

March 2016

# Credit Union Advisory Council

March 24, 2016

## 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 24, 2016. The meeting was held at the CFPB Headquarters located at 1275 First Street, NE, Washington, D.C.

<b>Board members present</b>	<b>CFPB staff present</b>
Kevin Foster Keddie, Chair	CFPB Director, Richard Cordray
Robin Romano, Vice Chair	Julian Alcazar
Gail L. DeBoer	Matt Cameron
Robert C. Donley	Stacy Canan
Robert Falk	Kelvin Chen
Gregory W. Higgins	Chris D'Angelo
Maria A. LaVelle	Crystal Dully
Jason Lee	Darian Dorsey
Robin Loftus	Delicia Hand
James McDaniel	Emmanuel Mañon
Carrie L. O'Connor	Eva Nagypal
Thomas J. O'Shea	Zixta Martinez
Katey Proefke	Mark Morelli
David Seely	Margaret H. Plank
James E. Spradlin	David Silberman
John Bernie Winnie	Laura Udis

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Welcome and agenda overview

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

**Delicia Hand, staff director, Advisory Board and Councils Office**

**Zixta Q. Martinez, associate director, External Affairs**

**Kevin Foster-Keddie, Credit Union Advisory Council Chair**

Chair Kevin Foster-Keddie called the Credit Union Advisory Council (CUAC) meeting to order on March 24 at 8:34 a.m. Chair Foster-Keddie voiced his thanks and appreciation to the members and CFPB staff. Staff Director Delicia Hand reviewed the agenda for the open and closed portions of the day's meeting. During this first administrative session, Director Cordray welcomed the CUAC and expressed his appreciation for its work. He reflected on the CFPB's mission to empower consumers by understanding their experience in the financial marketplace and creating parity across that marketplace.

## Committee Breakout Sessions

### **Jason Lee, Chair, Card, Payment, and Deposit Markets**

The Card, Payment, and Deposit Markets Committee received a briefing on the Federal Reserve, the Secure Payments Task Force, and the Faster Payments Task Force to improve the U.S. banking system. CFPB staff who serve on the Task Force provided an overview of the Secure Payments Task Force which was launched in June 2015. The Task Force will focus on identity management, law and regulations coordination, information sharing, data protection, and review of standards that apply to each of these spaces. The committee conversation then turned to the emerging payments providers, related fintech companies, and the role of the Bureau in this space. Committee members inquired about what they should work on in relation to the task force. CFPB staff suggested it would be helpful to learn more about credit unions observations regarding emerging payment providers connecting to their systems; specifically how do their organizations view these providers in terms of costs and benefits, and where additional regulatory guidance would be helpful.

### **David Seely, Chair, Consumer Lending Committee**

The Consumer Lending Committee discussed small dollar lending. Committee members discussed their concerns that refinanced automobile loans would fall within the proposed provision even though they do not appear to be the intended focus of the rule. Committee

members also identified operational ramifications of the Bureau's SBREFA proposal. Multiple committee members stated that certain terms in the SBREFA proposal could place a consumer in a high interest loan with no way to be refinanced out. Committee members were also interested in how the Bureau's proposal would address the fee notification rule on internal transfers.

### **Robin Loftus, Chair, Mortgages Committee**

The Mortgages Committee discussed deceptive marketing and unfair financial practices. Many committee members voiced concerns about the unrealistic expectations some commercial lenders are giving consumers about the mortgage process. Members stated that credit unions build all the fees, in order to produce an accurate loan estimate (LE). CFPB staff urged committee members to report lenders who appear to have a pattern of deliberately lowballing estimates as a way of gaining unfair competitive advantage over consumers. Following this discussion, staff members provided an update on the Home Mortgage Disclosure Act (HMDA). The Bureau expects to have a webinar in July 2016 that will provide an overview of system changes. Additionally, staff provided an overview of the FAST Act that was enacted in December 2015. The CFPB issued rules in March dealing with the application process. Staff encouraged CUAC members to use the Bureau's rural/underserved tool to determine if they qualify as a rural lender according to the interim final rule

CUAC members suggested placing more emphasis on consumer understanding of additional costs that go into acquiring a mortgage. CUAC members and staff also discussed the Bureau making available a credit union based vendor list. Several committee members stated they wanted to see more instruction in CFPB webinars on how to fill out forms associated with HMDA and Know Before You Owe.

### Information Exchange: Small Dollar Lending

#### **Laura Udis, payday and small dollar lending program manager, Deposits Liquidity Lending, and Reporting Markets**

#### **Mark Morelli, senior counsel, Regulations**

Laura Udis and Mark Morelli provided an overview of the contents of the Bureau's small dollar lending SBREFA proposal with CUAC members. CFPB staff asked CUAC members about their experience with the NCUA's payday alternative loan (PAL) program. Since the Bureau's Small Business Regulatory Enforcement Fairness Act (SBREFA) proposal includes an alternative with many features of the PAL loan, staff asked the CUAC how popular PAL loans were at their

institutions. Staff also requested the CUAC's feedback on the types of notices provided to consumers and the mechanisms used for those notices. Members also engaged in discussion about whether refinances of purchase money automobile loans that otherwise met the conditions of longer-term covered loans should be exempt from the proposal.

Several CUAC members and staff discussed the advanced notice requirement for automatic loan transfers. Additionally, in response to a question regarding the definition of a longer term loan, staff members explained that a longer term loan is defined as greater than 45 days and less than six months for the two alternative approaches for which the lender would not have to conduct the ability to repay (ATR) requirement. CUAC members shared operational challenges associated with calculating the APR for procedural purposes. Lastly, CUAC members recommended that the Bureau clearly define what constitutes a fee as opposed to an add-on service. Staff replied that they would look into this concern.

## Information Exchange: Consumer Complaint Handling

### **Darian Dorsey, chief of staff, Consumer Response**

Darian Dorsey provided an overview of the Bureau's Office of Consumer Response's complaint handling process. The Office of Consumer Response uses the latest technology to answer consumer questions, handle their complaints, and analyze and share data in order to empower consumers and improve the marketplace. Consumer complaint handling capabilities have been rolled out in phases, beginning in July 2011 with credit card complaints, and most recently the CFPB has added the ability to handle marketplace lending complaints. The Bureau routes complaints to companies for response or to other regulators, directing the consumer to the right place and collecting feedback from consumers about companies' responses to their complaints. The Office of Consumer Response shares data with the Federal Trade Commission's Sentinel database and publishes complaints in the CFPB's Consumer Complaint Database. With consumer consent, the CFPB publishes anonymized complaint narratives on the database and companies have the option to respond publically to complaints. A CUAC member noted that complaints sent to the National Credit Union Association (NCUA) did not always reach the individual credit union in a timely manner and asked staff to look into routing complaints to credit unions directly in order to eliminate that issue.

## Administrative Session: Working Lunch – Communications and Ethics

### **Margaret Plank, senior counsel, General Law, Ethics & Oversight, Legal Division**

### **Delicia Hand, staff director, Advisory Boards and Councils Office**

Margaret Plank and Delicia Hand provided an overview of communication guidelines and reviewed the federal ethics rules for new and returning members. Staff explained that the work of the CUAC, and their communication with the Bureau in fulfilling that role, are considered to be government records and are subject to the Freedom of Information Act (FOIA). Additionally, as a result of a provision in an omnibus appropriations bill enacted at the end of last year, the Bureau and its Advisory Board and Councils are now subject to the Federal Advisory Committee Act (FACA). FACA provides rules around process, accountability, transparency and other aspects of federal advisory committees.

## Information Exchange: CUAC Card, Payment, and Deposit Markets Committee Overdraft Principles Discussion

### **CUAC Card, Payment, and Deposit Markets Committee Members**

The Card, Payment, and Deposit Markets Committee shared the contents of a set of guiding principles on overdraft that the committee had been working on with other Council members; eventually the committee hopes to produce and formally share a document for the CFPB to consider when enacting new rules or regulations. The committee believes there is no need for widespread change within the credit union industry. The committee reflected on the impact that changes would have on members, including cost considerations, general member service, as well as the unintended consequences on consumer behavior. Committee members suggested that there be no requirement of quantitative limits on fees, no requirement of a fee price structure or usury limit, the requirement of credit underwriting before accessing, the establishment of definitions for excessive use of overdrafts, or hardline restrictions on transaction posting order. Members also noted that the definitions of overdraft protection (ODP) and courtesy pay were different amongst the committee, so they defined courtesy pay, ODP, a linked account, and running a line of credit to provide clarity. CUAC members and CFPB staff commended the committee on the guiding principles they produced, particularly the separation and distinctions made between courtesy pay and ODP.

CFPB staff provided an update of the Bureau's current status in collecting and analyzing data that will be used to inform the ODP rule. Members and staff discussed the (Small Business Regulatory Enforcement Fairness Act) SBREFA process for the ODP rule. CUAC members voiced concerns about the impact of the new rule on small institutions.

## CFPB Credit Union Advisory Council public session

Zixta Martinez welcomed audience members to the CUAC public meeting and introduced CUAC members and CFPB staff. CUAC Vice Chair Robin Romano facilitated the meeting in Chair Kevin Foster-Keddie's absence. Director Cordray addressed the CUAC and members of the public. After the Director's remarks, Chris D'Angelo, CFPB chief of staff, led a discussion on the Bureau's nine near-term priority goals. Stacy Canan, deputy assistant director of the Office of Older Americans, presented the Bureau's recently released advisory and report about the prevention of elder financial abuse. She led a discussion regarding how the Bureau can most effectively educate and collaborate with credit unions on this issue. A live-stream video of the session is available on [consumerfinance.gov](http://consumerfinance.gov).

## Adjournment

CUAC Vice Chair Robin Romano adjourned the meeting on March 15, 2015 at 4:30 p.m. EDT.

## Certification

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

A handwritten signature in black ink, appearing to read "D. Hand", written over a horizontal line.

Delicia Reynolds Hand  
Staff Director, Advisory Board & Councils Office  
Consumer Financial Protection Bureau