

CFPB Outlines Nine Key Goals for the Next Two Years

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Financial Institutions

Yesterday, Consumer Financial Protection Bureau (CFPB) Director Cordray, in a [speech](#) to the Consumer Advisory Board (CAB), outlined the agency's strategic goals for the next two years, a period which roughly corresponds with the remainder of Director Cordray's term. At the same time, the CFPB issued a [fact sheet](#) which provides more details about the goals, states the CFPB's rationale for the goals, and, most importantly, identifies the tools the CFPB intends to use to achieve its goals. The goals are ambitious, but may be focused enough to be achieved within the next two years. As with his "[4D's](#)" [speech](#) delivered to the CAB almost exactly three years ago, yesterday's remarks are a blueprint for the CFPB's policy initiatives for the foreseeable future.

The goals focus on selected key markets regulated by the CFPB: mortgages, student loans, payday and installment lending, student loan servicing, consumer reporting and debt collection. Interestingly, the CFPB includes small business lending in this list, indicating increased activity in this area, particularly with respect to fair lending, and an expansive view of its own jurisdiction. Equally interesting is the relative paucity of goals relating to auto lending and credit card markets. Other highlights:

- Although fair lending runs through many of the articulated goals, it does not merit its own line item;
- With respect to mortgages and student lending, the focus is on servicing, rather than origination;
- With respect to consumer reporting, the focus is not simply on accuracy and disputes (which we might have expected), but also on the use of new sources of data to include underserved consumers in the traditional financial system;
- The CFPB plans to conduct broader and deeper analyses of household finances and consumer behavior, perhaps requiring even more pervasive collection of detailed consumer financial information;
- A new team will be established to study the small business lending market, and the CFPB hopes to begin accepting complaints with respect to small business lenders;
- The CFPB states that within the next two years, it plans to "initiate a rulemaking process with the goal of developing" rules for overdraft protection – indicating a slower timeline than many observers might have imagined;
- With respect to debt collection, the CFPB's focus appears to be on providing debt buyers with enough information to adequately substantiate the debts being collected. The CFPB

also plans to address through rulemaking practices engaged in by “first party” collectors – i.e., the original creditor. Finally, the CFPB emphasizes objectives other than “lawful” debt collector communications with debtors, such as “respectful” and “consumer-oriented” communications, suggesting a fundamental rethinking of how debt collection should be conducted; and

- The CFPB plans to move full steam ahead on proposing an arbitration rule that will deputize plaintiffs’ counsel to bring cases the CFPB could bring.

The CFPB Director and the fact sheet articulate these goals as particular outcomes the CFPB hopes to see emerge in particular markets, or what the CFPB “envisions” in each market.

1. Mortgages

- In his remarks, Director Cordray envisions a mortgage market where lenders serve the entire array of credit-worthy borrowers fairly, and where servicers have processes in place that result in fair and efficient outcomes for consumers.
- The fact sheet explains that the CFPB plans to achieve this goal by:
 - Working to ensure that the new Home Mortgage Disclosure Act rule is successfully implemented;
 - Using its supervisory and enforcement programs to ensure equal and fair (non-discriminatory) access to mortgage credit;
 - Focusing on implementation of servicing rules, protecting delinquent borrowers and ensuring that servicers are equipped to handle any future delinquencies fairly; and
 - Continuing to work with institutions to support implementation of the mortgage rules and begin to assess the effectiveness of significant rules.

2. Student lending

- Director Cordray envisions a student loan market where student loans are serviced in a way that is transparent and fair to help students repay their debts.
- The fact sheet adds that the CFPB wants servicers to act in a manner that is consistent with consumer interests, transparent, and fair, and plans to encourage these outcomes by:
 - Continuing its work with the Department of Education and other agencies to develop and implement recommendations that align servicer incentives with appropriate consumer outcomes, including improvements that ensure consumers obtain the full benefit of available payment options;
 - Holding servicers accountable for their legal obligations to consumers through supervisory and enforcement activity in coordination with its law enforcement partners; and
 - Evaluating possible additional policy responses, including potential rulemaking.

3. Consumer reporting

- Director Cordray envisions a consumer reporting market with better data that is more accurate and inclusive of more consumers.
- The fact sheet states that this goal should be supplemented by effective and efficient dispute management and resolution processes for consumers.

- The fact sheet adds that, to achieve these goals, the CFPB:
 - Will continue to examine and investigate consumer reporting companies and furnishers of consumer information, focusing on accuracy and dispute resolution processes, and will hold those institutions accountable for remedying any deficiencies;
 - Will use the information it gathers using outreach and various tools to assess options for cooperatively improving consumer reporting data;
 - May consider rulemaking around furnisher and consumer reporting accuracy, dispute resolution, and related issues; and
 - Will explore how alternative data is or can be used in the consumer reporting system to improve access to financial services.

4. Small business lending

- Director Cordray envisions a small business lending market free from discrimination and where consumers have equal access to small business lending.
- The fact sheet adds that the CFPB's focus will be enforcement of the fair lending laws and providing communities, governmental entities, and creditors with access to the data needed to identify the business and community development needs and opportunities of women-owned, minority-owned, and small businesses.
- The fact sheet adds that, to achieve these goals, the CFPB will:
 - Build a small business lending team and begin market research and outreach for a rulemaking on business lending data collection;
 - Build the infrastructure to intake and analyze small business lending complaints, subject to an assessment of feasibility; and
 - Continue to examine small business lenders for compliance with fair lending laws as part of its supervisory work. (We note that the CFPB used the term "continue" in the fact sheet, implying that fair lending examinations of small-business lenders already are underway)

5. Demand-side consumer behavior

- The CFPB states that it wants to foster a market where consumers are savvy about their own finances; have reliable places to turn to for the tools and skill building to increase their own financial capability; and community and public service providers integrate financial capability skill-building into their educational and service programs.
- The fact sheet adds that, to achieve this goal, the CFPB will:
 - Create consumer financial decision-making tools and build awareness of those tools;
 - Enable existing social service providers, youth services, and K-12 organizations to help more young consumers build financial skills; and
 - Conduct foundational research that financial educators can use to raise the effectiveness of educational and service programs and tools in improving consumer financial decision-making and financial well-being.

6. Household balance sheets

- The CFPB envisions a market where consumer education and policy decisions about household finances are based on a deep understanding of the evolution of households' balance sheets; how households' use of financial products changes over time; and how households make choices about money, and the effects of those choices on the lives of consumers.
- The fact sheet adds that, to achieve this goal, the CFPB will:
 - Initiate a research program of the factors that promote or inhibit the financial health of households by researching the dynamics of household balance sheets;
 - Continue to develop data resources that provide valuable insight about financial decision-making and the financial health of households while maintaining consumer privacy; and
 - Conduct several studies that use rigorous analysis to better understand the dynamics of household balance sheets.

7. Open-use credit

- The CFPB has coined a new term: “open use credit,” meaning credit “that is offered without an expectation that the loan will be used for a specific purchase,” such as to buy a home or a car, or to finance higher education. The term includes payday lending, overdraft, installment lending, title lending, and credit card lending.
- Director Cordray envisions an open-use credit market where payday and installment lenders rely on business models that succeed when consumers use credit as needed and are able to repay their debts when they come due.
- The fact sheet adds that, to achieve this goal, the CFPB will:
 - Continue the small-dollar rulemaking process with the goal of finalizing a rule that will protect consumers from “debt traps” associated with unaffordable loans;
 - Issue a proposal to define the larger participants in the installment lending market;
 - Initiate a rulemaking process with the goal of developing rules to make the overdraft market fairer and more transparent;
 - Use its supervisory and enforcement work to hold institutions accountable for deceptive marketing and illegal debt collection practices related to open-use credit products.

8. Debt collection

- Director Cordray seeks to foster a debt collection market where everyone who collects debts substantiates the debts they are collecting and communicates with debtors about their debts in a respectful, lawful, consumer-oriented manner.
- The fact sheet adds that, to achieve this goal, the CFPB will:
 - Initiate a rulemaking process with the goal of finalizing a rule that will establish rules to ensure that debt collectors (both first-party and third-party) treat consumers with dignity and respect, obtain and retain the information necessary to substantiate the debts they collect on, and provide consumers with appropriate information about their rights and the debt collection process; and

- Complement this rulemaking activity with supervision and enforcement.

9. Arbitration

- Director Cordray envisions a consumer financial marketplace where consumers will have the ability to effectuate their rights and hold institutions accountable for unlawful conduct.
- The fact sheet adds that the CFPB will propose an arbitration rule consistent with its arbitration study. The proposal under consideration provides that mandatory arbitration clauses do not apply to cases filed as class actions unless and until class certification is denied by the court or the class claims are dismissed in court.

The Bureau's announcement raises a wide range of questions about the Bureau's plans. If you have any questions concerning the material discussed in this client alert, please contact the following members of our Financial Institutions practice group:

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