

Consumer Advisory Board Meeting

November 14, 2023

Meeting of the CFPB Consumer Advisory Board

The Consumer Financial Protection Bureau's (CFPB) Consumer Advisory Board (CAB), met via WebEx at 1:00 p.m. EST on November 14, 2023.

CAB members present	CFPB staff present
Chair Sarah Bolling Mancini	Director Rohit Chopra
Sol Anderson	Manny Mañón
Watchen Harris Bruce	
Sarah Dieleman perry	
Chelsie Evans	
Tom Fitzgerald	
Steve Gardner	
Annika Little	
Nick Mitchell-Bennett	
Markita Morris-Louis	
Amy Nelson	
Rebecca Regan	
Denisse Rodriguez	
Denise Scott	
Shanelle Smith Whigham	

Welcome

Director Rohit Chopra

Manny Mañón, Staff Director, Advisory Board and Councils, External Affairs Division

Sarah Mancini, Chair, Consumer Advisory Board

The CFPB's Advisory Board and Councils Staff Director Manny Mañón convened the Consumer Advisory Board (CAB) meeting and welcomed committee members and the listening public. He provided a brief overview of the meeting's agenda and introduced Director Rohit Chopra.

Director Chopra provided remarks on the format of the CAB meeting and welcomed the newly appointed members composed of representative from each of the Federal Reserve system's districts emphasizing the importance of a fair, transparent, and competitive market. The economy has recovered in many ways, coming out of the global pandemic, Director Chopra said, but a new set of issues has emerged during 2023. Though low unemployment rate has helped individuals change jobs and obtain higher rates, balances in consumer deposits are lower than they were at the height of the pandemic.

Student loan payments on federal student loans have resumed after the pandemic, totaling well over \$1.5 trillion, and the CFPB is closely looking at how loan servicers are helping borrowers get into affordable repayment plans.

Housing costs have risen, and people are returning to borrowing again, which can lead to persistent indebtedness. The CFPB's recent analysis suggest mortgage origination and refinancing has gone down due to higher interest rates, and work is underway to streamline mortgage servicing rules to make refinancing in the future easier and available.

The CFPB released its biannual report on credit cards, which showed credit debt is over a trillion dollars, a big jump from previous years, along with higher interest rates. As well, Americans paid about \$130 billion in credit card interest and fees.

Director Chopra said a big part of consumer finance markets involve auto loans, approximately \$1.6 trillion. Many consumers took on auto loans which were higher due to significant supply change disruptions and chip shortages during the pandemic. Director Chopra is counting on the CAB to help the CFPB prioritize ways to make the system work better in addressing different products, services, credit reporting, and debt collection.

The CFPB has proposed a personal financial data rights rule to activate a dormant authority

under a 2010 law to accelerate competition in banking and consumer finance by making it easier to switch to a new provider. The rule states, authorized data that consumers are sharing in order to switch products should not be manipulated by data brokers.

Director Chopra said an area of concern is advances in artificial intelligence. Consumers are dealing with robots to manage their accounts, and this presents challenges and risks. Many artificial intelligence models are working to power lending decisions, and the CFPB has taken a number of steps to clarify that federal law still applies to denial or adverse decisions for credit.

After thanking Director Chopra for his opening remarks to help guide the meeting discussion, CAB Chair Sarah Mancini said the CFPB plays a crucial role in the consumer marketplace, with the goal of making sure consumers get a fair shake from lenders and financial institutions. She said CAB members, consisting of fair housing organizations, community lenders, nonprofit entities, and local government offices, can share a range of perspectives on noteworthy trends and risks as well as how technology is reshaping the economic environment for consumers.

Chair Mancini said it is important to provide access to the mainstream financial system for immigrants and consumers with limited English proficiency. She applauded the Small Business Review Panel's efforts to ban medical debt on credit reports, which impacts communities of color. She emphasized it is also important to ban negative credit reporting on medical credit cards. Another area of concern is to ensure the sale of data about consumers, which is covered by the Fair Credit Reporting Act (FCRA).

Director Chopra added that a number of significant enforcement actions have been taken due to algorithmic discrimination, with Citi, one of the nation's largest banks, to provide a host of restitution penalties and business practice changes for engaging in intentional discrimination against Armenian Americans by looking at their last names. He emphasized the importance of ensuring fair access to all by rooting out illegal practices.

Discussion Question One:

What are some of the most noteworthy trends faced by consumers in your Federal Reserve District? What risks do you see as most important for the CFPB to prepare for?

A member noted that consumers are pursuing non-regulated avenues to increase or gain access to credit, such as Buy Now, Pay Later (BNPL) products, believing these transactions are reporting to their credit score. The member sees an opportunity for CFPB to focus and provide supervisory coverage on non-bank, BNPL entities.

Multiple members shared concerns with Payday lending. One member said that the loans are a problem, charging 300 percent APR. The member would like to see other banks, CDFIs, and credit unions that offer debt consolidation loans at lower interest opportunities, 8 to 15 percent APR, be utilized versus the payday lenders. The member thinks regulations on payment structures, like balloon payments, are needed. The member feels that Payday loans are marketed and targeting marginalized communities more so than the smaller CDFIs and credit unions. Another member said that the issue of payday lending and high-cost consumer lending is rampant, a trend that's putting more pressure on their communities. The member shared that come dream come build (cdcb) is a mortgage company for low-income buyers, and 100 percent of new clients coming in have a car title or a payday loan on their credit report. The member added that there are nine payday lenders to every bank in Brownsville, Texas, where they are located, which is 95 percent Latino and one of the poorest communities in the United States.

Director Chopra said some financial products and services do undermine trust and actually scare people from wanting to interact with the system. CFPB is in litigation on certain rules related to the persistent issue of payday lending.

A member shared that there is a pilot program with the Southeast Pennsylvania federal court system helping people return from incarceration by restoring their identity and credit, creating safe banking instruments, and finding affordable housing and employment. The program gives small cash payments to the retiring citizens to help them resurface in society. Due to fines and fees owed to the court system, it significantly impacts their ability to borrow. Student loan debt is another trend that is affecting their client base, and he suggested that CFPB can work towards debt cancellation as a consumer protection act for young borrowers with no assets, no credit history, and no job being able to repay loans granted to them by predatory lenders.

Director Chopra said the CFPB has done some enforcement action and published a report on families to transition and rebuild their lives who face significant challenges such as returning to society after incarceration. He said what would be valuable for the CFPB is to understand how they can use tools to help ameliorate the issues.

Another member mentioned concerns about the poverty level in the United States. The member said that one in eleven U.S. citizens utilize FQHCs, and 91 percent are under the 200 percent federal poverty level (FPL). Roughly 87 million people are covered by Medicaid. After the pandemic, states began checking Medicaid eligibility, and over 15 million people could lose coverage. To date, four million have already lost coverage, and nine states will be losing Medicaid in 2023 completely, which will cause medical debt to rise.

Director Chopra said there are serious issues around the accuracy of medical debt bills. The CFPB has issued a Request for Information (RFI) on medical payment products, including medical credit cards and medical installment loans. He requested the CAB to think about what the CFPB needs to do, whether regulations or legal action, to address these medical debt challenges.

Several members shared their concerns with tenant screening. A member said that tenant screening when it comes to affordable rental housing is tight. The members questioned whether having eviction filings showing up on credit reports is an area that needs further examination because of the seven-year follow-up on credit reports. The member added that junk fees, application fees, and other administrative fees needs to be looked at more closely. The member mentioned a report that was put out in August about the impact of out-of-state investors dominating the single-family housing market, flipping them to expensive rentals, which removes homeownership opportunities and availability of affordable rentals. The member said that these investors evict at higher rates and have more code violations as well. The member stated that the same thing is happening on mobile home parks and that land contract company products are built to fail and affect communities of color. Another member shared concerns about tenant screening and that is a problem that is permeating many of the industries that the CFPB regulates. The member provided a vignette of a lady who was denied six times in 120 days of trying to find a place to live, paying the applications fees each time. The member said that SafeRent Solutions, a tenant screening company mentioned, had a burdensome process, and the lady mentioned was unable to provide all of the information, thereby leading to denial. The member added that on homeownership in the Richmond Virginia area has seen a wholesale change and shift in generational wealth, and folks who own their own homes are selling to out-of-state corporations, which affects the available and affordable housing market in general. Another member shared a recent study which showed share of homes sold to corporate entities

or real estate investors in Pittsburgh increased to 24.8 percent in the last decade, leaving fewer low- and moderate-income homes available to buyers. The member said the incidence of investor purchases was more prevalent in Black and LMI (low-to-moderate income) communities, resulting in the homes being flipped to higher-income buyers or becoming rental investment properties. The member suggested a solution would be monitoring of corporate entities to stop predator investment practices.

Director Chopra said the CFPB administers the FCRA which covers a lot of the tenant screening activities. He mentioned a recent enforcement actions taken against Transunion, which runs a major tenant screening business. He said the starkest trend is the out-of-town ownership of single-family homes. The large move-out fees landlords are erecting as a fee structure is making consumers feel like they have no choice but to pay it, and the number one area CFPB is hearing about is the way in which people are unable to purchase a home or face challenges in the rental market.

A member mentioned concerns over the income support issue. The member said that as we talk through these issues at a policy level, there is a real time problem that people don't have enough money to deal with all the costs of just living life. The member said that this may not impact housing because of the large investor issue, but things like groceries, utilities, and etc., are becoming more expensive and have a trickle-down impact on housing, health care, and other areas. The member stated that when we talk about housing supply, we need to think about how we educate people about retirement and make retirement products more easily accessible. The member shared that one of the things we're seeing in Evanston, Illinois—and to some extent among single-family homes owned by BIPOC community members in Chicagoland as a whole—is that the sale of a home is a ticket to retirement for folks who don't quite have enough to get there. The member added that Cash now is a powerful tool in every LMI community. The member said that in Chicago, when you have LLCs that own properties, the fines for not maintaining properties are often lower than the repair costs. The member said that this incentivizes large, out of state landlords to avoid maintaining properties and as the properties and the neighborhood go deeper into disrepair, people leave, and the forces of gentrification move in.

A member suggested some form of a mortgage product that could compete cash-wise with the investor. The member said that additional registries could be added to the SEC disclosures for

entities publicly traded.

A member mentioned that consumers cannot compete against cash offers if someone is buying a home, even with down payment assistance. The member said this may be an opportunity for the CFPB to work with other agencies and regulators to come up with a policy solution.

A member said that mortgage borrowers can't compete with cash buyers, and suggested the CAB should have a subcommittee engagement to dive into this issue more.

Director Chopra agreed and said homes are sometimes purchased by large landlords before properties even go to market.

A member commented that local governments need to be involved with entities purchasing in bulk. The member suggested the Conference of Mayors and local law authorities would be a good place to start curtailing the volume of activity. The member said that if there is enforcement to force people to purchase individually instead of wholesale purchasing, it would slow down what's happening.

Director Chopra mentioned the Federal Housing Finance Agency (FHFA), which regulates the government-sponsored entities (GSEs) like Fannie and Freddie have put out some requests on duty to serve.

Discussion Question Number Two:

Technology is reshaping much of society, including consumer finance and banking.

How should the CFPB approach the shift to “open banking” and greater use of artificial intelligence?

A member said that under the trust, the Colmena66 connects entrepreneurs with the right resource at the right time as well as promote equitable and inclusive entrepreneur-led economic development. The member mentioned a CFPB report entitled "Financial Struggles in Puerto Rico Bite Deeper than the Rest of the United States," which outlined the financial hardships in Puerto Rico: 1.4 million live below FPL, 43 percent of population; median annual household income, \$22,000 in 2021; 22 percent pay with credit card fees on late payments; 10 percent of households overdraft their bank accounts. The member said that over 70 percent of adults in

Puerto Rico use debit cards due to lack of accessibility and financial education about credit cards. The member shared that the competition between the mortgage buyer versus the cash buyer exists, resulting in a diminished supply of affordable housing. The member said that language barrier also presents a problem as most financial transactions are in English only. The member said that Puerto Rico has undergone a period of banking consolidation between 1995 and 2022, and the number of commercial banks has decreased to six, and only three have retail banking, which is the market share of 90 percent of loans and deposits. The member said that on a positive note is Inclusiv, an organization focused on financial inclusion, and helps connect people to certified CDFIs and credit unions. The member said that financial literacy impacts the challenges seen in Puerto Rico. The member said that the increase in digital methods of doing banking has increased fraud massively, which affects the aging population most because of the digital divide. The members share a key takeaway in terms of open banking and also artificial intelligence is the need for a level playing field and regulation.

Director Chopra invited Ms. Rodríguez to share thoughts in writing about what the CFPB can do better on consumer issues and the housing front. He shared a link with the members <https://www.consumerfinance.gov/about-us/blog/financial-struggles-in-puerto-rico-bite-deeper-than-the-rest-of-the-united-states/> via the WebEX chat regarding a blog that was published by the CFPB on July 27, 2023, titled “Financial struggles in Puerto Rico bite deeper than the rest of the United States”.

A member mentioned that their organization provides education to help understand APR and interest rates and providing technical assistance before they receive a loan. The member requests the CFPB to address the issues of fintechs and digital lenders educating buyers before loans are made, so that the consumers fully understand the terms.

A member shared that Texas ranks near the bottom of the nation when it comes to number of banks and credit unions per capita, even though they are the most populous state, but they continue to rank in the top ten for the highest number of predatory lending establishments. The member said that Texas has the eighth largest share of unbanked households. The member stated that low bank density, high rate of unbanked, and large number of predatory lenders with limited regulation means Texas consumers are vulnerable to unfair and deceptive practices, which can result in disastrous consequences to their financial lives. The member suggested that

the CFPB's support is needed to expand market-based fair loan options, more oversight of junk fees and exploitive practices, and financial education.

A member spoke about credit scoring and its impact on families with a housing choice voucher. The member said that they work mostly with families that are interacting with the subsidized housing system and they are noticing some landlords raising minimum credit scores for rental housing. The member would like to see the CFPB support advocates in gathering better data on average minimum credit scores in various markets. The member applauds the CFPB's efforts to eliminate medical debt from credit reports. The member would like to see more transparency in the credit reporting and scoring system and to put the burden on the credit reporting system by demanding more clarity for the consumers.

Director Chopra said there have been artificial intelligence and algorithm issues with credit scores for decades, and it is an area that needs further examination.

A member emphasized that there has been a tremendous amount of work into reparations programming. The member said that consumers, especially older Black homeowners in their community, benefit from immediacy of dollars. The member added that partnerships and education opportunities can provide more input into developing the long-term policy solutions.

A member said that with Section 1033 and open banking, there are open issues regarding a sunset date for screen scraping, liability, and how to handle shared accounts.

A member added that we should be open to reimagining how credit decisions are made and at the same time we need to consider more immediate changes that can bring clarity and fairness.

Closing

Director Rohit Chopra

Sarah Mancini, Chair, Consumer Advisory Board

Director Chopra said the discussion ran the gamut and provided a thought starter for potential themes and topics to dig into more deeply. He encouraged the CAB to reflect on the day's conversation and share with CFPB staff, Mr. Mañón, and Chair Mancini, some ways to focus

future discussions, putting together ideas and actionable solutions. He asked the CAB to not just think about issues of the present but also the future. He thanked the CAB members for their voluntary service to the committee.

The Chair thanked the members and the Director for the discussion.

Adjournment

The meeting adjourned on November 14, 2023, at approximately 2:45 p.m. EST.

Certification

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

Emmanuel Manon

Emmanuel Mañón, Staff Director,
Advisory Board and Councils, External Affairs
Division, Consumer Financial Protection
Bureau

Sarah Mancini

Sarah Mancini, Chair
Consumer Advisory Board