MONEY HOUSE

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CFPB Goals Shift Focus Away From Mortgages, Relatively

In a speech this week to its Consumer Advisory Board the director of the Consumer Financial Protection Bureau (CFPB) laid out **nine goals** for the Bureau over the next two years. Richard Cordray said the goals represent the key areas where the Bureau hopes to make substantial progress. They "are statements about particular outcomes in particular markets that we want to drive toward fulfilling, rather than descriptions of the tools that will be used." The treatment of the mortgage market is surprisingly light compared to the rest of the list of goals and largely consists of 'old news' to mortgage market participants.

In a related press release the Bureau nailed the general goals outlined by Cordray down to specific actions it intends to pursue. Below we present the goals as they were presented to the Advisory Board, a summary of the policy specifics from the CFPB's press release and, where relevant, remarks about them from Barbara S. Mishkin's article in Ballard & Spahr's *CFPB Rulemaking blog*.

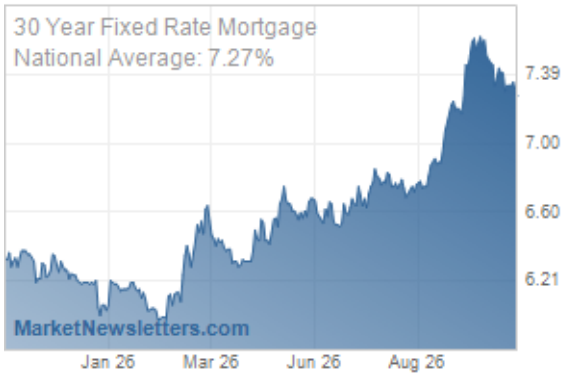
CFPB envisions a mortgage market where lenders serve the entire array of credit-worthy borrowers fairly, and where servicers have processes in place that result in fair and efficient outcomes for consumers.

With a market size of approximately $10 trillion, the mortgage market is by far the largest consumer credit market. Following the housing crisis CPFB was charged with protection against another such a meltdown and has engaged is significant rulemaking affecting lenders and mortgage services. Going forward investments are needed to ensure the Bureau has the right information to prevent the next crisis, and a real-time and comprehensive understanding of the mortgage market.

Of the three million consumers who obtain a mortgage to purchase a home each year **roughly half fail to shop** for that mortgage even though it could result in substantial savings. **Discrimination** remains a significant problem for credit access and mortgage pricing. At the same time, over 1.5 million consumers are struggling to pay their mortgages and servicers often lack incentives for sufficient investment in customer service and compliance.

Over the next two years CFPB will work to ensure the new **Home Mortgage Disclosure Act** rule is successfully implemented and its supervisory and enforcement programs will work to ensure equal and fair access to mortgage credit. There will also be a particular focus on implementation of servicing

National Average Mortgage Rates



Mortgage News Daily

	Rate	Change	Points
30YR Fixed	7.27%	-0.02	0.00
15YR Fixed	6.92%	-0.03	0.00
30YR FHA	6.90%	-0.01	0.00
30YR Jumbo	7.55%	0.00	0.00
7/6 SOFR	6.78%	-0.10	0.00
30YR VA	6.91%	-0.01	0.00

Rates as of: 10/30

MBS and Treasury

	Price / Yield	Change
MBS UMBS 6.0	99.79	-0.03
10 YR Treasury	4.9207	-0.0092
30 YR Treasury	5.2847	-0.0235

Pricing as of: 11/2 8:04AM EST

Recent Housing Data

		Value	Change
Mortgage Apps	Oct 21	195	+3.39%
Building Permits	Sep	1.4M	+0.43%
Housing Starts	Sep	1.22M	-4.24%
New Home Sales	Sep	676K	-1.17%
Pending Home Sales	Aug	71.2	0%
Existing Home Sales	Oct	3.99M	+0.25%
Builder Confidence	Oct	29	-9.38%

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rules and ensuring that servicers are equipped to handle any future delinquencies fairly.

CFPB envisions a student loan market where loans are serviced in a way that is transparent and fair to help students repay their debts.

There is currently nearly $1.2 trillion in student debt owned by 40 million consumers. Nearly half of the amounts outstanding are not currently in repayment but over a quarter of borrowers are either in default or struggling to make payments.

There are two types of student loans: federal loans sponsored by the federal government, and private student loans. Consumers obtain a loan from an originator while servicers manage borrowers' accounts. Servicers are the borrowers' primary point of contact, and borrowers have no choice of servicer. The Bureau sees consistent signs of problems with servicers who lack sufficient incentives to change harmful practices.

The Bureau will continue its work with the Department of Education and other agencies to develop and implement ways to align servicer incentives with appropriate consumer outcomes, including improvements that ensure consumers obtain the full benefit of available payment options and will hold servicers accountable for their legal obligations to consumers. The Bureau will also evaluate possible additional policy responses, including potential rulemaking.

The Bureau envisions a consumer reporting market with better data that is more accurate and inclusive of more consumers.

The CFPB says it envisions a consumer reporting system where furnishers provide and consumer reporting companies maintain and distribute data that are accurate and inclusive of more consumers. This should be supplemented by effective and efficient dispute management and resolution processes for consumers.

Roughly 26 million consumers lack a credit report and an additional 19 million have insufficient information for a credit score, which makes it difficult for these consumers to obtain credit from mainstream lenders.

There is evidence to suggest that consumer reporting companies and the creditors who provide data lack incentives and under-invest in providing accurate records. Roughly 20 percent of consumers in a Federal Trade Commission study found an error in at least one of their credit reports; 5 percent had errors of a magnitude that could negatively impact their score and result in less favorable loan terms. Over 75 percent of consumer reporting complaints that the CFPB receives relate to consumer reporting accuracy.

Over the next two years 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, both assessing options for cooperatively improving consumer reporting data but not ruling out new regulations around furnisher and consumer reporting accuracy, dispute resolution, and related issues.

CRPB envisions a market free from discrimination and where consumers have equal access to small business lending.

While most of the CFPB's work focuses on credit markets that serve consumers, Congress also directed it to monitor certain aspects of the market for small business lending. Small business loans take several forms, including term loans, credit lines, and business credit cards and lenders include both small and large banks and nonbanks such as online or marketplace lenders.

The small business lending market is vast and complex, with a market size of over $1 trillion, serving over 28 million businesses and currently no federal agency collects comprehensive data on small business loans. Existing research suggests that significant discrimination against minorities may exist in this lending market.

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The Bureau intends to build a small business lending team and begin market research and outreach for a rulemaking on business lending data collection.

Mishkin says her firm has previously reported about indications that CFPB is taking a growing interest in small business lending and the inclusion of that area in its near-term priority goals confirms it. "In describing how it intends to reach its goal for small business lending, the CFPB lists its plans to build a small business lending team and begin market research and outreach for rulemaking on business lending data collection, build an infrastructure to intake and analyze small business lending complaints, and continue to examine small business lenders for fair lending compliance."

The Bureau envisions a market where consumers are savvy about their own finances, and have reliable places to turn to for the tools and skill building to increase their own financial capability; and aA market where consumer education and policy decisions about household finances are based on an understanding of how households use financial products and make choices about money and the effects on their lives.

Compared to the amount spent in the U.S. each year on consumer financial marketing very little is spent on consumer education. Only 17 states require students to take a high school course in personal finance. With these two goals in mind the Bureau will create consumer financial decision-making tools and build awareness of the Bureau's tools to provide consumers with the resources they need to make important financial decisions based on a deep understanding of household balance sheets and how households use of financial products change over time

CFPB 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 Bureau defines open-use credit as any credit product that is offered without an expectation that the loan will be used for a specific purchase. Open-use credit may be or unsecured and the market encompasses a range of financial products such as credit cards, overdraft products, payday loans, auto title loans, and installment loans.

CFPB says it is possible for loan products to be structured to allow lenders to succeed even when many of their borrowers cannot afford to repay their loans. In the payday loan space over 80 percent of payday loans are rolled over or followed by another loan within 14 days and half are in a sequence at least 10 loans long. Perhaps as many as 12 million consumers, use payday loans over a 12-month period and their lenders collect about $8.7 billion annually in interest and fees. Between 1 million and 2 million consumers use auto title loans each year and pay approximately $3 billion annually in fees. The consumers who find themselves in these types of loans typically come from low- and moderate-income households and are disproportionately female and persons of color.

Overdraft products are also in this category. Most overdraft fees are paid by a small fraction of bank customers typically low- and moderate-income households. Eight percent of customers incur nearly 75 percent of all overdraft fees, and the median transaction amount that causes an overdraft fee is just $50.

The Bureau will continue the small-dollar rulemaking process to finalize a rule that will protect consumers from debt traps associated with unaffordable loans. It will also hold institutions accountable for deceptive marketing and illegal debt collection practices related to open-use credit products.

Mishkin says the CFPB has previously indicated it had not decided whether to engage in overdraft rulemaking, however, it now appears that the CFPB has decided to move forward with it. "In discussing how it intends to reach its goal for open-use credit, the CFPB stated that it 'will initiate a rulemaking process with the goal of developing rules to make the overdraft market fairer and more transparent'."

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The Bureau, she said, also confirmed that it plans to propose a "larger participant rule" for the installment lending market as another way of reaching its goal for open-use credit. In the past it only said it was considering such a rule.

The Bureau envisions 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.

Around one-third of consumers with credit reports have one or more collections items on their credit reports with an average debt of $5,178 and CFPB receives its highest volume of complaints-around 80,000 per year-about collections. Consumers confront a number of problems in this area. Debt may be sold several times increasing the possibility that collectors do not have complete or accurate information about the debt. Debt collectors, who make money based on those collections, lack incentive to conform to the legal protections afforded consumers, and no customer service relationship exists between the parties.

The Bureau says it intends to initiate a rulemaking process to establish clear rules of the road to ensure that both first and third-party debt collectors treat consumers with dignity and respect, maintain accruable records and provide consumers with appropriate information about their rights and the debt collection process. Rulemaking activity will be supplemented by rigorous supervision and enforcement of current rules.

The Bureau envisions an entire consumer financial marketplace where consumers will have the ability to effectuate their rights and hold institutions accountable for unlawful conduct.

This goal relates specifically to arbitration. CFPB says in recent years many financial contracts have included a "pre-dispute arbitration clause" stating that either party can require that disputes be resolved through arbitration, i.e. in a procedure outside the courtroom. Where such a clause exists, either side can generally block lawsuits, including class actions, from proceeding in court.

The Bureau said it found arbitration clauses in contracts for a variety of finance products and services and in anywhere from half to 99 percent of all the markets studied including in 53 percent of the contracts in the credit card market and 86 percent of contracts with the largest student loan lenders. Almost all arbitration agreements expressly prohibit class arbitrations and three out of four consumers the CFPB surveyed did not know they were subject to an arbitration clause.

Under its congressional authority to regulate arbitration clauses the Bureau will propose a rule that will further enable consumers to utilize their rights and hold institutions accountable for unlawful conduct. Congress provided the Bureau with the authority to regulate the use of arbitration clauses if the Bureau finds that doing so is in the public interest and for the protection of consumers, and if the findings in such a rule are consistent with the results of the CFPB's study.

Mishkin said that the arbitration discussion signals that CFPB is on track to implement proposals that would prohibit class action waivers in arbitration agreements.

She notes that while the CFPB notes that its strategy focuses on its forward looking priorities they intend to see that its well established and ongoing work streams will work through to completion. That includes their fair lending oversight of indirect auto loans and a probable rule on prepaid credit cards this spring.

Our Goal is to help our Wholesale Partners grow their business.

Let our highly experienced reverse mortgage team help your company grow its HECM business.

Chris Munson

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