

2023 June Hike the Hill Meeting with CFPB Director Rohit Chopra

Thursday, June 22

Time: 4:00 p.m. EST

Location: Consumer Financial Protection Bureau (CFPB)
1700 G Street NW, Washington, DC 20552

Thank you for participating in this opportunity to collaborate and discuss issues with our partners at the Consumer Financial Protections Bureau. Credit unions are relationally focused entities who also care about the ways our members are protected as consumers. We fight for many of the same things as the CFPB, like access to financial literacy, safe and secure banking, and financial wellbeing for underserved and vulnerable communities.

General Themes:

- Rules should be developed to reign in repeat offenders and not the institutions that are relationally focused and whose mission it is to serve marginalized and underserved communities.
- Changes to rules should be driven by research, data, and testing, and stakeholders should be given sufficient time to review and comment on proposed rules.
- Rules should be scaled or tiered appropriately based on complexity and asset size and smaller institutions should be given longer implementation timelines.

Specific Topic Breakdown:

Section 1071 of the Dodd Frank Act - CFPB finalized to create a new data set on small business lending

Challenge – While we appreciate the tiered implementation timeline and the threshold that exempts CUs that do less business lending, we are concerned that the estimations of how many CUs will fall under the implementation tier levels is underestimated. Specifically, small business loans under \$50,000 are not reported as commercial loans on credit union call reports but fall under the reporting requirements of the rule.

Questions:

- Would the CFPB consider modifying the rule to create a higher threshold of commercial loans if the rule did in fact result in a significantly higher number of

institutions being subject to the rule than anticipated in the commentary of the final rule?

- Alternatively, would the Bureau consider modifying the rule for credit unions and aligning the standard to NCUA's definition of a commercial loan?
- There is no current framework for how to implement this demographic data collection while keeping it separate from loan accounts in alignment with Reg. B.
- Will you be working in an interagency capacity to develop this framework? Can you share your thoughts around this?

Abusiveness Doctrine

Challenge – On April 3, 2023, the Bureau issued a policy statement on abusive acts and practices. This updated another policy statement that was in place for approximately 18 months. Changes in policy statements are challenging for smaller financial institutions which must review and update policies and practices. In addition, the fact that the FTC has a policy statement on unfair and deceptive practices that has been in place for nearly forty years and is materially different than the bureau's, which creates a challenge for credit unions.

Question:

- What steps might a financial institution take to ensure that they are aligned with the new policy statement?

Section 1033 of the Dodd Frank Act - Personal Financial Data Rights

Challenge - Consumer control over their personal data could improve the financial well-being of all Americans. Additionally, the CFPB's intent to create a competitive market, improve existing products and services, and encourage the development of new ones is aligned with credit unions' mission and commitment to serve their members. However, each state currently has its own standard for data privacy and while the intent is to give consumers more control over their data, many consumers might not fully understand the full scope of the information sharing they are authorizing.

Questions:

- How can the CFPB implement this rule without a Federal Data Privacy Standard?
- What steps does the CFPB plan on taking to ensure that consumers understand what information they are agreeing to share?

Automated Valuation Model

There have been a number of instances where the use of AVMs and or appraiser bias has resulted in racially biased appraisals. Many credit unions that utilize or plan on utilizing AVM in lieu of appraisals have indicated that they will use either Fannie or Freddie proprietary software.

Questions:

- Has the CFPB done any testing of these AVM models or other testing to ensure that they are in compliance with lending laws and regulations?
- What types of due diligence could be performed at the institutional level?

Credit Card Penalty Fees – New Proposed Rule

Challenge - When a member is late on a payment and pays a fee, most credit unions, unlike banks, do not apply penalty interest rates. Credit unions recoup the costs of administering credit card late payments by charging reasonable late payment fees of \$25 or less, for smaller institutions this fee is commensurate with the costs. Relational (or mission driven) financial institutions like credit unions are more likely to send reminders, contact members, and take other intermediary steps to help their members avoid late fees or negative impacts on their credit worthiness. In addition, credit unions do not have the same efficiency of scale that may reduce these costs for larger credit card issuers.

Questions:

- How will the Bureau tailor this rule for smaller financial institutions? Examples suggested by credit unions include higher safe harbor for community lenders that don't charge penalty interest rates.

General Questions

Tailored Rules - Thank you for your support and recognition of relationally focused financial institutions that serve vulnerable communities.

- *Can you provide some specific examples of how the Bureau has tailored rules in ways that create less of a burden on financial institutions like credit unions that regularly act in good faith?*

Overdraft Fees – The Bureau has put a significant emphasis on curbing overdraft fees.

- *Can you talk a little bit about the types of illegal practices you are seeing and the specific regulatory or statutory violations that might be taking place?*
- *What steps should financial institutions be proactively taking on the compliance front?*

Money Transmitters - More and more consumers are storing money with money transmitters. In certain cases, these funds can be uninsured and lightly regulated. The Bureau was expressly granted oversight of these non-regulated entities.

- *What steps is the Bureau taking to ensure that consumers are protected from fraud or losses in this space?*
- *What steps is the Bureau taking related to oversight of crypto currency, which is another area where consumers have potential exposure to financial harm?*

Artificial Intelligence – Financial institutions are increasingly adopting AI tools to perform analytics, assist in lending decisions and more.

- *Can you talk about some of the things that financial institutions should consider when adopting AI as it pertains to CFPB oversight.*

Examination trends –

- *What are some of the most common findings during examinations of supervised entities?*