

**2024 May Hike the Hill
Meeting with CFPB**

Date: Thursday, May 23
Time: 11:00 am 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 the Consumer Financial Protection Bureau. Credit unions are relationally focused entities that 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 economies of scale, complexity, and asset size and smaller institutions should be given longer implementation timelines.

Specific Topic Breakdown:**Closing Costs**

Challenge - We appreciate the opportunity to provide input as the CFPB considers potential rules around closing costs for home mortgage loans. Credit unions are committed to transparency and compliance to ensure a positive experience for borrowers. However, major overhauls to the mortgage lending process are extremely costly and burdensome undertakings and the Bureau has already overhauled the lender process following the passage of Dodd-Frank.

Questions:

- Would you anticipate that rulemaking would focus on non-lender related closing costs? What specific fees is the bureau looking at and under what authority would you regulate these fees?

- While not a closing cost, real estate agent commissions make up a significant portion of the cost of selling a home. Can you share the ways in which the CFPB might weigh in on behalf of consumers other than using UDAAP?

Overdraft and NSF Fees

Challenge - Overdraft Rules could impose significant challenges for all credit unions, placing a burden that could strain operations and their ability to serve consumers effectively. As the industry adapts to regulatory changes, credit unions stand firm in their commitment to safeguarding the financial well-being of their members and upholding principles of fairness and transparency. Credit unions' overdraft products have several consumer-friendly features that have led to a higher adoption-rate at some institutions.

Question: We don't want to have an ex-parte communication on the proposed overdraft rule, so would like to ask a general question that pertains to several regulations that the Bureau is responsible for. Does the Bureau consider different financial institution models, or asset size of institutions, when creating rules? For example, if the Bureau created a rule that applies to financial institutions between \$10 B and \$3.5 T, how would the Bureau scale the rule so it would not unfairly disadvantage the smaller institutions that said rule applied to?

Fair Credit Reporting Act

Challenge - The Bureau has indicated that it is considering proposals to clarify when certain marketing activities constitute furnishing a consumer report and, accordingly, are not permitted under FCRA. Indications are that a proposed rule would likely limit the circumstances under which a consumer report can help third-party users market to consumers. Credit unions already fall under numerous regulations related to data privacy at both the state and federal level and we have concerns that layering on new rules could result in statutes and laws that do not fit together cohesively.

Questions:

- How would the FCRA changes work in conjunction with personal financial data rights mandated under section 1033?
- Several states, including Oregon, have passed data broker laws. In Oregon the law exempts regulated financial institutions. Would you anticipate the Bureau to overlap, supersede, or exempt data broker in states where data broker laws already apply?
- What is the scope and purpose of updating the FCRA rules and is this discretionary rulemaking or is it mandated?

Abusiveness Doctrine - UDAAP

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. Frequent 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 Bureaus creates a challenge for credit unions.

Question:

- The UDAAP interpretation by the Bureau last April seems to be overly broad. In the May 9 CFPB Report highlighting frustration with credit card rewards programs, the Bureau seems to be outlining an argument that equates a number of credit card reward practices and frames them in the context of a UDAAP violation. While this would not necessarily have a significant impact on credit unions, we are certainly concerned about the application of UDAAP in instances where terms are in fact clearly disclosed. Can you provide some context in how the Bureau applies UDAAP in practice?

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?*

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 are the Bureau taking to ensure that consumers are protected from fraud or losses in this space?*
- *What steps are 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?*