Consumer Advisory Board Meeting

November 3, 2021

Consumer Financial Protection Bureau

Meeting of the CFPB Consumer Advisory Board

The Consumer Financial Protection Bureau's (CFPB) Consumer Advisory Board (CAB), met via WebEx at 1 p.m. Eastern on November 3, 2021.

CAB members present	CFPB staff present
Chair Leigh Phillips	Deputy Director Zixta Martinez
Lorray Brown	Kris Andreassen
Louis Caditz-Peck	Elena Babinecz
Stephanie Carroll	Alan Ellison
David Ehrich	Grady Hedgespeth
Laurie Goodman	Katelyn Kramer
Mae Watson Grote	Timothy Lambert
Margaret Libby	Manny Mañón
Andres Navarrete	Deborah Royster
Beverly Ruggia	Jessica Russell
Faith Swartz	
Ky Tran-Trong	
Pete Upton	

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Welcome

Deputy Director, Zixta Martinez

Manny Mañón, Staff Director, Section for Advisory Board and Councils, Office of Stakeholder Management

Leigh Phillips, Chair, Consumer Advisory Board

CFPB Section for Advisory Board and Councils Staff Director Manny Mañón convened the Consumer Advisory Board (CAB) meeting and welcomed committee members and members of the listening public. He provided a brief overview of the meeting's agenda and introduced Deputy Director Zixta Martinez. Deputy Director Martinez provided remarks on the Bureau's priorities, focusing on Small Business Lending (Section 1071 NPRM), Older American Age-Friendly Banking, and Appraisal and Valuation Bias. Following Deputy Director Martinez's remarks, CAB Chair Leigh Phillips welcomed attendees and explained the advisory committee's mission and expressed her appreciation for being able to serve as Chair of the CAB.

Section 1071 NPRM Session

Grady Hedgespeth, Assistant Director, Office of Small Business Lending Markets

Alan Ellison, Small Business Program Manager, Office of Small Business Lending Markets

Kris Andreassen, Senior Counsel, Office of Regulations

Elena Babinecz, Managing Counsel, Office of Regulations

This session consisted of staff from the Office of Small Business Lending Markets and the Office of Regulations presenting on the Bureau's Section 1071 Small Business Lending Data Collection Rulemaking. During this presentation Bureau staff provided background and current information on the Section 1071 NPRM. Following the presentation, Bureau staff sought to receive input from Board members.

Board members provided feedback following the Section 1071 NPRM presentation. Many members offered praise of the 1071 NPRM; many also expressed concerns and thoughts related to data collection. A member emphasized the importance of small businesses to the U.S. economy and urged the CFPB to broadly collect small business lending data. That member said that the collection of this data, particularly the pricing data like APR, will be critical to the success of the analytics. The member specifically said that new methods of analysis can help address structural biases in fair lending on a much larger scale (e.g., underwriting). Another member said that Section 1071 needs to include more pricing data to encourage responsible lending and that pricing data needs to be comparable across different types of products. The member went on to say that APR is the best way to compare the cost of credit for products of different types, terms, and amounts. A member asked if the CFPB would consider collecting APR data or anticipated term lengths for merchant cash advances and similar products. The member also encouraged the CFPB to consider including factoring and other products not covered in the NPRM as doing so would help small businesses compare pricing across all the financing products they are considering. The member added that the CFPB might find it helpful for commenters to share ideas about how the cost of certain types of products could be collected in a way that would be comparable with the other kinds of products for the benefit of researchers, and that the CFPB may want to reach out to organizations directly that have programs serving small businesses in communities of color (e.g., the Black and Latino Chambers of Commerce).

A member noted the importance of addressing barriers that inhibit access to credit, including language access, technology, and the fact that many small businesses are unbanked, so determining their creditworthiness is not readily apparent. The member also noted that size was a barrier to credit, and that the smallest businesses are most disadvantaged--the cost of originating a smaller loan is the same as for a larger loan. A bank may find little upside in issuing a smaller loan, but the small business at issue would still be creditworthy. The member further urged the CFPB not to grant exclusions for particular types of financial institutions. The member said that it is critical to collect data from smaller business lenders in rural communities because smaller lenders have a larger presence in such communities. The member stated that data transparency is imperative as it would improve policy and help enforce fair lending laws. The member said that 1071 data should be made available to the public so that academics and community-based organizations could use the data to push policy and better ensure lenders comply with fair lending laws. The member also stated that the CFPB should not be concerned about the possibility of re-identification of borrowers within the 1071 data set. The member added that disaggregated data is important to see what is happening in smaller communities.

A member welcomed the implementation of Section 1071, noting from experience with HMDA how effective such data could be, and emphasized the importance of Section 1071 data to ensuring that all small businesses get the credit they need. The member noted that race and gender can affect access to credit. The member also stated that it is important to disclose loan size, as businesses are often unable to obtain the smallest size loan that they need. The member expressed the need for the rule to cover all financial institutions, especially because the expansion of online lending has resulted in unsafe products for borrowers. The member noted the importance of full data transparency, and the difficulty of conducting accurate analysis with only some of the data available. The member also expressed from experience with HMDA that data disaggregation is important; without it, it would not be possible to know who is receiving loans. Finally, the member urged that the CFPB take the recommendation of the National Disability Institute to include collecting data regarding small business owners' disability status, as such owners often face discrimination.

A member noted that while some lenders have suggested that the firewall requirement would be burdensome, in the member's experience at a nonprofit fintech, maintaining a firewall to keep demographic data separate from other data would not be difficult.

A member applauded the proposal to cover merchant cash advances, noting that Federal Reserve research indicated their use by minority borrowers, at potentially higher cost and risk. The member asked if the CFPB would find it helpful for commenters to say how the costs of these products could be collected in a way that permits comparison across products, enabling data users to better determine if certain borrowers are charged higher rates. The member also suggested that the CFPB reach out to institutions with minority lending programs and small business advocacy groups regarding small business owners' willingness to answer demographic questions in applying for a loan.

A member specifically provided feedback and concerns regarding Native community development financial institutions (CDFIs). The member said that Native CDFIs are located in nearly half of U.S. states and that Native CDFIs' assets are not comparable to the other members of the CAB. The member said that the total assets of Native CDFIs average about $8 million to $15 million. The member asked for consideration of a section in the rule specific to Native CDFIs, which serve very remote communities and lack capital. The member added that staffing to comply with the proposal's the reporting requirements is also a concern. The member did not want to see the rule discourage further development of Native CDFIs. The member would like the institutional coverage threshold for Native CDFIs set to 50 originations to make it easier for them to build assets. The member offered to provide additional feedback on how the proposed rule may potentially be burdensome and costly to the Native CDFIs.

A member, representing an organization that leveraged fintech and coaching platforms to close gender wealth gaps, asked CFPB staff to elaborate on the privacy balancing test that would weigh concerns and benefits, and in particular was curious about quantifying the goals of such a test, and what it would mean for loan rates and small businesses.

Multiple members provided thoughts on technology and innovation and the proposal. A member commended the CFPB and the Office of Innovation for being a leader in the use of technology to improve the effectiveness and efficiency of regulation. The member added that the CFPB is a north star for regulators from around the world and that their organization received outreach requests from regulators from other countries. A member said there is nothing small about small businesses because they drive economic mobility and create jobs. The member also said that the CFPB will continue to hear about the significance of this rule, and that it is important that this rule be broad enough to collect all the data necessary to help lenders better serve small businesses.

Members also commented on fairness and inclusion. A member stated that their organization envisions a fair and inclusive system. The member also said that the CFPB represents one of the best hopes in fulfilling its mission, to help low-income households build emergency savings to work towards ensuring long-term financial stability. A member said the CFPB has worked towards building a better financial system founded on the principles that all consumers deserve financial products and services that are fair, accessible, and affordable.

Older Americans Session: Age-Friendly Banking

Deborah Royster, Assistant Director, Office for Older Americans

Katelyn Kramer, Older Americans Policy Analyst, Office for Older Americans

For the second session of the day, Bureau staff from the Office for Older Americans provided an overview of the office, along with the work that it is currently doing regarding the age-friendly banking initiative. Following the presentation portion of this session, Bureau staff sought to receive input from Board members.

Committee members provided feedback following the presentation. Several members discussed financial coaching and financial awareness. A member said that their organization partnered with the AARP foundation to coach over 1,000 older adults last year in a virtual financial coaching setting and they published a report earlier this year about the benefits and challenges in being able to provide these services. The member added that those who were coached had more savings than the average of all the other older adults served in their community of practice but had more debt. Additionally, they had a wide range of financial goals, but weren't too concerned with retirement or healthcare. The member also said that the coaches observed that those older adults were less reserved than their younger counterparts in a financial coaching setting. The member went on to say that the coaches concluded that there were several opportunities for fintech to increase convenience and security for older adults managing finances. The member said that from the virtual financial coaching work there is a clear need for specially designed and designated accounts to have protection for account holders and in addition to their financial coaching work, they have designed a recommendation engine for their community of practice. The member noted that over the last two years they have reviewed over 400 products and that there are plenty of privacy protection companies.   The member stated that there are three needs (1) optimizing healthcare costs, (2) leverage in existing life skills, and (3) need/opportunity for consumer protection.   The member concluded with a recommendation that the CFPB should support the development of accounts such as lifeline accounts. Another member added to this discussion and suggested the CFPB should standardize training, such as with toolkits for use by banks and financial institutions at all levels. The member said that one of the key things that the CFPB could do to help elders, especially minorities, is to get into partnerships with community-based organizations that already speak to those communities. A member said that the CFPB could update materials to reflect new payment methods by highlighting (1) tips and red flags, (2) discuss best practices that some app companies use, and (3) what are the different protections that could be offered.

Multiple members discussed their concerns around scams and elder financial abuse. A member said it would be great if the CFPB would encourage complaints about failures to report. The member said that there are clear red flags, but no real enforcement. The member inquired about publishing data that could be brought up during examinations. A member commended the CFPB and the Office for Older Americans with its efforts to support banks and credit unions to help in the areas of elder financial education and spotting abuse. The member said that best practices can help these organizations to prevent scams and fraudulent activities before the harm occurs. The member continued by saying most of this occurs when the older consumer's funds are stolen through fraud and they are seeing consumers being deceived and then become liable to the bank and that this could possibly be detected and prevented with additional training. A member said that scams are so pronounced and that it is a shame when it happens, as it causes a ripple effect. A member said that emphasizing the importance of trusted relationships with older adults especially those that are underbanked is key and critical. The member said that social services and faith-based services could be tapped into.

Several members discussed the importance of security and online banking. A member said that there is a real concern about online notarization particularly for large transactions and real estate. The member said that they are seeing this with older communities and that they don't have the help needed which creates a higher potential for abuse. A member said that digital banking has been a godsend especially during the pandemic. The member said that they have developed literature for financial literacy to help their bank and credit unions. A member said that they have a number of direct services and older American clients, and that security and online banking are big issues. The member said that their clients are frustrated by lack of customer service from app companies when they make a mistake and can't speak with anybody directly to get the help that is needed.

A member provided feedback regarding access and fairness. The member thanked the staff for the great presentation. The member said that COVID changed a lot of things as to access and fairness. The member said back in 2016 they launched a program called "Ready Set Bank", which was designed to teach older Americans about digital banking i.e., secure online banking. The member said that the videos have been well received and they learned four key points (1) That the older communities don't like to be lectured by younger adults, (2) partner with experienced organizations, (3) every customer touch point is a teachable moment, and (4) expand broadband access. The member concluded by saying that there is a critical interstation between elder and disabilities – Americans with Disabilities Act compliance.

Appraisal and Valuation Bias Session

Timothy Lambert, Senior Counsel, Office of Equal Opportunity and Fairness

Jessica Russell, Program Manager, Mortgage Data Assets, Office of Markets

During this last session of the day, the Office of Equal Opportunity and Fairness along with the Office of Markets provided an overview on the Bureau's work related to Appraisal and Valuation Bias. Following the presentation, Bureau staff sought to receive input from Board members.

Many members raised their concerns with discrimination and appraisals. A member thanked the CFPB for its work in combatting discrimination in this field. A member said that they have partnered with the NY Mortgage Coalition to do a root cause analysis of this issue, 2018 data found 75% of the field is male and 87% is white; this could be an additional focal point for the CFPB. A member said that there is a lack of awareness among communities of color about the appraisal industry as a professional opportunity. A member stated that in many instances these are small family-owned business where the likelihood of having a new entrant is small. Forging connections in these communities can be extremely difficult. A member said that Freddie Mac did a complete study of appraisal bias; looked at 12 million loan applications from 2015-2020. The member said that it looked at the percentage of homes where the appraisal came in less than the sale price and found that the number was 7.5% for White neighborhoods, 12.5% for Black neighborhoods, and 15.4% for Latino neighborhoods. The member said that looking at applications, the percentages where the appraisal came in less than the sale price was 6.5% for White applicants, 8.6% for Black applicants, and 9.5% for Latino applicants. A member said that an advocate group suggested that the Department of Housing and Urban Development (HUD) may be able to provide funding to community organizations such as Neighborworks or the Urban League to do appraisal D&I work, offer appraisal services, or keep a list of appraisers with whom they have a had good experiences. A member said that Freddie Mac looked at whether there were particular appraisers that seemed to be unusually biased. They found that the bias was broad-based and not limited to a few. The member said that there are opportunities to use that data.

Multiple members inquired about the complaint process and how it can collect data regarding appraisal bias. A member asked if it was possible to make appraisal a topic that is more clearly selectable in the consumer complaint portal. The member said that it is not clear where to make a complaint about appraisal issues. A member said that advocates think there is less of a chance that consumer will make complaints given this issue. A member said that it would be good to know if there were concerns about certain appraisers they may work with. The member added that they currently lack this information and asked if the CFPB could encourage HUD's Office of Fair Housing and Equal Opportunity to include appraisals as a topic on their complaint forms. The member said that an immigrant housing group also made this ask in the past. A member asked if the CFPB could encourage the Federal Housing Finance Agency (FHFA) through the PAVE Taskforce to amend the standard appraisal templates that are used to include what to do if the consumer feels the appraisal is problematic and maybe include a link to the appropriate complaint forms.

Several members discussed Automated Valuation Model (AVM). A member said that studies show AVMs are bias-free and showed no systematic bias. The member said however, the percentage error in Black neighborhoods was higher than the percentage error in White neighborhoods. A member said that AVM models get better and it seems clear that the correct direction to go is to rely more heavily on them. The member said that Fannie Mae and Freddie Mac already use AVMs for use of appraisal waivers. A member said that in the long run the right answer is to use AVMs.

Multiple members discussed education and training regarding the appraisal process. A member said that the CFPB is doing great work in educating consumers about their rights during the appraisal process. The member asked for more specifically tailored information, for instance, an application of Equal Credit Opportunity Act (ECOA) "Know Your Rights" brochures, specific to appraisals. A member said a fintech company suggested that the Federal Financial Institutions Examination Council appraisal subcommittee address training requirements and that everyone emphasizes the lack of diversity among appraisers. A member said that the NY Mortgage Coalition is doing work to create a black, Indigenous and people of color appraisal training program. The member said that approximately 200 people are participating in a workforce training program and targeted awareness campaign. The member said that highlighting the work of these types of groups and trying to replicate in other markets could be a preventative tool.

Additionally, during this session, the CAB Chair read a statement that a member shared with the CFPB regarding concerns with appraisal and valuation bias. Within this statement, the member highlighted having discussed this issue with industry, nonprofits, civil right groups, and various government agencies to get their feedback. The member thinks the information is still unclear to many around the path forward. The member recommends that the housing finance industry adapts as is needed to tighten up quality control and put policy changes into action, especially in minority communities. The member shared some recommendations such as (1) second look programs for undervalued, (2) unconscious bias training, (3) tech and data centric solutions, and (4) training the workforce and diversifying the workforce in appraisal. The member stated specific concerns around quality assurance and score cards and ensuring we as an industry are "getting it right," to eradicate bias in any valuation. The statement ended with the member highlighting the importance of finding a way forward with industry, nonprofits, and stakeholders to collectively improve and focus on this issue, which will be very important in making an immediate impact. A copy of the statement is available upon request.

Adjournment

Staff Director Manny Mañón adjourned the meeting of the CFPB Consumer Advisory Board on November 3, 2021 at approximately 5:00 p.m. EDT.

Certification

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

Manny Manon

Manny Mañón
Staff Director, Section for Advisory Board and Councils, Office of Stakeholder Management
Consumer Financial Protection Bureau

Leigh Phillips

Leigh Phillips
Chair, Consumer Advisory Board