banking industry. He spent most of his investment banking career at Donaldson, Lufkin & Jenrette (DLJ) and with Credit Suisse, after its acquisition of DLJ. He also worked for Kidder, Peabody and Thomas Weisel Partners. Patrick is the Chairman of the Board of the Community Financial Services Association of America, an industry trade group that advocates for consumer access to regulated financial services, and a member of the Board of Trustees of Converse College.

Jose Quiñonez currently serves as Executive Director of the Mission Asset Fund in San Francisco, California, a position he has held since 2007. Mr. Quiñonez's previous positions include: Policy Director for the Asset Policy Initiative of California (San Francisco) and California Outreach Director for the Center for Responsible Lending (Oakland). He also worked in Washington, DC at the Center for Community Change, Bread for the World, and on Capitol Hill.

Dory Rand currently serves as President of the Woodstock Institute, a leading nonprofit research and policy organization for the areas of fair lending, wealth creation, and financial systems reform. Previously, she held attorney positions with the Sargent Shriver National Center on Poverty Law, LAF, a private law firm, and the ACLU of Illinois. Ms. Rand serves on the State Banking Board of Illinois and the Board of the National Community Reinvestment Coalition. Previously she served on the Federal Reserve Board's Consumer Advisory Council and the board of the CDFI Coalition, among other public, private, and nonprofit boards and professional associations.

Honorable Judge Annette Rizzo was appointed to the Court of Common Pleas bench in Philadelphia in 1998. Since that time, she has served in the Trial Division in both the Criminal and Civil Programs and now sits in the Civil Major Trial Program. Since the spring of 2008, Judge Rizzo has been involved with the development and oversight of the First Judicial District's Residential Mortgage Foreclosure Diversion Pilot Program. The conferences bring together homeowners, lenders' counsel, pro bono attorneys and housing counselors in an effort to keep City residents in their homes.

Ellen Seidman is a Senior Fellow at the Urban Institute and a Visiting Scholar in the Community Development Department at the Federal Reserve Bank of San Francisco. She is also a Research Fellow at the Filene Research Institute and the 2013-2014 NYU Stern-Citi Leadership & Ethics Distinguished Fellow. Ellen Chairs the Board of Aeris (formerly the CDFI Assessment and Ratings Service), and serves on the boards of directors of: the Center for Financial Services Innovation, City First Bank of DC, and Coastal Enterprises, Inc. Ellen's prior positions include: the Executive Vice President for National Policy & Partnership Development and for Mission and Strategy for the ShoreBank Corporation; Senior Managing Director/National Practice at Shore Bank Advisory Services; Director for Financial Services Policy and Senior Research Fellow at the New America Foundation; and Director of the Office of Thrift Supervision (OTS) from 1997 to 2001.

Josh Silverman currently serves as President for Consumer Products & Services at American Express, a position he has held since 2011. Previously, he served as: an Executive in

Residence at Greylock; CEO at Skype; CEO at Shopping.com (an eBay company); a Managing Director at Markplaats.nl & eBay NL at eBay, Inc.; the GM for International Expansion at eBay, Inc.; was the co-founder and CEO at Evite, Inc.; was VP and GM for Regional Field Service Business at ADAC Laboratories; a Management Consultant at BoozAllen & Hamilton; and a Legislative Correspondent for US Senator Bill Bradley.

Gene Spencer currently serves as the senior vice president for stakeholder engagement, policy and research at the Homeownership Preservation Foundation (HPF), in Washington, DC, a position he has held since 2010. HPF operates the Homeowner's Hope Hotline, which provides financial education and foreclosure prevention counseling to consumers nationwide and is the national call to action for the US government's Making Home Affordable Program. Previously, Mr. Spencer served as a public affairs director at Burson-Marsteller and in several positions at Fannie Mae during a 28-year career, including executive positions in investor relations and mortgage securitization.

Robert Stoll is the founder of Stoll Berne, LLC, a law firm for which he was chairman from 1977 to 2008. His law practice focused on securities fraud, consumer class action, and other complex litigation. From 1996-2008, he also was Oregon Special Assistant Attorney General for Securities Litigation. Mr. Stoll also founded and is chairman of Albina Opportunities Corporation, a community development financial institution which loans money and provides business advisory services on a non-profit basis to minority and women small businesses in Portland, Oregon.

Donna Tanoue currently serves as Vice Chair of the Bank of Hawaii Corporation/Bank of Hawaii and President of Bank of Hawaii Foundation. She is also a member of the Bank of Hawaii's Board of Directors. Ms. Tanoue is the former Chairman of the Federal Deposit Insurance Corporation (FDIC). She was a partner in the Hawaii law firm of Good Sill Anderson Quinn & Stifel. Ms. Tanoue also served as Commissioner of Financial Institutions for the State of Hawaii.

Jane Thompson is the CEO of Jane J. Thompson Financial Services LLC, a company she founded in 2011 to advise businesses that serve the financial services needs of mass-market consumers. Previously, she was the founder and president of Walmart Financial Services and led the team for nine years to become the leader and innovator serving the mass-market customer in America, with special focus on basic money services, prepaid and credit cards. Ms. Thompson is an independent director of The Fresh Market and an advisor to Mitek as well as other financial service start-ups.

James (Jim) Van Dyke Jim Van Dyke is the CEO of Javelin Strategy & Research, a Greenwich Associates LLC company. He is a research-based futurist on how digitization of money changes consumer and business opportunities, including mobile, payments and security. He has worked in electronic commerce and innovation since 1984, and advises leaders in both startup and established organizations.

Jonathan Zinman is a professor of Economics at Dartmouth College, a position he has held since 2005. He is also the co-founder and lead researcher of the U.S. Household Finance Initiative of Innovations for Poverty Action, a nonprofit research and development organization. Previously, Mr. Zinman was an economist at the Federal Reserve Bank of New York and a loan fund manager and strategy analyst at the Massachusetts Community Development Finance Corporation.

APPENDIX B:

Consumer Advisory Board written statements

The following statements were submitted by CAB members per section 9 (c) of the CAB Charter:

Jo Ann Barefoot Group, LLC

September 15, 2015

Honorable Richard Cordray
Director, Consumer Financial Protection Bureau
1700 G Street, NW
Washington, D.C. 20552

Dear Director Cordray:

I'm pleased to offer my thoughts to you and the Bureau as I approach the end of my term as a member of the Consumer Advisory Board.

I have served on the CAB since its inception in 2012. The experience has been thought-provoking and rewarding for me, and I believe the CAB makes an invaluable contribution to the CFPB's work.

My parting advice, for both the CAB and the Bureau, is the following.

Regarding the CAB, I think the key challenge is to continue to cultivate candor and free exchange of ideas in its work. This can be difficult with any kind of advisory board, and especially so when the group's deliberations are conducted in public. The public spotlight can chill candor and also works against the group forming positive personal relationships and cohesion. Such situations can (and often do) devolve into the participants mostly articulating the "talking points" of whatever constituency they represent, formally or informally. That, in turn, leads to people essentially talking past each other.

In creating the CAB, the CFPB has been very effective in avoiding these problems and fostering a really rich dialogue in which people with very disparate views have been able actually to brainstorm with each other. I think the result has been invaluable to everyone and especially to the Bureau's thinking on complex issues that involve highly varied impacts and opinions. It has helped make the CAB's deliberations distinctly more valuable that other dialogue on the same topics. I encourage you to work explicitly to keep this culture thriving.

My second thought on the CAB is to caution against the temptation to try to reach formal CAB consensus on controversial topics. Early on, we agreed that the main function of the CAB is to discuss critical issues among our members and the CFPB staff – that the "product" is the discussion itself. However, advisory bodies tend over time to try to formalize and adopt positions and recommendations on key issues. While there may be situations where this has merit, I think it generally is counter-productive. The statutory mandate to create the CAB is clearly designed to assure that it represents a wide variety of viewpoints. Trying to get participants to reach agreement on written outputs consumes time that can be better spent in dialogue, and tends to water down the written product, undermining its value. These efforts also can create a culture of discomfort in the group, forcing people to decide whether to sign onto language they do not fully support.

My third and most important suggestion on the CAB is to continue to enhance its focus on technology change. As you know from my own vocal participation, I think technology-driven innovation and industry disruption are the most important issues facing financial consumers and will bring both tremendous benefits mixed with serious new risks. I hope it will be at the center of the CAB's agenda.

That point leads to my primary recommendation for the Bureau as a whole. I urge you to make innovation and technology central to the CFPB's work, building on the agency's early decision to try to be "consumer-centric," rather than industry- or product-centric. Technology is in the process of breaking up existing industry business and product models. The CFPB is well-positioned, in terms of mandate, powers, and culture, to take the lead in understanding and addressing this transformative change, and has taken important steps to do so through its Project Catalyst. I urge you to continue and expand these efforts.

I believe the disruption of consumer financial services will inevitably disrupt the financial regulatory framework as well, due to the intensive and complex regulation focused on this arena. It will be a tremendous challenge for public policy to help pro-consumer innovation flourish while also blocking harms that will be intertwined with positive change.

As I think you know, I am researching and writing a book on this topic through a senior fellowship at Harvard this year. I am increasingly convinced there is a historic opportunity, and unprecedented set of risks, facing financial consumers.

Some of the key steps, in my view, are for the CFPB to build methodical consideration of innovation impacts into all decision-making, including rule-writing, research, consumer education and enforcement; to recruit and empower experts in technology and innovation; to formalize robust interaction with the fintech community; and to foster intra- and inter-agency learning, collaboration, and decision-making that can produce clear and consistent regulatory guidance, with enough timeliness to keep pace with change.

It has been a privilege to serve on the Consumer Advisory Board for these three years, to come to know so many of the Bureau's talented and dedicated leaders, and to try to help shape the early direction of this important agency. I wish all the best to you and your colleagues in taking on the many challenges ahead.

Sincerely,

Jo Ann S. Barefoot
CEO, Jo Ann Barefoot Group LLC
Senior Fellow, M-RCBG, Harvard University

100 Pier 4, #1806, Boston MA 02210
Jo@jbarefoot.com / www.jsbarefoot.com / 202-315-8284

CLARIFI
lifelong financial literacy

1608 Walnut St., 10th Fl., Philadelphia, PA 19103
P 215.563.5665 F 215.563.7020 W clarifi.org

powered by Consumer Credit Counseling Service of Delaware Valley

October 21, 2015

Director Richard Cordray
Consumer Financial Protection Bureau
1700 G Street NW
Washington, DC 20552

Dear Director Cordray,

I appreciate the opportunity to once again provide a statement as part of the CAB annual report. The structure that the CFPB developed for the CAB in its first two years led to some insightful and engaging conversations on a variety of consumer financial topics. The governance structure led to a cohesive group with a variety of opinions willing to provide insights and discuss trends that impact a diverse set of constituents and consumers.

Many of the topics covered in the past year had a direct impact on the clients that we serve in financial education workshops and one-on-one counseling at Clarifi. It is evident to me that CFPB staff is thoughtfully and carefully analyzing a number of financial products and practices to better protect the consumer from harm and still create opportunities for those consumers in the financial marketplace. It remains imperative that the CFPB continue to evaluate these products and practices from the consumer lens and set appropriate remedies and protections to safeguard all consumers.

I am continually impressed by the new tools and resources created by the CFPB. Our counselors and educators refer to these tools often and share many of the resources with clients to advocate for themselves. I am particularly impressed with the CFPBs ability to partner with community based agencies to educate consumers and also learn from the agencies what is critical and important to consumers, as they navigate complex financial situations.

It has been my pleasure to serve on the CAB for my three year term. I have enjoyed hearing from all CAB members and appreciate the different experience, research, backgrounds and viewpoints that lead to richer discussions. I will miss the opportunity to engage with my fellow CAB members on an ongoing basis.

Sincerely,

Patricia A Hasson

Patricia Hasson
President

ADVANCE AMERICA
You advance America.

135 N. Church Street
Spartanburg, SC 29306
P: 864.342.5600
AdvanceAmerica.net

October 26, 2015

Richard Cordray, Director
United States Consumer Financial Protection Bureau
1700 G Street, NW
Washington, D.C. 20552

Dear Director Cordray,

Thank you for the opportunity to serve on the Consumer Advisory Board (CAB) of the Consumer Financial Protection Bureau (CFPB) and to submit this statement regarding the CAB's progress this year. I have appreciated the opportunity to engage with members of the CAB, as well as with you and the CFPB leadership team; we are afforded a unique opportunity to advise the CFPB on its functions and inform emerging practices in consumer finance. With this comes a broad responsibility that I believe the CAB has handled appropriately in some ways and fallen short in others.

Over the last year, I have been consistently impressed by the dedication of my fellow CAB members, as well as the time and responsiveness given to the board by you and your staff. The CFPB clearly values the opinions and advice provided by the CAB, and I believe this high degree of attention has fostered a collegial atmosphere and an environment in which an open dialogue is valued – whether at full meetings, committee meetings or in our robust ongoing discussion between meetings. I encourage your continued efforts to foster such an environment.

Part of the CFPB's primary functions is to conduct financial education programs so that real life consumers can benefit from knowing their options and how to manage their finances appropriately. The presentations by the CFPB financial education group were among the best we saw during the year. The CFPB does a very good job of providing financial education programs to consumers, and I commend them for their work in this area. However, part of financial education is understanding the products and services and encouraging transparent products with simple, clear, and complete disclosures. It is my observation that the majority of the CAB members do not believe that education and disclosures are an effective means of dealing with consumers.

In addition, part of the CFPB's mission is to ensure that access to credit remains available. In my first meeting and nearly every subsequent meeting, some members have expressed concerns that the qualified mortgage rules were causing people in their communities to lose access to mortgage loans. Most members of the CAB generally felt that these consequences are acceptable, as they believe that therule was designed to prevent excess borrowing. I continued to hear throughout the year from members of the CAB that the CFPB should not be concerned about reduced access to credit, and in fact, reduction in credit for certain groups of consumers was often referred to a "good thing".

I have been impressed with the work of the Office of Consumer Response. Although the customer portal and data can constantly be improved, the task is monumental, and they are off to a good start. I believe that the CAB could better use this data to inform its areas of focus. When we began this year, I suggested to our committee on consumer lending that we use the customer portal data to guide our topics of discussion. We addressed many important issues, providing recommendations to the CFPB on mortgages, private student loans, prepaid cards and small-dollar loans; however, with the exception of mortgages, the CAB largely neglected the areas in which consumers are making the greatest number of complaints: debt collection, credit reporting, credit cards and their bank accounts. There is more we can do to follow the insights provided through the complaint database in order to address consumers' concerns.

As it should, the CAB relies heavily on the individual perspectives of its members. I am especially appreciative of the visit your staff organized to an Advance America center during our summer meeting in Omaha. As you know, it was the first time many members of the CAB had ever visited a short-term lender. As a representative of our customers, I believe any future opportunities to observe firsthand the services we discuss – to consider the marketplace from a customer point of view and to interact with the consumers on whose behalf we are meant to advocate – would be extremely valuable. I also believe we need to balance member perspectives with more robust analytical research. Most of the presentations and discussion we have are based upon anecdotal evidence and survey data from advocacy groups, often with their own agendas. We should not substitute public policy arguments for objective analytical research and real world consumer experiences and needs.

As a final thought, I am concerned we are falling short of the mandate to provide consistent treatment of like products and the larger goal of ensuring consumers' access to credit products and services that are fair, transparent and competitive. For instance, throughout the year I observed inconsistencies in the way both the CFPB and the CAB considered and evaluated products and markets. In student lending, we discussed regulating private loans but not government student loans. In the debit card rule discussion, prepaid cards were included but bank debit cards were not. In small-dollar credit, payday loans were discussed but overdraft programs, credit card cash advances, and late fees were categorically excluded. These products are seen by the consumer as direct substitutes and should therefore be subject to the same rules and disclosures, allowing users to make informed decisions. These incongruities, while perhaps easier to implement and manage, are not in the best interest of consumers who benefit most when offered a variety of fairly regulated credit options. We should not advocate for rules for certain providers but not others simply because some are deemed more politically appropriate.

I look forward to addressing these challenges and working with the CAB in the year ahead. Thank you again for the opportunity to serve.

Sincerely,

J. Patrick O'Shaughnessy
CEO
Advance America

The Honorable Richard Cordray, Director
Consumer Financial Protection Bureau
1700 G Street, NW
Washington DC

Dear Director Cordray,

In looking back on my first year on the Consumer Advisory Board, I feel deeply honored to serve as an advisor to the Consumer Financial Protection Bureau. I come to the agency with focus only the ways of digital commerce and financial technology, in an industry still significantly shaped by the global financial crisis, yet have found both the board and agency to be incredibly open to questions, ideas and challenges.

I consider myself to be both historian and futurist in the realm of payments and financial services, and from that perspective I view the industry as one that is at the earliest stages of revolution. With the recent deep recession not many years behind us, banks are facing increasingly negative consumer sentiment. Individuals are often more likely to pay a premium for a coffee drink than willingly incur even the most basic of bank fees, and meanwhile non-traditional service providers with fresh brands are experiencing booming business growth. Yet with so many consumers continuing to make sub-optimal choices in the face of everyday and long-term financial services options, one must worry about the lasting harm that could occur if the realm of traditional retail financial services fails to be consumers' preferred source of trust and value in the future.

I'm fundamentally optimistic about how digital and financial technology can improve the lot of all participants in consumer financial services, and yet I'm concerned about the path to such a revolutionary future. As consumers increasingly use technology to monitor and manage offers and services to improve their lives, innovators have more opportunity than ever to strengthen the financial condition of individuals. Yet with the U.S. having an extremely high ratio of providers to consumers and smaller institutions both struggling to profitably meet the digital-first needs of millennials, I foresee a fallout of the smaller community banks and credit unions that currently invest most strongly in customer service and local communities.

I'd like to commend the CFPB of using primary research data that primarily focuses on the end-user to assess markets and solutions, thereby avoiding the pitfall of relying on insular research methods that mostly only consider providers' data and perspectives. By using this consumer-first approach, I believe the agency has been able to set its sights on fresh approaches with greater accuracy, while avoiding the myopic approach of only hearing traditionalists' point of view.

My one area of surprise has been the industry perspective of the CFPB, and to be fully transparent I'm still trying to make sense of it. I have many trusted friends at both financial institutions and industry service or technology firms, and I frequently hear the refrain "regulation is anti-innovation". Yet despite my many individual or public requests for specific examples, I'm frustrated that I have been wholly unsuccessful at being presented with a specific or factual example of what the CFPB should do differently to encourage industry innovation. Perhaps this dichotomy suggests that industry and regulation are being outshined by simple post-recovery consumer enmity, with angry sentiment that eclipses all other factors. In any event, no one can fulfill their potential until retail financial services and payments sector meets with more consumer support for newly-sustainable business models. Millennials in particular just seem to have no interest in trusting their bank, and rather just seek "perfect financial partners" who bring the best always-on, real-time, transparent and safe methods for managing personal finances in the digital era.

In closing, I'd like to restate my appreciation for the work of the agency with optimism for how we can help the industry improve the lives of everyday Americans through innovation. These are exciting times, and are made more so as we draw on both history and the power of unfolding technology to improve the vital realm of consumer financial services. Thank you for your important work, and for allowing me the privilege to be of service.

Sincerely,

Jim Van Dyke
CEO and Founder, Javelin Strategy & Research
Member, Consumer Advisory Board

APPENDIX C:

CAB Consumer Lending Committee's summary document on small dollar lending

The following summary document is submitted by the CAB Consumer Lending Committee and reflects their range of varying views on the CFPB's small dollar lending SBREFA proposals. The summary document does not reflect the views of the CFPB.

Consumer Advisory Board
Consumer Lending Committee
June 2015

Committee input on the Consumer Financial Protection Bureau's (CFPB) small dollar lending Small Business Regulatory Enforcement Fairness Act (SBREFA) proposal

Overview

On March 26, 2015, the Consumer Financial Protection Bureau (CFPB) announced that it is considering proposing rules for the small dollar lending marketplace through the release of its Small Business Regulatory Enforcement Fairness Act (SBREFA) proposal.[1] Since the release of the CFPB's proposal, the Consumer Advisory Board (CAB) Consumer Lending committee has met to discuss the proposal and provide input. The purpose of this document is to summarize committee conversations on the proposal. This document is organized into four key issue topics: Consumer impact, Areas where there is still potential for consumer harm, Impact on the small dollar lending industry, and the Future of the small dollar lending marketplace post proposal. This document does not reflect consensus by committee members, but simply demonstrates the various member views and opinions. This summary document does not reflect the views of the CFPB.

Consumer impact

- Consumer benefit:
    - Some of the proposal's biggest benefits for consumers are the Ability to Repay standards, protection from excessive fees, and requirements for reasonable debt collection practices i.e. notification before payment is withdrawn requirement.
    - Consumers will benefit from consistent minimum standards that cover both online and storefront lending.
    - Having an ability to repay standard in this market space could increase borrower access to lower-cost loan options. When borrowers are caught up in unaffordable loans, it makes them higher-risk borrowers and reduces the likelihood that lower-cost lenders can serve them.
    - Consumers want to see more regulation in this marketspace. Though different surveys and polls from various organizations have different findings regarding which policies borrowers favor the most, three seem to rise to the top:
        1. Capping fees;[2]
        2. Capping loan amounts;[3] and
        3. More affordable payments and amortizing loans.[4] The first may be outside the scope of the CFPB, but the second two relate back to the basic standard of the rulemaking—ensuring ability to repay the loan.

[1] http://www.consumerfinance.gov/newsroom/cfpb-considers-proposal-to-end-payday-debt-traps/
[2] Elliehausen & Lawrence, 2001
[3] CFSA, 2013
[4] Pew, 2013

    - Addressing the payday lending marketplace will have a significant positive impact for our military service members who sometimes lose their security clearance due to severe debt issues with these types of loans.
- Consumer harm:
    - May ration credit to consumers as well as limit consumer choice and may lock consumers out of access to their preferred credit products based on behavior.
    - Does nothing to address demand for credit, but instead could shift demand to other more expensive or less desirable credit sources, such as late payments, overdraft credit, courtesy pay, etc.
    - The proposal may not fully consider unintended (or intended) consequences.
    - May cause delays in accessing credit (i.e., customers will not be able to get money as fast as they need it due to new compliance requirements); and it may undermine an important value of these products – quick and reliable access to money.
    - The proposal could negatively impact consumers who use automatic withdrawal as a convenience because it is an easy way to make timely payments, therefore removing consumer worry. Additionally, the lender benefits because they are assured to receive monthly payments that are on time.
    - Consumers who utilize 3 consecutive loans and repay them in a responsible manner may be unfairly denied access to credit given the 60 days cooling off period in the proposal. This may be unfair to consumers who can demonstrate repayment of the debt and are penalized only because of timing.

Areas where there is still potential for consumer harm

- Alternatives within the proposal need additional attention; e.g., capping the monthly payment to 5% of a consumer's income could still be too high for very low income consumers who would still not be able to afford a 5% monthly payment.
- The proposal does not include disclosure requirements.
- The proposal does not address hidden fees or transparency concerns.
    - Does not help consumers understand relative costs of their alternate credit choices (pawn, payday, late payment, overdraft, extending credit card payments, etc.).
- The proposal may not level the regulatory playing field in the small dollar credit market.
    - Excludes longer-term loans if paid by the consumer with cash, which are included if paid electronically from bank account (a distinction without a difference).
    - Specifically excludes pawn lending, overdraft credit, revolving credit if issued on a card, (including late payments on credit cards), all of which are substitute products for the consumer, and would otherwise meet description of included products.
    - Fails to differentiate or address unlicensed or unregulated lenders, who may benefit from the proposed rule.
    - There is no clear indication of how the rules relate to existing or forthcoming state regulation, including preemption.
- Loopholes in the proposal

  - A car title lender could change the collateral to another personal asset to avoid the rule.
  - Revolving credit is included in the proposal, unless it is issued on a card. A lender using a bank-issued card as delivery method could evade rule.
  - A lender can evade the longer-term loan proposal by having the consumer opt of automatic payments. The lender could also only accept payment in cash.
  - States with strong payday lending protections may be impacted because payday lenders could use the CFPB's proposal to weaken standards or allow payday loans in states where it may currently be unlawful.
  - Why did the Bureau make the distinction between making the payment on the loan in cash vs debit?
    - The harm to the consumer is having the ability to take away the consumer's choice of payment.
    - Consumers should be able to easily opt out of automatic payments by just contacting the lender.

<u>Proposal's impact on the small dollar lending industry</u>

- General
  - The demand for short-term and small-dollar credit marketplace is served by a diverse group of suppliers. It includes late payments to vendors, payday and pawn lending, installment and title loans, as well as bank overdraft credit and deposit advance, credit union courtesy pay and lines of credit. Consumers weigh all of these options when making credit decisions.[5]
  - The proposal only affects a small portion of the providers of small dollar credit – payday loans, car title loans, and some installment loans.
  - The proposal estimates that loan volume from these providers will decline by 55%-62% and revenue to the providers included in the proposal would decline by 71%-76% other sources have since confirmed this.[6]
  - Such a reduction would severely limit consumer access to credit options, which is viewed as a positive by most committee members.

- Ability to Repay (ATR) requirement
  - ATR requirement would be difficult to calculate in a cost effective and timely manner. Generally it takes some companies 2 to 3 days to underwrite a loan.
  - The Ability to Repay requirement is "a good business practice" and the "concept ensures consumers are not receiving loans they cannot afford."
  - The proposal provides a great business opportunity for the private sector to create its own version of a national payday lending database.
  - Since consumers are already bringing income verification documentation to lenders, it doesn't seem like a significant increase in consumer burden for the

[5] Harris Interactive, Payday Loans and the Borrower Experience, December 2013
[6] CFPB's Small Business Advisory Review Panel for Potential Rulemakings for Payday, Vehicle Title, and Similar Loans, March 26, 2015

consumer to bring in 6 months of account history/data until an online system that can easily track this information is available.

- The Bureau should provide guidance relating to the ATR calculation of household income vs individual income.
    - This could lead to ATR manipulation as a married couple could each take out small dollar loans at the same time. If the lender were to use household income but later shift to individual income, the ATR calculation would be skewed.
- Good companies already do ATR calculations, with many using significantly more data sources than traditional credit scores.
- It is to the company's competitive advantage to do an ATR calculation so that it can ensure the loans they are writing will be paid back. However, achieving an industry wide ATR standard would be much harder to achieve.
- If suddenly the ATR requirement made the timeframe for lending a 2 to 3 day process, it would become a competitive advantage to companies who chose the alternative to the ATR rule, as they could make these loans much quicker.
- The proposal caps the number of roll overs to 3 total loans, which may cause issues with consumer attempting to refinance these loans. The development of a national payday lending database may need to be created to be able to monitor these loans.
- The proposal may inhibit lenders ability to provide loans quickly to consumers in need of quick financing.
- The proposal does not address need and it only serves to pick winners and losers in the small dollar credit market. The volume of credit issued from all sources will not change.
- Most licensed payday and car title pawn lenders may go out of business. Pawn lenders (other than title), overdraft and courtesy pay providers, subprime credit card issuers, lenders that deal exclusively in cash, as well as unregulated or illegal lenders will benefit from the Bureau's proposal.
- As observed in states that have limited access to small dollar credit, late fees, overdraft fees will rise as will consumer complaints. [7]

- Types of alternative data sources that could be used to calculate ATR
    - Companies like Yodlee and Intuit's Mint provide lenders with the ability to view up to three months of a consumer's checking account history, which may be beneficial alternative data sources.
    - The OCC/FDIC rules require banks to look back over six months for deposit advance products. Yodlee and Intuit's Mint are limited by financial institutions to just three months of data, which might not be enough to accurately gauge ATR through alternative data means.
    - The CFPB and other regulators encourage banks to provide at least 6 more months of data to companies like Yodlee and Intuit's Mint.
    - Most consumers who use payday loans are banked, meaning they have some type of checking account.

[7] The Washington State Department of Financial Institutions, 2013 Payday Lending Report

    - Good types of alternative data could be rental income, utility payments, cell phone payments, etc.

- Reporting requirements to credit bureaus/CRAs
    - Some states require the lender to review gross or net income. Currently, there are few states that require credit report files to be pulled.
    - Many consumers use short term loans because the risk of consequences from default is relatively low. Existing obligations are reported to the CRAs and many consumers use payday loans to pay the monthly payment on their existing obligations. That is why there is a belief that you will continue to see consumers credit scores improve over time as they use payday loans[8]. Additionally, few payday lenders will actually report a consumer's default to the CRAs.
    - In Texas, there are very few state regulations over payday loans, but some municipalities have begun to get involved.[9]
    - The Bureau's recent Credit Invisibles report[10] found that 26 million consumers are credit invisible and the Bureau should be considering ways to use the small dollar lending marketplace to build credit files for these consumers.
    - The Bureau should further explore how CRAs would interpret small dollar loans on a consumer's credit report; would it would negatively or positively impact the consumer's score.
    - Using credit profiles seem to be an important tool for the Bureau's proposal. One major problem is that CRAs do not report in real-time making it difficult to track borrowers.

<u>Future of the Small Dollar Lending Marketplace Post Proposal</u>

- The Bureau's proposal may reduce the number of small dollar and short-term credit products in the marketplace and thus decrease the number of consumers falling into debt traps;
- There is a possibility that the total number of lenders will be reduced or consolidated into larger lenders who can comply with the regulations.
- There may be an expansion of credit union payday alternative products.
- A 2014 Pew study about Colorado's lessons learned suggests that by "requiring affordable installments for all loans successfully aligned lenders' profitability with borrowers' ability to repay and led to a viable business model for lenders while delivering better outcomes for consumers, with virtually no reduction in access to credit"[11].

---

[8] Payday Loan Rollovers and Consumer Welfare by Jennifer Lewis Priestley, Kennesaw State University

[9] http://www.texastribune.org/2012/05/03/faced-city-ordinances-payday-lobbies-reappear/

[10] CFPB Data point: Credit invisibles

[11] http://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2014/12/trial-error-and-success-in-colorados-payday-lending-reforms

- Demand for short-term credit may remain high; while the regulated supply of short-term credit may contract.
- Excluded small dollar credit products will expand to meet the demand and there is a possibility of continued and significant growth in unregulated lending.
- Longer term installment lending
  - Today, some members are seeing many more installment type loans in the marketplace. If the Bureau was to only address payday loans and not auto title loans, then the consumer harm will continue.
  - In Virginia, strict payday loan rules were established[12]and a member saw a shift in the marketplace to many more auto title loans.
  - An observation was raised that when there is inconsistent rule making, lenders will shift to accommodate market demands. The Bureau's proposal provides for safe harbor to some products.
  - There was disagreement that the Bureau's proposal provides for safe harbor to some products. Others stated that they believe the proposal has done a good job in covering the various products that have the most consumer harm.

Committee Membership

- Judge Annette Rizzo, Co-Chair
- Patricia Hasson, Co-Chair
- Adam Levitin
- Ann Baddour
- Bill Nelson
- Bill Bynum, CAB Chair
- Dory Rand
- J. Patrick O'Shaughnessy
- Jennifer Mishory
- Joann Needleman
- Jose A. Quinonez
- Steve Carlson

Feedback Received from the Consumer Advisory Board

On June 17, 2015 during the Consumer Advisory Board (CAB) meeting in Omaha, Nebraska the Consumer Lending committee discussed and presented their work on the Bureau's Small Dollar Lending SBREFA materials to the CAB membership. The Co-Chair opened the discussion with a brief overview of the committee's work on this issue. Then, committee members presented on different aspects of the SBREFA proposal. One member discussed benefits of the proposal; another member highlighted areas of the proposal that could harm consumers; then a member shared thoughts on where consumer harm could still occur; a member discussed the impact of the proposal on industry; and another member presented on the future of the small dollar lending marketplace post-rule implementation. After the committee's presentation, members of the CAB were offered the opportunity to ask questions or share their own observations on the Bureau's

[12] https://www.scc.virginia.gov/bfi/files/pay_guide.pdf

SBREFA proposal. The takeaways identified below reflect the CAB discussion after the committee discussion and presentation.

- CAB members provided feedback to the Consumer Lending committee thanking them for their time and work on this issue.
- The committee was asked a clarifying question about the debt trap protection requirements, specifically what would be the normal payment for a consumer if their payment was capped at 5% gross monthly income?
- There was a question about the overall assumption that every consumer should have access to credit; unsure if it is great public policy to assume that every low income consumer should borrow these types of loans.
- A statement was made that the member doesn't believe the Bureau's SBREFA proposal as written is enforceable. The proposal reads defensively and the member suggested removing all of the alternatives, except the 5% monthly repayment requirement. The member continued and stated that the rule should expressly state that the Bureau intends to set a floor with this proposal and not impact state law where there are stronger provisions already in place.
- A belief was shared that the Bureau should put its efforts into building a national payday lender registry. Additionally, the member added that determining how the marketplace for small dollar lending will look post-rule will be extremely important for the rules success.
- Suggestions were offered that there needs to be consensus between all the other regulatory agencies on how to regulate the small dollar lending marketplace before larger financial institutions will be willing to offer small dollar loans.
- A differing view was expressed and belief was provided that most financial institutions do not want to be in the small dollar lending marketplace due to the level of risk associated with this type of lending.