OCTOBER 2013

Credit Union Advisory Council meeting summary

OCTOBER 2, 2013

cfpb Consumer Financial Protection Bureau

Meeting of the Credit Union Advisory Council Meeting

The Credit Union Advisory Council (CUAC) of the Consumer Financial Protection Bureau (CFPB) convened for its meeting at 8:50 a.m. on October 2, 2013 at the Harold Washington Library Center, located at 400 S. State Street, Chicago, Illinois.

Council members present:
Bernard Balsis, chair
Rose Bartolomucci, vice chair
John Buckley
Carla Decker
Ron Ehrenreich
Kevin Foster-Keddie
Helen Godfrey Smith
Mitchell Klein
Lily Lo
Maria Martinez
Camille Shillenn
Gregg Stockdale
David Wright

CFPB staff present:
Director, Richard Cordray
Deputy Director, Steve Antonakes
Julian Alcazar
Lisa Applegate
Marla Blow
Pete Carroll
Kelly Cochran
Sarita Frattaroli
Delicia Hand
Zixta Martinez
Dan Smith
Gary Stein

Welcome and meeting overview

Delicia Hand, CAB staff director

Carla Decker, CUAC Chair

Staff Director Delicia Hand along with Carla Decker CUAC Chairwoman called the CUAC meeting to order at 8:50 a.m. and reviewed the day's agenda.

CFPB progress update

Richard Cordray, CFPB director

CFPB Director welcomed the members to the meeting site, the Chicago Public Library. Since the last meeting, the CFPB has made further strides. Most notably, in July the Senate confirmed Director Cordray's appointment. Director Cordray introduced and welcomed Steven Antonakes, Deputy Director, and noted that the CFPB will continue to make excellent progress with his strong leadership and wise counsel.

This CUAC meeting in Chicago also coincides with a number of CFPB activities taking place in the area. There will be a public hearing about improvements and concerns regarding the CARD Act. Furthermore, Deputy Director Antonakes will hold a session at the Woodstock Institute to promote the Bureau's message.

CUAC comments and questions

- CUAC members engaged in a discussion about the CFPB updates. Members indicated that the cost of implementation of the new regulations is a real concern. They also stated that it is important to maintain a certain level of community interaction and to keep the new regulations consumer friendly.
- CUAC members expressed concern given the size, norms, and culture of credit unions, keeping implementation costs down and preventing compliance pressure from affecting the customer relationship.
- A CUAC member added that, with more regulations, small institutions have to take extra steps to adapt; as the cost of compliance goes up, larger institutions have a greater advantage.

Yearend review

Carla Decker, CUAC Chair

Delicia Hand, CAB staff director

CUAC Chairperson Carla Decker facilitated a discussion with the purpose of gaining insight and feedback on the year's focus and initiatives. In the past year, the CUAC has touched upon a number of topics, particularly policy-related issues, the mortgage rule, remittances, and data-driven studies. There is an interest to learn what was productive and what other issues need to be addressed.

CUAC comments and questions

- CUAC members expressed concern about the timeliness of their contribution. Once issues have reached the phase of public comment or a similar level, it seems that the input of committees is not as beneficial as it otherwise might be. The best time for committee contribution is about one year ahead of the proposed change, so that the members can offer first impressions of factors that may be burdensome or trivial. CFPB staff noted that this feedback is often received.
- A CUAC member noted that the Bureau could focus more on auto lending and the accompanying difficulties, especially for underserved consumers. CFPB staff noted while current conversations are encouraging, it is important to realize that vehicle purchase is a huge part of where consumers spend their money.
- A CUAC member suggested starting basic financial education, including credit cards and tax refunds, in schools.
- A CUAC member stated that regulation and transparency could be a helpful marketing strategy for credit unions.

CARD Act Report

Marla Blow, assistant director, Cards and Payments Markets

Marla Blow, assistant director, Cards and Payments Markets, began an overview of the CFPB's report on the effects of the CARD Act. The CARD Act was originally criticized because it was feared that it would make credit more expensive and less available, especially for subprime consumers. Consequently, the Report evaluated both the cost and availability of credit to consumers, with the following findings:

1. The total cost of credit dollars paid by consumers on a per dollar borrow declined from 16.5 to 14.5.
2. Fees, such as late fees and penalty fees, which are disproportionally paid by subprime consumers, have been curtailed.
3. Interest rate changes have diminished.
4. Annual fees have increased because a reduced percentage of borrowers are paying other fees. Annual fees are known by the consumer, which permits for a more transparent business model, even if it does add a bit of cost.
5. The interest rate on the card itself has been raised slightly.
6. Consumers are paying more of their balances than they used to. This can be attributed to coming out of the economic recession, more transparency in disclosures, and easier management with pay date requirements.

Bureau staff noted that consumer cards and small business cards are not directly comparable, since there are significantly fewer subprime consumers in small business and they do not appear to draw on as much of their available, unused loan line. The CARD Act has also made it more difficult for credit card issuers to give out credit-line increases automatically, because companies must now have information about a consumer's income before sending out information. This regulation has resulted in a decline in credit-line increases for consumers and small businesses. The Act also states that consumers under twenty-one years old must exhibit an independent availability to pay. Consequently, the number of cards issued to students has decreased.

Moreover, there is a trend toward credit card issuers' making agreements more readable—even though the Act does not require this—by reducing both the number of words in the contracts and the grade level necessary for comprehension. This embracing of the spirit of the Act is laudable.

A recent JD Power study reports increased consumer satisfaction with credit cards, and it names the CARD Act as one of the contributors to greater predictability and transparency.

The CARD Act report covered four other areas:

1. Rewards: This is a key marketing tactic and key decision point that leads a consumer to select a card. Future progress will be made to understand limitations and restrictions, if they are properly applied, and the nuances of redemption.
2. Grace periods: The CARD Act states that if a card offers a grace period, it must be at least twenty-one days.
3. Deferred interest: Consumers have the opportunity to take a 0% interest rate. If the full balance is paid within the deferred time period, then nothing occurs. If the balance is carried past the period, all the historically accrued interest becomes a part of the consumer's obligation. Overall, about 85% of consumers take advantage of this opportunity during the promotional period, and there is no problem. However, approximately 40% of subprime consumers end up paying the amount in its entirety.
4. Disclosure of minimum payment: The disclosure is the information that explains the length of time it would take the customer to pay a bill if only minimum payments were made for twenty-six months. This disclosure is a requirement on statements, but not for online payment. Because the disclosure encourages consumer accountability, it should be made more available online. It could potentially be an industry-wide requirement. The Bureau would like more information on related implementation costs and possible effects on small credit unions.

CUAC comments and questions

- CUAC members stated that CFPB could be more useful with marketing all of these CARD Act options to consumers, because of the budgets of big companies versus credit unions.
- A CUAC member offered input about the benefits of the CARD Act, which involves using credit cards to serve the underserved and unbanked markets. Protecting consumers through the CARD Act encourages customers to develop a savings mentality, boost their credit score, and cultivate other good consumer habits. CFPB staff noted that prepaid cards and credit cards can be meaningful for many people, especially in areas of deep poverty.

CARD Act field hearing

Richard Cordray, CFPB director
Steve Antonakes, CFPB deputy director
Delicia Hand, CAB staff director
Dan Smith, assistant director, Office of Financial Institutions

The CFPB held a field hearing in order to discuss the effects of the CARD Act, a law that was written and passed in order to make the credit card market more transparent for consumers. CUAC members joined the audience during the hearing. The CFPB issued a report on the Act's progress and heard feedback from consumers and other interested parties: Mary Dunn of Credit Union National Association; Bill Johnson of Citi Group; Ed Mierzwinski of US Public Interest Research Group; David Yen of Legal Assistance Foundation of Chicago; Lauren Saunders of National Consumer Law Center; and Sanja Sakhrani of Keefe, Bruyette & Woods.

Working lunch: public session debrief

Carla Decker, CUAC Chair
Delicia Hand, CAB staff director

CFPB staff facilitated a debriefing session and open discussion regarding the field hearing. There were a number of recurring themes of the comments: the movement toward transparency, marketing of specific cards, competition on rates and rewards, and fraud related to international travel and card use.

CUAC members discussed consumers whether consumers with subprime credit scores have access to credit at a suitable level. Although this consumer base is constrained, there is an accompanying market-participation question.

CFPB staff also opened the discussion to include topics that CUAC members would like to see addressed in the future. CUAC members suggested dispute resolution and mandatory arbitration as it relates to cards. Though dispute resolution may not be a factor in a consumer is selecting a card, it should be addressed to aid uninformed consumers. The members noted that arbitration should not be studied in isolation, but in groups of cases with similar facts, in order to evaluate issues and determine where arbitration is weighted.

Along with the 'other terms and conditions' in credit card contracts, rules about arbitrations are also being reviewed by CFPB staff, and they have found it challenging to make the right comparisons. It was noted that individually negotiated contracts are not feasible, because they are too burdensome and costly; template agreements are necessary and regulators will make judgments if the terms are excessive.

Delicia Hand introduced Dan Smith, the newest Assistant Director for Office of Financial Institutions. Mr. Smith hopes to coordinate and facilitate dialogue between industry and the CFPB. This includes receiving feedback and input at the earliest stage possible and relying on well-balanced, fact-based information.

CUAC comments and questions

- CUAC members suggested a systemic evaluation of consumer products and data-driven regulation. Systemic review is important, because oftentimes people use a variety of products to make ends meet each month; it is possible to miss potentially beneficial changes if only one product at a time is evaluated.
- A CUAC member noted that the work of the smart, brilliant, and skillful Bureau staff has led to improvements in preventing elder abuse and fraud, particularly with credit unions.
- CUAC members would like to see the Bureau continue to address the difficulties of loan applications, particularly with student loan debt.
- CUAC members shared some experiences that they have encountered with their credit union members. A common theme discussed was that credit cards help consumers in difficult times and are often a wealth-building benefit for consumers. More working-class and low-income people are in a status of repaying debt and are becoming more financially secure by decreasing their debt burdens. However, this also creates a market in which financial advisers tell credit union members that "plastic is bad."
- CUAC members are seeing a movement toward cash transactions. While they may be easier to budget, it makes consumer credit scores lower than before, which can be difficult for the customer in a loan application process.
- A CUAC member noted that there is a fear that consumers are seeing less relevance in banking systems; this opinion might be coming from financial advisers' demonizing

"plastic," as well as consumers' own initiative. However, "plastic" is necessary for many transactions. Customers, especially younger ones, are becoming more reliant on the purchasing instrument to control their finances and expenditures, rather than keeping track of balances.

Mortgage Rule Issues

Pete Carroll, assistant director, Mortgage Markets
Kelly Cochran, assistant director, Office of Regulations
Lisa Applegate, lead, Mortgage Implementation

Lisa Applegate, the mortgage implementation lead, and Kelly Cochran, the assistant director of Regulations, accompanied by Pete Carroll, the assistant director for Mortgage Markets, led an overview of the progress of different mortgage rules.

CUAC comments and questions

- A CUAC member stated that there has been an increase in supplement-software implementations around origination servicing in order to do as many qualified mortgages (QMs) as possible. Some products have been rebuilt to ensure compliance, which took the effort of approximately one hundred hours of staff time.
- A CUAC member stated that loan volume number would be affected by regulations about determining the status of QMs.
- Director Cordray was distressed that trade associations may not be effectively conveying information. He outlined the three factors for a QM:

  1. The consumer must have a debt-to-income ratio of less than 43%.
  2. Any loan that is eligible for purchase by Fannie Mae, Freddie Mac, or GSEs
  3. If an institution has less than $2 billion in assets and fewer than 500 mortgage loans a year that are in portfolio. This is the small creditor exception.

- CUAC members shared their personal experiences and were interested to learn how the rules play into the specifics of their individual programs. Members noted that many CDFIs are not necessarily aware of rules and exceptions and that there is opportunity to conduct

more outreach. The Bureau realizes the need to continue spreading awareness and appreciates the Council's feedback.

CUAC and Third Party Payment Transactors

Sarita Frattaroli, policy analyst, Credit Information, Collections, and Deposit Markets
Gary Stein, deposits markets program manager, Credit Information, Collections, and Deposit Markets

Sarita Frattaroli, a policy analyst for Credit Information, Collections, and Deposit Markets, and Gary Stein, the deposits markets program manager, facilitated a discussion of evaluating behaviors of merchant-based and consumer-based payment systems. The Markets Group is a collection of subject-matter experts specializing in monitoring markets and evaluating behaviors, which includes merchant-bank relationships, the underwriting process, and transaction systems. The Bureau staff is seeking perspectives from Originating Depository Financial Institutions (ODFI) and Receiving Depository Financial Institutions (RDFI) to evaluate how monitoring occurs.

CUAC comments and questions

- A CUAC member noted that police report filing was abandoned, because it gave the credit union negative publicity. Trying to protect consumers can also put an institution at risk. Merchants who engage in risk activity regularly utilize techniques that cause difficulty in identifying and tracking, so in some cases it is suggested that the customer close the account.
- CUAC members stated that they would like to see research on states that outlaw payday loans. CFPB staff noted that this relates to online lending, and this interesting and developing field is a current legal issue.
- CUAC members also indicated an increase in social media platforms and the prevalence of peer-to-peer sharing.
- CUAC members stated that there is a need to have reasonable controls in place to protect consumers.

Adjourn

CFPB staff thanked CUAC members for their time. The CUAC meeting adjourned at 3:50 p.m. CST.