October 1, 2015 – September 30, 2016

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 fiscal year.

We think it is important to first note that the Bureau reached a major milestone this year, celebrating its fifth anniversary since opening its doors back in July 2011. We are very impressed to observe that during that short time period, the Bureau has had an incredible impact on the lives of consumers across this great country. You have provided much needed relief to harmed consumers, handled nearly one million consumer complaints, and have continued to build out a number of consumer tools and resources to help consumers make informed choices when shopping for financial services. The financial service market place is indeed safer for everyday consumers. We are excited and optimistic about the future of the Bureau's work and look forward to seeing this work continue, particularly strong protections implemented that will protect consumers from predatory debt traps and dead ends, among other areas of improvement in the marketplace.

Throughout this year, the CAB has continued to provide the Bureau cross-industry expert advice on a variety of consumer financial issues and emerging market trends to support the Bureau's efforts to protect consumers and make consumer financial markets work for everyone. The CAB met in person three times this year: twice in Washington, D.C. and once in Little Rock, Arkansas. Engaging in the field with diverse groups of consumers and stakeholders, like we did at the event in Little Rock, continues to add significant value to our work and we encourage the Bureau to continue this kind of engagement. Additionally, this year CAB members also added value to the Bureau's field work by hosting the Bureau at events across the country; notably, we were pleased to support the Bureau's work by hosting you for town hall meetings in Memphis, Tennessee and Oakland, California.

As in prior years, in addition to our full Board meetings, the CAB continued to work through its committees: Card, Payment, and Deposit Markets; Consumer Lending; and Mortgages. Through these committees, the CAB has continued to engage meaningfully with each other and 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. The innovation topic was a continued item of discussion throughout the year, focusing on key themes such as machine learning and access to credit, data aggregation and management of consumer information, and access to financial services through use of technology. Additionally, as Chair and Vice Chair we worked closely with CAB members to ensure that the focus of CAB discussions – committee and full CAB – reflected CAB member interests and issues relevant to the Bureau's agenda.

In accordance with the Federal Advisory Committee Act (FACA) regulations, this annual report provides greater detail about these committee discussions, as the larger CAB's discussions were open to the public and are reflected in summaries posted to [consumerfinance.gov](https://www.consumerfinance.gov).

Thank you for the opportunity to serve consumers through the CAB. We look forward to the coming year and 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

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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 for all Americans, 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 (CAB or Board) is authorized by §1014(a) of the Dodd-Frank Act. The CAB was chartered and established in September 2012 and its statutory purpose 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 the requirements of the Federal Advisory Committee Act (FACA), the CAB is pleased to present its Annual Report to the Director. This report primarily summarizes the activities and progress of the Board's committees during the fiscal year beginning October 1, 2015 and ending September 30, 2016. The discussion portion of the report is divided into sections aligned with the CAB's statutory responsibilities. The report also includes, in Appendix B, separate written statements submitted by Board members relating to their service on the Board for the reporting year.

In this last reporting year, the Consumer Advisory Board:

- Held three meetings – October 2015 in Washington, D.C., February 2016 in Washington, D.C., and June 2015 in Little Rock, Arkansas.

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[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 25 times:
  - Card, Payment, and Deposit Markets Committee;
  - Consumer Lending Committee; and
  - Mortgages Committee.

- Examined and discussed a variety of topics and issues including:
  - Trends and themes in financial services and technology;
  - Home Mortgage Disclosure Act Database and rulemaking;
  - Know Before You Owe (TILA-RESPA Integrated Disclosures;
  - State-specific guides for Managing Someone Else's Money;
  - Alternative data;
  - Seen and heard in the housing market;
  - CFPB's strategic outlook
  - Financial Well-Being Scale;
  - Auto lending education initiative;
  - Arbitration;
  - Limited English Proficiency issues;
  - FOIA and ethics review;
  - EMV and mobile point of sale payments;
  - Marketplace lending;
  - Debt collection;
  - Small dollar lending;
  - Access to credit and foreclosure issues;
  - Future of loss mitigation;
  - Housing Counseling; and
  - Consumer complaints.

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

Members of the Consumer Advisory Board and CFPB staff pose for a group photo with Director Cordray before the June 2016 meeting in Little Rock, Arkansas.

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 (CAB) 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, Christopher Kukla speaking during the February 2016 CAB meeting in Washington, D.C.

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

3. Committees

Based on the success of the previous years' 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 conducted via teleconference unless the Bureau's staff and committee Chairperson determine that an in-person meeting is necessary.

Consumer Advisory Board Committee Meetings
[This table includes in-person meetings]

Cards, Payments, and Deposit Markets	Consumer Lending	Mortgages
October 21, 2015	October 21, 2015	October 21, 2015
January 26, 2016	December 11, 2015	November 19, 2015
February 24, 2016	January 28, 2016	February 11, 2016
April 5, 2016	February 24, 2016	February 24, 2016
June 8, 2016	March 10, 2016	April 12, 2016
September 6, 2016	April 14, 2016	June 8, 2016
	June 8, 2016	July 29, 2016
	June 28, 2016	August 2, 2016
	September 8, 2016	August 4, 2016
		September 13, 2016

Following the process outlined in the CAB charter, 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.

In January 2016, 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. 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 the role of technology in shaping consumer behavior, consumer complaint handling, and EMV and mobile point of sale payments.

- Consumer Lending
  The Consumer Lending Committee focused on work relating to marketplace lending, debt collection, and small dollar lending.

- Mortgages
  The Mortgages Committee focused on work relating to the state of the housing market, mortgage servicing, access to credit issues, the future of loss mitigation, and the Bureau's Know Before You Owe (TILA-RESPA Integrated Disclosures) work.

The following summarizes the progress made by each of the committees during the reporting year:

Cards, Payments, and Deposit Markets Committee

The Cards, Payments, and Deposit Markets Committee met seven times between October 1, 2015 and September 30, 2016, three times in person as part of CAB meetings and four times by phone. Committee membership changed in October 2015 to account for newly appointed members. During this timeframe, the committee discussed important topics in the consumer financial marketplace such as overdraft, payment networks, data aggregators, and Fin Tech (financial technology).

From October 2015 to January 2016, the committee spent three meetings focused on agenda setting as well as receiving a briefing from the Bureau on the Federal Reserve Board's task force on Secure Payments task force.

Then, from February 2016 to June 2016, the committeemet via conference call to discuss trends in the cards space as well as the CFPB's Consumer Response complaint database. The committee discussed how the public sector could use the database to influence consumer choice.

During the March 2016 and June 2016, in person meetings, the committee discussed how the new EMV enabled credit cards, debit cards, and rewards cards have addressed the issues that may exist with fraud.

Consumer Lending Committee

The Consumer Lending Committee met 9 times between October 1, 2015 and September 30, 2016, three in person as part of CAB meetings and six times by phone. During this timeframe, the committee discussed important topics in the consumer financial marketplace, such as marketplace lending, debt collection, and small dollar lending.

From October 2015 to January 2016, the committee spent three meetings focused primarily on marketplace lending. During the first meeting, members received a general overview from the Bureau about marketplace lending. Then, during the following two meetings, members had an opportunity to share their feedback. Members raised concerns relating to direct mail operations by marketplace lenders and hidden fees that could be associated with the product. Additionally, members expressed concern regarding potential fair lending risks associated with machine learning. While some members expressed a need for clarity regarding federal jurisdiction over marketplace lenders, other members noted that they believed the jurisdiction question is sufficiently clear at this point in time, as many players are licensed in the states where they lend.

Then, from February 2016 to April 2016, the committee spent three meetings focused on debt collection. During the first meeting, members received a general overview from the Bureau about the work the Bureau has undertaken in the debt collection marketplace. During a subsequent committee meeting, members heard from two external debt collection experts.[4] In the third meeting, members had an opportunity ask questions and share their feedback. Members expressed appreciation for the Bureau's focus on this issue and emphasized that the

[4] The external experts who presented to the CAB Consumer Lending committee were April Kuchnhoff of the National Consumer Law Center (NCLC) and Manuel H. Newburger of Barron & Newburger, P.C.

details of the Bureau's proposal on debt collection will be what is most important. Some members shared feedback that the Bureau and other regulators have made it difficult for the debt collection industry to communicate with the consumer, and stated that the CFPB's complaint handling portal is a wonderful start to help ensure consumers and companies have a safe channel for communication. Members shared on the ground perspectives about consumers impacted by fraudulent debt collection practices and encouraged the Bureau to draw clear guidelines through its rulemaking process to prevent scammers from taking advantage of any gray areas within the rule.

Between June 2016 and September 2016, the committee met three times and focused on the Bureau's Notice of Proposed Rulemaking (NPRM) on Payday, Vehicle Title, and Certain High-Cost Installment Loans. During the first meeting, members were briefed by the Bureau on the NPRM, as well as the Request for Information (RFI), and supplemental Bureau research that was released with the NPRM. Following that meeting, the committee met to receive a briefing from Bureau subject matter experts on the NPRM, and members asked clarifying questions to enhance their understanding. In September 2016, the committee had its final meeting for the reporting period and further discussed the Bureau's NPRM.[5] Committee members also shared their thoughts about the year's work and ended the meeting with expressions of appreciation for the service of those committee members whose CAB terms are expiring.

Mortgages Committee

The Mortgages Committee met 10 times between October 1, 2015 and September 30, 2016, three in person as part of CAB meetings and 7 times by phone. During this timeframe, the committee discussed various topics in the residential mortgage marketplace such as: Access to Credit, Foreclosure Issues, Mortgage Servicing, Know Before You Owe, Housing Counselor Dialogue and the Future of Loss Mitigation.

From October 2015 to January 2016, the committee spent two meetings focused primarily on Access to Credit, and Foreclosure and Mortgage Servicing issues. During the first meeting,

[5] See appendix C for the CAB Consumer Lending committee's public comments on the CFPB's proposed rule on Payday, Vehicle, Title and Certain High-Cost Installment Loans.

members expressed concern and frustration that consumers are still being treated unfairly and sometimes servicers are employing abusive practices during the loss mitigation process. It appears that these practices are prevalent in both Judicial and Non-judicial states. There is a growing concern that servicers are continuing to report incorrect information using the wrong credit report codes. Members were active participants during “Future of Loss Mitigation” conversations and provided substantive feedback on what practices should be preserved and which practices should be banned or modified in the next round of mortgage servicing rules.

Members raised access to mortgage credit concerns, noting that financial institutions are not lending in the $25,000 to $50,000 dollar loan space, partly due to CFPB’s Qualified Mortgage (QM) regulatory requirements. Lenders have commented that the restrictions on points and fees make these loans unprofitable. Members highlighted that higher loan fees effectively categorize these mortgages as High Priced Mortgages. A member stated that these practices are limiting consumer’s access to credit, specifically in communities of color with low to moderate income. Members also noted there is a growing shortage of housing counselors in the country due to limited funding options. Thus housing counselors are not capable of accommodating the demand for counseling sessions in an orderly and time-efficient manner. This crisis will have a negative impact, as consumers will lack the support and coaching from housing professionals during times of financial hardship or during first time homebuyer initiatives.

From February 2016 to April 2016, the committee continued to focus on Access to Credit and the Future of Loss Mitigation. During the February meeting, members received a general overview from the Bureau about the Bureau’s focus on Mortgage and Housing markets in 2016. During the subsequent meeting in April, committee members shared on-the-ground perspectives of consumers impacted by inconsistent and ineffective loss mitigation practices. Members expressed concerns regarding the mortgage servicing landscape after Treasury’s role with the Making Home Affordable (MHA) program expires in December 2016, and questioned what role the CFPB, Treasury, FHFA and GSEs will play during the transition that will take place in 2017.

Members expressed that federal regulators must ensure that existing loss mitigation standards are preserved or improved. There is an ongoing concern that banks will not offer internal loss mitigation options and more properties could end up in foreclosure. Members are confident that the Bureau plans to be fully engaged in the future of loss mitigation interactions and the CAB would like to continue providing market intelligence to the Bureau and interested stakeholders. Members stated that consumers must be educated during this transition process; they should be advised of potential loss mitigation scams in the marketplace.

During Access to Credit interactions, members recommended that the Bureau, at some point, should research the impact of recent QM mortgage rules on small dollar mortgage lending and access to credit in low to moderate income areas in the nation. Members reminded the Bureau that Housing Counseling agencies are struggling due to lack of funding and it is becoming extremely hard to help struggling families. Additionally, committee members stated that some lenders continue to be reluctant to lend or service in the small dollar mortgage space due to regulatory restrictions and the high cost of servicing.

In June 2016 and September 2016, the committee met two times and focused on the Bureau's Future of Loss Mitigation Principles and Know Before You Owe rulemaking. During the first meeting, members stated that it is imperative that current loss mitigation standards are preserved or improved. Members also highlighted that servicers do not play by the same rules, are inconsistent, and in some cases do not abide by the new RESPA servicing rules issued by CFPB in 2013. Members expect that round two of servicing rules will address this and other prevalent issues, such as: dual tracking, inefficient mortgage servicing transfers, successors in interest and requesting the same loan modification documents multiple times during the loss mitigation process.

Some members expressed concerns regarding zombie foreclosures that are occurring in some regions of the country. It appears that banks are focusing on foreclosure of properties that are in a positive equity position, providing them an opportunity to profit from these sales. Members also noted with concern press articles discussing the rise of land contracts targeting low income, minority home occupants. The CFPB was encouraged to conduct research to determine the prevalence of this practice and the rules applicable to land contracts.

Members stated that, according to Realty Track, 25% of properties in foreclosure status are at least 12 months delinquent. During the committee meeting to discuss Know Before You Owe (KBYO), members stated that the Bureau should share KBYO examination feedback with the banking industry. The industry is still uncertain whether lenders are adequately complying with KBYO requirements and will welcome proactive feedback from the CFPB. A member mentioned that new KBYO disclosures are easier to understand and consumers ask fewer questions during the loan closing process. It appears that integrating disclosures has been beneficial for consumers.

In September 2016, the committee met via conference call and reacted to the Bureau's Future of Loss Mitigation Principles. Committee members also reminded the Bureau that more work has to be done regarding the lack of funding for housing counselors and highlighted how this negatively impacts consumers nationwide. Committee members reflected on the year's work and ended the meeting with expressions of appreciation for the service of those committee members with expiring CAB terms.

4. Conclusion

Now in its fourth 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 its mission of helping to make markets for consumer financial products and services work for all 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 various organizations 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.

Seema Agnani has nearly 20 years of experience working in the community development and immigrant rights sectors, focused primarily on the challenges of providing housing, economic opportunity, and support systems for new immigrants. She is a founder and former Executive Director of Chhaya CDC, a member of National CAPACD that works with New Yorkers of South Asian origin to advocate for and build economically stable, sustainable, and thriving communities. Chhaya CDC reaches thousands of new immigrants each year through its organizing, education, and service work.

Sylvia Alvarez is the founder and Executive Director of the Housing & Education Alliance, a HUD certified housing counseling agency serving over 45,000 Tampa Bay area residents

[6] Consumer Advisory Board biographies reflect the membership of the CAB between October 1, 2015 and September 30, 2016.

since 2002. She has over 25 years' experience in real estate, mortgage lending, affordable housing and housing counseling. She co-authored, "The American Nightmare: Strategies for Preventing, Surviving and Overcoming Foreclosure." The book was endorsed by Freddie Mac and the National Association of Hispanic Real Estate Professionals, translated into Spanish and used by consumers and HUD housing counselors throughout the country. Through her leadership her agency has received much recognition and many awards including the coveted "NonProfit of the Year" through PBS's national franchise the Be More Awards.

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 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.

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.

Tim Chen is the CEO of NerdWallet, which he co-founded in 2009. Tim sets the strategic vision for NerdWallet and is determined to give consumers clarity around all of life's financial decisions. Previously, Tim was a hedge fund analyst at Perry Capital investing in payment processing firms, credit card networks and technology companies. He also worked as an equity research analyst at Credit Suisse First Boston.

Kathleen C. Engel is a Research Professor of Law at Suffolk University in Boston. She is a national authority on mortgage finance and regulation, subprime and predatory lending, consumer credit, and housing discrimination. Her many publications include the co-authored book, The Subprime Virus: Reckless Credit, Regulatory Failure and Next Steps and articles in Harvard Business Law Review, Texas Law Review, and Housing Policy Debate. Professor Engel presents her award-winning research in academic, banking, and policy forums throughout the country and around the world. Professor Engel also regularly advises federal and state agencies on various matters related to financing of credit and served for three years on the Consumer Advisory Council of the Federal Reserve Board.

Judith L. Fox is a Clinical Professor of Law at the Notre Dame Law School, where she teaches and practices consumer law. She joined the faculty in 1997 and teaches courses in consumer law and negotiation. Ms. Fox directs the Economic Justice Project, a low income clinic specializing in foreclosure and debt collection defense. She is a member of the Indiana Mortgage Foreclosure Task Force and co-chairs the AALS Clinical Section's Standing Committee on Lawyering in the Public Interest. Prior to attending law school, she was a bank manager and loan officer. Ms. Fox has authored a number of publications and issues of foreclosure and debt collection.

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.

Neil F. Hall is executive vice president and head of PNC's Retail Banking. He is responsible for leading PNC's consumer businesses, business banking, brokerage and distribution. Prior to being named to his current position, he led the delivery of sales and service to PNC's retail and small business customers, directing branch banking, business banking, community development and PNC Investments. Hall joined PNC in 1995 and has held various positions within retail banking. Prior to joining PNC, he was executive vice president of Chemical Bank New Jersey's Consumer Banking Group. He began his banking career at Irving Trust Company and held several positions in commercial and private banking. Hall is a former board member of the Consumer Bankers Association.

Brian D. Hughes currently serves as Senior Vice President and General Manager of Deposits for Discover Financial Services, where he is a member of the Management Committee. Brian has 20+ years of experience serving consumers in financial services and consumer goods and has previously worked as Senior Vice President of Cardmember Marketing for Discover, Senior Executive Vice President and CEO of HSBC Card and Retail Services, and Principal at the management consulting firm Booz-Allen & Hamilton.

Christopher Kukla is Senior Vice President at the Center for Responsible Lending in Durham, North Carolina. The Center is a nonpartisan, non-profit policy and research affiliate of Self-Help, a community development lender that has provided more than $6 billion in financing to homeowners, small businesses, and non-profit organizations nationwide. Chris leads CRL's work on auto lending issues as well as CRL's policy work in North Carolina. He also counsels policymakers and advocates in Washington DC, North

Carolina, and in other states on consumer lending legislation and regulation. He graduated from Alma College and has a law degree from the University Of Notre Dame Law School. Prior to joining CRL, Chris served as a Congressional aide for five years, focused primarily on appropriations and financial issues.

Max Levchin is the founder and CEO of Affirm, an online financial services technology company. Max was one of the original Co-founders of PayPal where he served as the CTO until its acquisition by Ebay in 2002 and is primarily known for his contributions to PayPal's anti-fraud efforts as the co-creator of the Gausebeck-Levchin test, one of the first commercial implementations of a CAPTCHA. In 2002, he was named to the MIT Technology Review TR100 as one of the top 100 innovators in the world under the age of 35, as well as Innovator of the Year. He serves on the boards of Yahoo! and Evernote, is an active investor in and advisor to several payments, bitcoin, collections, remittance, marketplace lending platforms, fraud detection and fraud prevention technology startups.

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.

Joann Needleman is the 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).

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.

Honorable Annette M. Rizzo (Ret.) served as a Judge for 16 years in the First Judicial District, Commonwealth of Pennsylvania. She most recently served in the Trial Division, Civil Program for 11 years assigned to Motions Court rotation and the Complex Litigation Program with the majority of her time spent in the Civil Major Jury Trial Program where she oversaw a vast array of complex civil disputes. Prior to her tenure on the bench, Judge Rizzo acquired a wide range of experience tied to the corporate, public, and private sectors including her work as litigator for a prominent Mid-Atlantic firm that is the oldest continuous law firm in the United States, as Senior Counsel at one of the largest global providers of insurance, and serving as an Assistant City Solicitor for the City of Philadelphia.

Paheadra Bratton Robinson currently serves as the Executive Director of the Coalition for a Prosperous Mississippi. Paheadra has been addressing civil rights and consumer protection issues for more than 10 years. She is currently a member of the Federal Deposit Insurance Corporation (FDIC) Alliance of Economic Inclusion, has served as a member of the steering committee for the Delta State University Center for Community and Economic Development, is a past board member for the Mississippi Community and Financial Access Coalition. In addition to private practice, Paheadra has served as legislative counsel in the Mississippi House of Representatives.

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. Ms. Seidman 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. Ms. Seidman'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.

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.

James (Jim) Van Dyke is the CEO of Javelin Strategy & Research, a Greenwich Associates LLC company. He is a research-based futurist on digital financial services, including emerging capabilities such as mobile, online, payments and fraud mitigation. He is also a Board Member of a Bay Area alternative transportation agency which helps individuals make a positive impact on climate change and personal health. Jim has held numerous professional roles in digital product management, market research on consumer adoption of technology, and strategy formulation. He has worked in electronic commerce since 1984, and his comments related to digital financial services strategy now reach over forty million people each year around the globe through many public presentations and media citations.

Josh Zinner is the Co-Director of New Economy Project, a leading advocacy organization that works with community groups to promote racial and economic justice in New York City neighborhoods. In this role, he has been instrumental in winning passage of vital financial justice legislation and regulations in New York State. Previously, he was the founding director of the Foreclosure Prevention Project at South Brooklyn Legal Services, where he litigated lending and foreclosure cases in federal and state court, and was an early national voice against predatory lending. He was a founding member of New Yorkers for Responsible Lending, a prominent statewide financial justice coalition, and has trained numerous attorneys and advocates in New York City and State, and around the country.

APPENDIX B:

Consumer Advisory Board written statements

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

HERA

housing and
economic
rights advocates

September 15, 2016

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

Dear Director Cordray:

This past year at the Consumer Advisory Board meetings, we have covered a tremendous amount of ground discussing important issues affecting consumers, including financial technology and its implications for and impact on consumers, small dollar loan, arbitration, and mortgage servicing concerns. Our conversations have been rich and informative as we have drawn from the knowledge of committee members at the table, as well as the extensive knowledge of bureau staff as we raise, analyze and give feedback on these topics.

In the meantime, we know that work continues on other debt collection concerns, and fair lending concerns and enforcement, and I appreciate how staff continued to remind us and weave into our discussion how topics on the table this past year relate to the other rule-making of the Bureau. I pay attention to much of the Bureau's other rule-making even when there is not time or pressing need for discussion of those topics within the confines of our limited meeting time, but not all members of the committed do, so I thank the Bureau staff for, not only its work, but for continuing to inform us during our CAB meetings of the larger rule-making and enforcement work of the agency.

The CFPB as an agency, its director, and its other staff, remain thoughtful and thorough in their approach to problem-solving and analysis, which is beneficial to industry and consumers alike. I am grateful for the CFPB's existence, and it is my honor to contribute as a member of the CAB.

Sincerely,

Maeve Elise Brown, Esq.

phone 510.271.8443
fax 510.868.4521

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617.573.8000

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October 31, 2016

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

Dear Director Cordray:

It with great pleasure that I am writing to reflect on my experience during my first year on the Consumer Advisory Board (CAB) of the CFPB.

I joined the CAB with high expectations. I had seen from a distance the many careful, balanced and effective regulations that the agency had issued in the short time since it came into being. For the past year, I have had the privilege of a closer view of the inner workings of the agency and its staff. Without exception, every staff member who has presented to the CAB or engaged the CAB in a policy discussion has been extremely well-prepared and provided us with comprehensive information on a wide array of agency projects, from financial education tools to proposed regulations and SBREFA reports. It is a constant learning and thinking experience. The CFPB has exceeded my expectations.

After issuing what must be a record number of regulations under the Congressional mandate in Dodd-Frank, I sense that the CFPB has a bit more breathing room to delve more deeply into financial innovation, particularly the ways in which FinTech products can benefit consumers—especially those who are unbanked—and the ways in which new financial products can create risks for consumers. I anticipate that the collective expertise of financial innovators and consumer advocates on the CAB will help the CFPB to identify the challenges and opportunities of FinTech.

The diversity of perspectives and experiences among CAB members adds tremendous value to our discussions. Bringing together financial services providers, advocates, academics and Silicon Valley inventors to learn and reflect on consumer financial services helps us all understand the very complex area of consumer financial services and I hope helps the staff as well.

While I am very pleased with the substance of the CAB meetings and the diligence and smarts of the staff, I have some procedural thoughts that I believe might improve the CAB meetings. It would be helpful to receive the written materials a bit sooner and to include articles by industry representatives, academics, advocates, policy experts, and even the press to help us to more fully explore the contours of issues. Similarly, the richest discussions with staff occur when there is extensive time for questions and sharing of ideas. If it were possible for staff presentations to be shorter (perhaps the content could be in the pre-meeting materials), we would have more opportunities for discussion with staff. At the most recent meetings, we moved in that direction, which CAB members appreciated.

Thank you for asking me to serve on the CAB. I hope that I can find ways to contribute as much as I learn from the extraordinary CFPB staff. And, thank you for not only attending the CAB meetings, but also for being a full participant, sharing your ideas, goals and concerns.

Sincerely,

/s/

Kathleen C. Engel
Research Professor of Law

Affirm, Inc.
225 Bush St., Suite 1600
San Francisco, CA 94104

September 15, 2016

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

Dear Director Cordray:

As I approach the end of my first year on the Consumer Advisory Board (CAB), I am pleased to offer you my thoughts about my time and service to date.

As a member of the CAB's Consumer Lending Committee and an observer of the Card, Payment, and Deposit Markets Committee, it has been an honor and privilege to offer my advice and counsel to the CAB as well as to the CFPB staff regarding payments, credit cards, deposit accounts, alternative data, payday loans, and various other consumer financial products and services.

I am particularly pleased with the direction the CFPB is taking in its rulemaking process regarding lending products, overdrafts, and debt collection. I encourage the CFPB to take into account the following thoughts on debt collection and small-dollar lending in the interest of preventing harm to consumers and misalignment of industry incentives.

Debt Collection

As an advocate of stronger consumer protections in debt collection, I believe the proposal is an important first step in rooting out the worst abuses in the industry. However, the Bureau must consider possible unintended consequences of its restrictions on activities and tools for debt collectors, in addition to clarifying the following to avoid any ambiguity:

- Consumer Communication Channels: The Bureau should consider clarifying that communication via email and text message does not violate the FDCPA & TCPA, and that emails are considered letters for the purpose of collection communications.

- Online Disputes (eDisputes): The Bureau should consider mandating an online option for FDCPA disputes to make the process easier and clearer for consumers.

- Contact Frequency Guidelines: The Bureau should consider clarifying that engaging with technology (i.e., clicking a link or replying to an email) can be considered an exception to the

Affirm, Inc.
225 Bush St., Suite 1600
San Francisco, CA 94104

proposed limits on contact frequency, since the consumer is engaged in live and ongoing conversation.

- Consumer Consent: The Bureau should consider clarifying either that communication via email and text message does not require extra consent, or that prior consent can be transferred to debt buyers.

Small-Dollar Lending Notice of Proposed Rulemaking (NPRM)

Now that the CFPB has proposed an ability to repay (ATR) requirement for payday, auto title, and similar lending products, the issue of third-party data access becomes even more important for the Bureau to address as outlined in section 1033 of Dodd-Frank. Third-party access to consumer financial data is an essential tool for consumers, making services like real-time income verification and personal financial management tools possible. It also increases access to credit for many Americans while at the same time promoting a thriving industry conducive to upstart competition.

Also, some ambiguity may exist around what constitutes evidence sufficient to document improvement in a consumer's financial capacity. As it stands, the proposed rule leaves this requirement up to lender interpretation, which may result in varied application.

Lastly, I expect lenders will be looking to the Bureau to clarify what constitutes a "reliable record" of income payment, especially with respect to third-party data providers. That said, I would encourage the CFPB to support legislative proposals that modernize other government agencies to facilitate the growth of financial technology such as **H.R. 5725, the IRS Data Verification Modernization Act of 2016**, which would allow the IRS to create APIs that furnish the industry with efficient and accurate income verification information.

From my perspective, the CFPB is taking a measured and reasonable approach to tackling some of the most egregious practices in the finance industry. And while smart new regulations are needed and welcome, we should be careful not to impede the unrealized innovations that have yet to come out of financial technology—innovations that I believe will be of immeasurable benefit to American consumers.

Thank you, again, for the honor and privilege of serving on the Consumer Advisory Board. I am very much looking forward to continuing our work with the CAB and CFPB staff.

Sincerely,

Max Levchin
CEO, Affirm, Inc.

ADVANCE AMERICA®
You advance America®

135 N. Church Street
Spartanburg, SC 29306

P: 864.342.5600

AdvanceAmerica.net

September 14, 2016

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

Dear Director Cordray,

Thank you for the invitation to comment on the annual progress of the Consumer Advisory Board (CAB). I have appreciated the opportunity to serve on the CAB, as it gives me a forum to represent our customers, who are often ignored and misunderstood. Looking back on the past year I continue to have many of the same concerns I raised in my comments accompanying last year's Annual Report.

One recommendation was that the CAB better use the CFPB's consumer complaint portal and data to inform our focus. With the exception of mortgages, the CAB has generally continued to avoid the areas in which consumers are making the greatest number of complaints. Instead, the primary discussion topic remains payday lending, with vast CFPB resources spent producing over 1,300 pages of regulation for a service that accounts for less than two percent of complaints made to the CFPB. With thousands of consumer comments already submitted objecting to certain provisions of the proposed rule on short-terms loans, I sincerely hope the CAB and CFPB will begin to listen to the voices of the consumers, on whose behalf we are meant to advocate.

I also called on the CFPB to balance and test the CAB member opinions with robust, objective research. Most of the presentations and discussions we have continue to be based upon anecdotes or polling data from groups with their own agendas. Even "expert testimony" brought before the CAB is not subject to any quality standards. We should not substitute personal ideologies for quality, peer-reviewed research or real world consumer experiences and needs.

As a final thought, I remain concerned that we are falling far short of the Bureau's mandate to provide consistent treatment of like products and the larger goal of ensuring consumers' access to fair, transparent and competitive services. Overdraft programs, credit card cash advances and late fees have been categorically excluded from the proposed short-term lending rule. CAB members have acknowledged that these products are used as substitutes by the consumer and will be the beneficiary of reduced access to payday loans in the proposed rule. The fact that they are not subject to the same rules and disclosures is not in the best interest of consumers, nor does it establish a "level playing field" that the CFPB often professes. We should not advocate for rules based on which providers are deemed less controversial or more politically appropriate.

It is my hope that we can address these concerns together in the year ahead.

Sincerely,

Patrick O'Shaughnessy

FUTURION www.futurion.digital

September 16, 2016

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

Dear Director Cordray,

I would like to express my appreciation for the privilege of serving on the Consumer Advisory Board, for my second year. I treasure the innovation that most naturally seems to bloom from our capitalist system, and yet also have seen evidence that the system works best for all when good governance is welcomed as part of that system.

I've learned a great deal about how vulnerable populations are victimized by rapidly-changing industry 'product' areas, such as the Bureau's recent work on auto title lending. In such areas of study, I've been very impressed with the Agency's insight, expertise, and passion.

I've been pleased to see increased acceptance of the notion that innovation can be both a boon and threat to those at greatest risk of financial exploitation or marginalization. With many underserved individuals relying only on mobile access, I believe we have only begun to scratch the surface of how mobile can empower well-being. Customer experience and multiple forms of research will be vital on the path to pursuing these opportunities.

My optimism continues for what Consumer Response can accomplish, as does my appreciation for the challenge inherent in this relatively new area of work. Just as sunlight is the best disinfectant for overall company brands and markets, so too I believe we must push to test the limits of how such a big database can potentially revolutionize consumers at the point of individual financial decisions. I continue to be interested in exploring how the Consumer Sentinel database might directly influence a financial services consumer at the point of choosing a product or provider.

Reflecting on the agency as well as both regulated and non-bank financial services providers, my hope is that the future allows all parties to move beyond the wide gulf in ideological positions that seem to distract from the vital mission of ensuring greater shared prosperity. Financial services is a noble and vital function, yet we somehow need to find a way to move beyond today's unusually-polarized environment. In my third and final year on the board of the CFPB, I promise to keep playing whatever role I can.

With sincere appreciation and optimism,

Jim Van Dyke,
CEO and Founder,
Futurion

CFPB Annual Report - 2016

I have been honored to serve as a member of CFPB's Consumer Advisory Board (CAB) for the second year, and during that year, to chair the mortgages committee. Participating as a member of the CAB has been an affirmative experience that enables me to contribute to the financial health of Americans. I strongly support the mission of CFPB and its strategic plan.

The CAB relies on the impressive support of CFPB staff to help us understand the issues, how CFPB addresses matter that affect consumers and the decision-making processes that drive supervision and enforcement actions. CFPB staff is solicitous and considerate in encouraging me, and other members, to provide advice and to report on what we experience in our ongoing engagement with financial services consumers. My organization provides support to millions of American homeowners as the primary call-to-action for the Administration's *Making Home Affordable program*.

I am also deeply impressed with my fellow CAB members who bring a depth of knowledge and experience that strengthens the CFPB's operations, supervision and analytic processes. Together, we work diligently and effectively to make sure the American consumer is treated fairly.

Gene A. Spencer
SVP, Stakeholder Engagement, Policy and Research

APPENDIX C:

CAB Consumer Lending Committee's public comments on the CFPB's proposed rule on Payday, Vehicle, Title and Certain High-Cost Installment Loans

The following public document is submitted by the CAB Consumer Lending Committee and reflects theirrange of varying views on the CFPB's proposed rule on Payday, Vehicle, Title and Certain High-Cost Installment Loans.

Comments made by CAB members are their own and do not reflect the views of the CFPB or the United States government.

MEMORANDUM

DOCKET: Federal Register Citation: 81 FR 47863
Document Number: 2016-13490
Docket ID: CFPB-2016-0025; RIN: 3170-AA40

DATE OF EX PARTE COMMUNICATION: September 8, 2016

SUBJECT: Summary of Oral Ex Parte Presentation by members of the CFPB's Consumer Advisory Board (CAB) about the CFPB's proposed rule on Payday, Vehicle, Title and Certain High-Cost Installment Loans.

PARTICIPANTS: Members of the CAB:

- Consumer Lending Chairperson: Ann Baddour, Director of the Fair Financial Services Project, Texas Appleseed, Austin, TX
- Steve Carlson, Co-founder and CEO, Ascend Consumer Finance, San Francisco, CA
- Neil Hall, Former Head of Retail Banking, The PNC Financial Services Group, Inc., Pittsburgh, PA
- Christopher Kukla, Senior Vice President, Center for Responsible Lending, Durham, NC
- Max Levchin, Co-Founder and CEO, Affirm, Inc., San Francisco, CA
- Joann Needleman, Senior Counsel, Clark Hill PLC, Wayne, PA
- J. Patrick O'Shaughnessy, President and CEO, Advance America, Inc., Spartanburg, SC
- Ellen Seidman, Senior Fellow, Urban Institute, Washington, DC
- Kathleen Engel, Research Professor, Suffolk University Law School, Boston, MA
- Sylvia Alvarez, Executive Director, Housing and Education Alliance, Inc., Tampa, FL
- Brian Hughes, Senior Vice President and Chief Risk Officer, Discover Financial Services, Deerfield, IL

CFPB STAFF: Matt Cameron, CFPB
Crystal Dully, CFPB
Yolanda McGill, CFPB
Mark Morelli, CFPB
Laura Udis, CFPB

PREPARED BY: Matt Cameron, CFPB

On Thursday, September 8, 2016, CFPB staff identified above participated in conference call meeting with members of the Bureau's Consumer Advisory Board (CAB). During this conference call meeting, CAB members addressed the CFPB's proposed rule on Payday, Vehicle Title, and Certain High-Cost Installment Loans.

CAB members were informed that CFPB's ex parte policy would apply. Summary notes of the discussion are attached. Portions of the CAB's discussion unrelated to the proposed rule on payday, vehicle title, and certain high-cost installment loans are not included with this ex parte filing.

Attachments:
Attachment 1- CAB Attendance Roster
Attachment 2- Ex Parte CAB Payday, Vehicle Title, and Certain High-Cost Installment Loans NPRM notes
Attachment 3- CAB Member Joann Needleman Additional Small Dollar Lending Comments
Attachment 4- CAB Vice Chair Maeve Elise Brown Additional Small Dollar Lending Comments

Attachment 1

EXTERNAL PARTICIPANTS – Attendance Roster

Consumer Advisory Board members

- *Consumer Lending Chairperson:* *Ann Baddour, Director of the Fair Financial Services Project, Texas Appleseed, Austin, TX*
- *Steve Carlson, Co-founder and CEO, Ascend Consumer Finance, San Francisco, CA*
- *Neil Hall, Former Head of Retail Banking, The PNC Financial Services Group, Inc., Pittsburgh, PA*
- *Christopher Kukla, Executive Vice President, Center for Responsible Lending, Durham, NC*
- *Max Levchin, Co-Founder and CEO, Affirm, Inc., San Francisco, CA*
- *Joann Needleman, Member, Clark Hill PLC, Wayne, PA*
- *J. Patrick O'Shaughnessy, President and CEO, Advance America, Inc., Spartanburg, SC*
- *Ellen Seidman, Senior Fellow, Urban Institute, Washington, DC*
- *Kathleen Engel, Research Professor, Suffolk University Law School, Boston, MA*
- *Sylvia Alvarez, Executive Director, Housing and Education Alliance, Inc., Tampa, FL*
- *Brian Hughes, Senior Vice President and Chief Risk Officer, Discover Financial Services, Deerfield, IL*

Consumer Advisory Board
September 8, 2016
Payday, Vehicle Title, and Certain High-Cost Installment Loans NPRM
Discussion Summary

On Thursday, September 8, 2016, 11 members of the Bureau's Consumer Advisory Board (CAB) met via conference call with five members of the Bureau's staff: Matt Cameron, Crystal Dully, Yolanda McGill, Mark Morelli, and Laura Udis. During the conference call meeting, CAB members provided feedback regarding the CFPB's proposed rule on Payday, Vehicle Title, and Certain High-Cost Installment Loans. Feedback shared by CAB members regarding the proposal is summarized below.

Proposed rule – Payday, Vehicle Title, and Certain High-Cost Installment Loans

Question #1 - What do you see as the strongest consumer protection features of the rule?

- **Chairperson of the CAB Consumer Lending Committee, Ann Baddour, Director of the Fair Financial Services Project, Texas Appleseed, Austin, TX**
  Ms. Baddour described what she believes are some of the strongest features of the proposed rule, which include: the scope of the rule is very important and she is pleased to see a broad scope of products included; the Ability to Repay feature provides a strong foundation for the rule; and pleased the rule structure incorporates an important standard for fair loan markets, that borrower success goes hand in hand with lenders' success.

- **Neil Hall, Former Head of Retail Banking, The PNC Financial Services Group, Inc., Pittsburgh, PA**
  - Mr. Hall noted that the proposed rule allows the consumer to have a clear understanding that they could get into trouble if the consumer wasn't careful with the product.

- **Christopher Kukla, Executive Vice President, Center for Responsible Lending, Durham, NC**
  - Mr. Kukla noted that the Ability to Repay standard in the proposed rule is the right approach and plays an important feature of the proposed rule.

- **Ellen Seidman, Senior Fellow, Urban Institute, Washington, DC**
  - Ms. Seidman stated that an important feature of the rule is the restriction on repeated payment withdrawal attempts. This can make a big difference when all of the safeguard features fail.

- **J. Patrick O'Shaughnessy, President and CEO, Advance America, Inc., Spartanburg, SC**
  - Mr. O'Shaughnessy agreed with comments made by CAB members regarding the scope of the proposed rule. However, Mr. O'Shaughnessy noted that the proposed rule specifically excludes several products, eg. pawn loans, overdraft credit, and credit cards which would otherwise meet the definitions in the proposed rule, and it fails in creating a level playing field across all small dollar products.

- **Max Levchin, Co-Founder and CEO, Affirm, Inc., San Francisco, CA**
  - Mr. Levchin stated that the general movement towards ability to repay is really great and the right direction for the Bureau to go. Mr. Levchin encouraged the Bureau to provide more prescriptive language in the final rule on income verification.

- **Steve Carlson, Co-founder and CEO, Ascend Consumer Finance, San Francisco, CA**
  - Mr. Carlson agreed with Mr. Levchin's comments and stated that more prescriptive language regarding ability to repay would be helpful to lenders in the final rule.

Question #2 - What are overarching concerns or challenges with the rule?

- **Steve Carlson, Co-founder and CEO, Ascend Consumer Finance, San Francisco, CA**
  - Regarding Ability to Repay, Mr. Carlson commented that as much clarity as possible within the final rule is needed. Also that more prescriptive language for verification would be helpful. From a consumer's perspective, Mr. Carlson notes that there are segments of consumers that are currently using payday type products and, under the proposed rules, will have to change their behavior, which will impact them. The Bureau should consider how additional financial education or disclosure at time of loan origination can be provided to these specific consumers.

- **J. Patrick O'Shaughnessy, President and CEO, Advance America, Inc., Spartanburg, SC**
  - Mr. O'Shaughnessy stated that he has heard from thousands of consumers on this proposed rule and notes that consumers who use these products believe that they already assess Ability to Repay. Mr. O'Shaughnessy noted that the main objection he hears from consumers is that their ability to access credit will be restricted based on their use of a product.

- **Neil Hall, Former Head of Retail Banking, The PNC Financial Services Group, Inc., Pittsburgh, PA**

- Mr. Hall wondered where consumers who utilize payday type products will go and what will happen when they are unable to access this type of credit going forward. Mr. Hall stated that he believes that this will force more consumers to use overdraft products. Mr. Hall encouraged the Bureau to consider if this is right path for consumers.

- **Christopher Kukla, Senior Vice President, Center for Responsible Lending, Durham, NC**
  - Mr. Kukla stated that the Ability to Repay standard has too many loopholes and they should be closed in the final rule. Mr. Kukla noted that there are not enough protections within the proposed rule for flipping longer term loans and Mr. Kukla encouraged the Bureau to provide language in the final rule that states loans made in violation of state lending laws would be a per se violation of federal UDAAP rules.

- **Max Levchin, Co-Founder and CEO, Affirm, Inc., San Francisco, CA**
  - In regards to the Ability to Repay requirements, Mr. Levchin noted that there is no detail within the proposed rule that instructs the lender on how far back they should look to verify income and check debt obligations.
  - Mr. Levchin stated that the Bureau should consider supporting legislative fixes that would provide the Internal Revenue Service (IRS) with the permissions to share income on consumers to lenders.

- **Steve Carlson, Co-founder and CEO, Ascend Consumer Finance, San Francisco, CA**
  - Mr. Carlson mentioned section 1033 of the Dodd-Frank Act and added that the Bureau has the ability to weigh in on data access and availability. Mr. Carlson further stated that IRS income data access would be of significant value for lenders, possibly reducing underwriting costs.

- **Ellen Seidman, Senior Fellow, Urban Institute, Washington, DC**
  - In regards to the Ability to Repay requirements, Ms. Seidman shared a concern relating to the length of time it will take the Bureau, largely through enforcement actions, to provide all of the clarity the industry needs to effectively and consistently implement Ability to Repay. To the extent that the Bureau can provide guidance on Ability to Repay directly into the final rule, that would be helpful.
  - Additionally, Ms. Seidman stated that another big issue will be how fast the information collection system is developed so lenders can track who has outstanding payday loans. Ms. Seidman warned that a new collection system like this will require significant time to build and test.

- **Chairperson of the CAB Consumer Lending Committee, Ann Baddour, Director of the Fair Financial Services Project, Texas Appleseed, Austin, TX**

- Ms. Baddour noted an issue specific to the state of Texas and stated that the proposed rule does not hold service providers directly accountable. Many standards in the rule apply to the "lender" and its "affiliates." All of those provisions should also include the "service provider" and the "service provider's affiliates." Otherwise, those provisions will be easy to evade in states where the service provider model prevails. The Bureau needs to work through better how it would establish criteria to determine what state law provisions would fall below the floor.

- **Kathleen Engel, Research Professor, Suffolk University Law School, Boston, MA**
  - Ms. Engel suggested that the CFPB look at efforts of payday lenders to have states enact laws permitting add-on products, like accidental death insurance. Her concern is that that such products would not qualify as credit-related ancillary products that lenders would have to include when calculating the cost of credit.

Question #3 - What needs to be strengthened in the ability to repay standard?

- **Christopher Kukla, Senior Vice President, Center for Responsible Lending, Durham, NC**
  - Mr. Kukla noted that there are three main areas where the proposed rule can be strengthened; the first is the six loan loophole – which Mr. Kukla believes needs to be closed and stated that if a consumer has to take out six of these loans there is a clear presumption of unaffordability. Second, Mr. Kukla stated that the low default exclusion within the proposed rule should not allow lenders to compare themselves to each other for compliance, but rather to appropriate lending standards. Third, Mr. Kukla noted that the Bureau should provide additional standards on documenting basic living expenses.

- **Chairperson of the CAB Consumer Lending Committee, Ann Baddour, Director of the Fair Financial Services Project, Texas Appleseed, Austin, TX**
  - Ms. Baddour shared concerns about affordability for longer term loans within the proposed rule, and specifically that longer loan terms could cloak the unaffordability of a loan. She noted that the National Consumer Law Center recommended a one month loan term per $100 borrowed.

- **J. Patrick O'Shaughnessy, President and CEO, Advance America, Inc., Spartanburg, SC**
  - Mr. O'Shaughnessy stated that the Ability to Repay requirement looks at a very short window of time to measure a consumer's ability to actually repay the loan. Mr. O'Shaughnessy continued and noted that the proposed rule fails

to adjust for seasonal workers income fluctuations (eg. a teacher) and suggested that a 30 day measurement period is not be long enough to take into account income and expense volatility.

- **Neil Hall, Former Head of Retail Banking, The PNC Financial Services Group, Inc., Pittsburgh, PA**
  - Mr. Hall noted that the concept of Ability to Repay is a current snapshot of what consumers and lenders believe can be repaid on a loan. Mr. Hall suggested that the Bureau consider expanding the requirement to look both retrospectively and prospectively to determine the consumer's true Ability to Repay.

- **Max Levchin, Co-Founder and CEO, Affirm, Inc., San Francisco, CA**
  - Mr. Levchin reiterated his call for additional clarity in the Ability to Repay requirements and suggested the Bureau provide specific examples or a step by step illustration within the final rule on how a lender should follow the Ability to Repay requirements.

- **Steve Carlson, Co-founder and CEO, Ascend Consumer Finance, San Francisco, CA**
  - Mr. Carlson stated that the standards for Ability to Repay should be different based on the term and size of the loan given the associated expense and resources required to conduct the assessment. He also noted that, as a lender, he is more interested to know if the consumer has long term positive cash flow.

Question #4 - What aspects of the ability to repay standard are unclear or difficult to follow?

- **J. Patrick O'Shaughnessy, President and CEO, Advance America, Inc., Spartanburg, SC**
  - Mr. O'Shaughnessy stated that basic living expenses are vague and that a certain amount or percent of net income is easier to follow. Additionally, Mr. O'Shaughnessy notes that the idea of using statistical estimation for housing costs using zip code could lead to red lining problems and other unintended consequences.

- **Christopher Kukla, Senior Vice President, Center for Responsible Lending, Durham, NC**
  - Mr. Kukla commented that basic living expenses will be difficult to calculate without standards or stronger guidelines laid out in the final rule.

- **Max Levchin, Co-Founder and CEO, Affirm, Inc., San Francisco, CA**
  - Mr. Levchin commented that one question that CFPB might want to consider is what constitutes evidence sufficient to document improvement in a

consumer's financial capacity and there is some danger that different lenders will apply this requirement differently.

- **Neil Hall, Former Head of Retail Banking, The PNC Financial Services Group, Inc., Pittsburgh, PA**
  - Mr. Hall noted that there needs to be flexibility in the Ability to Repay assessment to accommodate emergencies for a consumer such as a funeral.

Question #5 - What concerns exist with the consumer reporting system?

- **Ellen Seidman, Senior Fellow, Urban Institute, Washington, DC**
  - Ms. Seidman shared her concerns about the accuracy and timeliness of the information being reported on a consumer's credit report in today's market. The requirement within the proposed rule assumes that a more robust version of what is today a nascent credit reporting system will be up and running in a timely manner to comply with the proposed rule. Ms. Seidman noted that setting up a system and running it would take significant time to build and test. The Bureau should consider an interim solution, such as asking borrowers about outstanding loans, to allow for time for a system this complex to be established and utilized.

- **J. Patrick O'Shaughnessy, President and CEO, Advance America, Inc., Spartanburg, SC**
  - Mr. O'Shaughnessy noted that some customers voiced privacy concerns with the reporting system and concern that the companies that run these systems will sell their information to other vendors.

- **Chairperson of the CAB Consumer Lending Committee, Ann Baddour, Director of the Fair Financial Services Project, Texas Appleseed, Austin, TX**
  - Ms. Baddour commented that there is a concern with the major credit reporting agencies that payday loans on a consumer's credit report have a negative impact on their score. Ms. Baddour recommended that there be some kind of guarantee that if a consumer exhibits positive behavior that it will be reflected positively on this reporting system with no detrimental impact on consumer's score.

- **Brian Hughes, Senior Vice President and Chief Risk Officer, Discover Financial Services, Deerfield, IL**
  - Mr. Hughes noted that he believes there could be a longer delay than anticipated by the Bureau for information appearing within the reporting system.

- **Max Levchin, Co-Founder and CEO, Affirm, Inc., San Francisco, CA**

- Mr. Levchin noted that his company has started reporting to some of the major Credit Reporting Agencies (CRAs). A step in that process was to survey his clients to determine how they view their loan being reporting to a CRA. Overall, Mr. Levchin notes that the main feedback received from his clients is that they see it as a positive development that they will receive credit for timely payments on their loans.

- **Joann Needleman, Member , Clark Hill PLC, Wayne, PA**
  - Ms. Needleman commented that her concerns about the reporting system are how the dispute process will be organized and the process in place to ensure accuracy of the information being reported.

Question #6 - What compliance challenges do you foresee?

- **Christopher Kukla, Senior Vice President, Center for Responsible Lending, Durham, NC**
  - Mr. Kukla noted that when standards are vague, it is easier for a lender to evade the final rule and harder for lenders who want to follow the final rule.

- **Steve Carlson, Co-founder and CEO, Ascend Consumer Finance, San Francisco, CA**
  - Regarding account aggregation, Mr. Carlson said that the current environment is clunky, with inconsistent technology and data cleanliness. Mr. Carlson said he envisions a lot of paper-based documentation being created to comply with this proposed rule.

- **Max Levchin, Co-Founder and CEO, Affirm, Inc., San Francisco, CA**
  - Mr. Levchin agreed with Mr. Carlson's previous comments. Mr. Levchin notes that currently in the market there is movement from financial institutions to limit or restrict access to consumer financial data. Mr. Levchin encouraged the Bureau to issue a rule under 1033 of Dodd Frank reaffirming a consumer's right to allow 3rd party access to bank account transactional data.

- **J. Patrick O'Shaughnessy, President and CEO, Advance America, Inc., Spartanburg, SC**
  - Mr. O'Shaughnessy commented that whenever there are final rules that are not explicit, it makes it harder for the lender to develop a compliance management system.

- **Ellen Seidman, Senior Fellow, Urban Institute, Washington, DC**
  - Ms. Seidman encouraged the Bureau to note section 1033 of the Dodd-Frank Act in the preamble of the final rule.

Question #7 - What supervision or enforcement challenges do you foresee?

- **Ellen Seidman, Senior Fellow, Urban Institute, Washington, DC**
  - Ms. Seidman noted three challenges:
    1. Lack of clarity on the necessary living expenses in the Ability to Repay standard.
    2. Comparability of default rates for longer term loans.
    3. Consideration for what would happen in the market if the credit reporting systems are not up and running in time.

- **Joann Needleman, Member, Clark Hill PLC, Wayne, PA**
  - Ms. Needleman cautioned the Bureau from issuing enforcement actions prior to the final rule being released as this can create confusion within industry.

- **Neil Hall, Former Head of Retail Banking, The PNC Financial Services Group, Inc., Pittsburgh, PA**
  - Mr. Hall agreed with Ms. Needleman's previous comment and stated that uncertainty that is then clarified via an enforcement action is not the way to encourage innovation.

- **Christopher Kukla, Senior Vice President, Center for Responsible Lending, Durham, NC**
  - Mr. Kukla noted that the standards to limit the number of refinances, what constitutes basic living expenses, and default rates are too vague, and that the Bureau should set appropriate standards rather than allow the industry to define them. Mr. Kukla encouraged the Bureau to provide states with efficient tools to enforce their own laws that are already on the books.

Question #8 - How can the rule be improved to encourage low-cost entrants in this market space?

- **Neil Hall, Former Head of Retail Banking, The PNC Financial Services Group, Inc., Pittsburgh, PA**
  - Mr. Hall recommended underwriting standards that are cost efficient and easily explained to both consumers and regulators.

- **Steve Carlson, Co-founder and CEO, Ascend Consumer Finance, San Francisco, CA**
  - Mr. Carlson stated that the Ability to Repay standard should vary based on the size of the loan. Mr. Carlson noted that, dependent on volume and breadth of data elements requested, accessing a credit report from a major CRA can range anywhere from $0.50 to almost $4. One out of ten consumers may actually take the loan after that credit report is pulled. That increases the cost to offer the loan and makes it difficult to have low cost entrants in the market.

- **J. Patrick O'Shaughnessy, President and CEO, Advance America, Inc., Spartanburg, SC**
  - Mr. O'Shaughnessy noted that he didn't realize it was one of the goals of the rule to encourage new entrants into this market. Mr. O'Shaughnessy stated that at the state level, there are new entrants into this market every year, including fintech firms, banks, and credit unions.. There have been very few entrants at a national level because of the variety of state regulations. A 1,500 page final rule will not encourage more entrants.

- **Ellen Seidman, Senior Fellow, Urban Institute, Washington, DC**
  - Ms. Seidman suggested that the Bureau consult with the National Credit Union Administration (NCUA) to avoid putting additional restrictions on credit unions.

- **Neil Hall, Former Head of Retail Banking, The PNC Financial Services Group, Inc., Pittsburgh, PA**
  - Mr. Hall noted that it may be helpful to have prudential regulators comment on the proposed rule. Mr. Hall stated that prudential regulators are looking for safety and soundness and it might be helpful to have their perspectives incorporated into the final rule.

- **Christopher Kukla, Senior Vice President, Center for Responsible Lending, Durham, NC**
  - Mr. Kukla stated that he thinks the proper role for the Bureau is to make sure this is a strong rule, close all of the potential loopholes, and then encourage others into the market once the final rule is out.

- **Brian Hughes, Senior Vice President and Chief Risk Officer, Discover Financial Services, Deerfield, IL**
  - Mr. Hughes reiterated his call for the Bureau to encourage greater data availability, which will lead to greater and more affordable underwriting. Additionally, Mr. Hughes noted that allowing the Internal Revenue Service (IRS) to provide income to lenders would be a significant help to reduce the cost of underwriting.

- **Chairperson of the CAB Consumer Lending Committee, Ann Baddour, Director of the Fair Financial Services Project, Texas Appleseed, Austin, TX**
  - Ms. Baddour closed the discussion with final remarks and commended the Bureau for putting out this proposed rule. Ms. Baddour noted that it is clear a lot of research went into putting this together and expects it will have a positive impact for consumers.

Consumer Advisory Board
September 8, 2016

Payday, Vehicle Title, and Certain High-Cost Installment Loans NPRM Additional Written Comments Submitted by Consumer Advisory Board member Joann Needleman, Member, Clark Hill PLC, Wayne, PA

1. What do you see as the strongest consumer protection features of the rule?

- Standardization of the industry and ability to identify the good from the bad players.

2. What are overarching concerns or challenges with the rule?

Several issues:

A. It is limiting a significant need in the marketplace, especially for those consumers who are having a difficult time accessing credit. Whether we think they should have this credit or not, better education and more impactful disclosures would be better alternatives then shutting a large majority of consumers from the market.

B. Only the large and well capitalized companies will be able to satisfy and meet the requirements for a Registered Information System. That doesn't necessarily mean they will be the best companies. The barrier of entry will be too high and it will discourage competition. Furthermore, there has been little thought as to how consumers will be able to dispute and correct this reporting.

3. What needs to be strengthened in the ability to repay standard?

- I believe the cooling off period is too restrictive and does not reward positive behavior, namely a consumer paying on time.

4. What aspects of the ability to repay standard are unclear or difficult to follow?

- The underwriting analysis is still too nebulous and does not account for consumers who might otherwise provide a validation on the part of consumer for major financial expenses that might not be entirely accurate.

5. What concerns exist with the consumer reporting system?

- See number #2 above. This is a going to be a complicated process. My concern is that in a race to get some system in place it may not be the best system and there could be significant consumer harm.

6. What compliance challenges do you foresee?

- The compliance challenges will be in the underwriting. While all necessary requirements could be met, it doesn't account for unexpected or unforeseen events, like medical expenses or divorce. With the lender be on the hook for that?

7. What supervision or enforcement challenges do you foresee?

- It depends whether the credit reporting aspect is functional and whether information about prior loans and performance is able to be accessed.

8. How can the rule be improved to encourage low-cost entrants in this market space?

   - Provide a grace period or a retroactivity period before implementation. Provide a carve out for small lenders or lender in rural and extremely underserved areas.

HERA

housing and
economic
rights advocates

TO: Anne Baddour and Matt Cameron
FROM: Maeve Elise Brown
RE: Questions for Consumer Lending Committee CAB, Re Proposed Small Dollar Rule
DATE: 9/12/2016

1. What do you see as the strongest consumer protection features of the rule?

Verification of the borrower's ability to repay is the strongest feature.

2. What are overarching concerns or challenges with the rule?

That the rule still permits some small dollar loans to be made that are not subject to the ability to repay standard.

2. What needs to be strengthened in the ability to repay standard?

I think the structure of the proposed ability to repay standard is quite good overall, and that it is hard to structure the initial rule in a way that eliminates all possibilities of abuse. I do think that for a covered longer-term balloon loan, defining the ability to repay as meeting basic living expenses for only 30 days after having made the highest payment under the loan on the due date is too small of a window in time for the determination of ability to repay, and that the standard should be at least 90 days after the highest payment on time. I am sure as our review of the rule continues, we'll have other, similar suggestions.

However, I have fewer concerns about the ability to repay standard and more concerns about the exemptions to the covered loan definition. For example, the safe harbor for a fee of $50 being charged on loans under proposed Section 1041.2 seems as if it is unfriendly to consumers as a standard if the minimum repayment period for a qualifying loan under this section is 2 months. I believe the safe harbor at this dollar amount should apply only to loans with a repayment period of 9 months or longer. I also think that the exemption under 1041.2 for longer-term loans should be only for loans with a minimum repayment period of 6 months. I am sure as our review of the rule continues, we'll have other, similar suggestions.

4. What aspects of the ability to repay standard are unclear or difficult to follow?

No comments on this issue for now.

5. What concerns exist with the consumer reporting system?

I do not know the quality of reporting of the entities tracking small dollar loans, and, given the error rate in reporting by the big three credit reporting agencies (CRAs), I have some concerns that the specialty reporting agencies that will be utilized under this rule may not adequately track all relevant loans. I am also concerned that industry may take to not reporting the loans to the specialty CRAs as a way of gaming the rule.

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6. What compliance challenges do you foresee?

I would encourage the bureau to heavily supervise the specialty credit reporting agencies, in addition to the lending industry, to make sure that this key piece of the puzzle is functioning properly for consumers.

7. What supervision or enforcement challenges do you foresee?

I see this rule requiring a massive amount of supervision over at least the first two years of its existence to determine what is working and not working, and where the abuses lie on the part of industry.

8. How can the rule be improved to encourage low-cost entrants in this market space?

I think that providers who want to provide a small dollar product that is at 18% APR or less should approach the bureau through the Catalyst program for a program specific discussion of possible exemptions for a pilot.

Sincerely,

Maeve Elise Brown, Esq.
Executive Director