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A plan to give CFPB's new task force some teeth

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The Consumer Financial Protection Bureau recently announced the composition of its new task force, aimed at improving and strengthening federal consumer financial laws and regulations.

The task force's five members are all eminently qualified, with more than 150 years of academic, government and private-sector experience in consumer financial law and policy between them. But experience and professional distinction is no guarantee of productivity.

To be successful, the task force will have to make judicious use of the limited time (around a year) and staff at its disposal. With 15 enumerated consumer laws and important parts of other financial laws within the CFPB's remit, it will face multiple competing demands on its attention.

The agency should prioritize those long-term issues and procedural questions that it is less likely to consider in its day-to-day supervisory, rulemaking and enforcement activity.

Some of these issues — the uses and protection of consumer data, the role of cost-benefit analysis in CFPB rulemaking and the ranks of nonprime financial consumers — are especially urgent and pervasive.

Consumer data is transforming financial services by making it easier to qualify for credit, manage one's personal finances, compare options and switch providers. But the emerging ecosystem of data sharing, third-party authorization, and data processing is already challenging the existing rules for consumer disclosure, provider liability and fair-lending evaluations.

It will fall to the CFPB, as the federal consumer financial regulator, to promote adaptation to the new market environment. The European response, known as open banking, is well-intentioned but fundamentally top-down and bureaucratic.

Financial institutions in Europe have been slow to comply, and the system's resilience to data breaches is as yet untested.

The CFPB has an opportunity to instead foster a bottom-up approach, characterized by cooperation between banks, payment providers and data aggregators. Unlike government officials, these market participants have the data and economic incentive to better serve consumers within the parameters of the law.

Cost-benefit analysis is an essential component of rational policymaking. Because this is a world of imperfect human beings and limited resources, regulators must make informed estimates of whether a proposed regulation will have a net positive or negative effect.

The CFPB took an important first step when it announced the creation of an office of cost-benefit analysis 18 months ago. The task force should advise it on how to improve its methods for evaluating the costs and benefits of existing and proposed rules.

It is widely recognized, for example, that even desirable consumer credit regulation can make credit more expensive by increasing providers' compliance costs and litigation risk. This impact of regulation is often not evenly distributed among borrowers.

Rather, lower-income and higher-risk consumers bear the brunt because serving them is usually costlier. In the face of new regulatory burdens, lenders withdraw credit from these borrowers first.

The task force should explore how the CFPB can better assess the distribution of costs and benefits among consumers. It might place a premium on policy changes that make the most vulnerable better off, while axing regulations that might especially hurt access by those consumers.

The task force must also get a grip on America's persistent financial inclusion problem. Much evidence shows that many consumers have, at best, limited access to financial services: more than eight million households lack a bank account, according to the Federal Deposit Insurance Corporation.

Further, a CFPB study found 45 million Americans have no or insufficient credit histories. And among those who do have credit scores, FICO found 28.2% are subprime, meaning they face fewer and costlier credit options than other borrowers.

Most people do not believe that the government should subsidize credit. Nor can public policy do much to change the ways of those who borrow irresponsibly.

Werner Loots, the bank's first head of transformation, is helping the bank redesign how work is done, then streamlining and digitizing as much as possible.

But policymakers can create an environment in which lenders innovate and compete vigorously, broadening the range of products to which even risky borrowers have access, at prices that most of them can afford. The task force should offer a blueprint for how to craft such choice-maximizing consumer-credit policy.

When the National Commission on Consumer Finance issued its report in 1973 (which inspired the CFPB's new task force), it anticipated many of the structural changes that have since transformed U.S. financial markets: the rise of credit cards, the opening up of bank charters, the growth of nonbank lenders and the decline of interest-rate controls.

The Commission's report may have ruffled some feathers, but it proved prescient in its analysis and many of its key recommendations. The new CFPB task force should approach its mission in a similarly truth-seeking and future-oriented spirit.

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