DRAFT / DELIBERATIVE / DO NOT CITE

Key	↑ accepted	↓ rejected	? further discussion

Jeff

#		
	1. Supervision	
117.	? further discussion	End the practice of declaring and treating supervisory letters issued to examined institutions as proprietary information belonging to the CFPB.
118.	? further discussion	Clarify the definition of service provider currently described in CFPB Compliance Bulletin and Policy Guidance 2016-02 to make it clear that CFPB limits the definition of service provider found in section 1002 (26) of Dodd-Frank to mean an entity acting as an agent of a covered person (financial service provider) with a customer facing role. And amend the definition of service provider within Dodd-Frank to reflect the same.
119.	? further discussion	Focus CFPB supervisory exam activity on the determination of whether or not an examined entity is in compliance with statutory provisions and end the practice of reviewing, assessing, and grading an examined entities compliance management system except for situations where federal statute requires a compliance management system.
	2. Regulatory Principles	
120.	↓ rejected~~?~~ ~~further discussion~~	Improve clarity of CFPB created regulations so terms are defined consistently across different regulations (consistent with statutes) and simplify the regulations for ease of interpretation, application, and compliance. Example: 'days' vs. 'business days.' - These principles will be adopted into preamble language for this section.

Formatted: Bulleted + Level: 1 + Aligned at: 0.25" + Indent at: 0.5"

#		
	1. Bureau Evaluation	
31.	Ross ↑ accepted	Develop metrics for measuring overall effectiveness of the Bureau. This includes consumer welfare broadly defined (inclusion, competition, innovation, prices, etc.) and not just consumer protection narrowly defined (minimizing fraud, etc.). Tie this to the Bureau's objectives as defined in DFA. Public communication of these measures should be robust. (member) - Talk in preamble about the importance of measuring things overall, give them an attaboy for the work they've done on improving measures, and encourage continuing in certain directions – measurements / developing measurements for access/inclusion/competition - Instead of 'narrowly defined,' say 'and not just Bureau activities/actions' - Ross to rewrite and share again
	2. Competition	
6.	Alex ↑ accepted	Conduct selective case retrospectives to identify the market impacts of Bureauits cases and assess the costs and benefits those impacts. Answer the question: How do the precedents that are established by those cases affect lending products today and in the future? (member) - Groups of similar cases (by market? Auto/etc.) - Model on what FTC does selectively in mergers side (hospital mergers)
30.	Jean ↑ accepted	The Bureau should research the effect of state creditor licensure laws for covered entities on whether the burden and time for licensing approval create unwarranted barriers to entry. (member) "States should consider modeling their rules after [principles of the UCCC]"
	3. Credit Reporting	
124.	Dave ↑ accepted	Research the problems of consumer reporting for accounts in bankruptcy, similar to the prior recommendation of the ABI Commission on Consumer Bankruptcy. ~~Note that Congress likely would have to resolve the issues, as the Bureau does not have jurisdiction over the Bankruptcy Code.~~ (staff) - Short run: issue guidance, amend Reg V, etc. - Immediate guidance option: endorse following Metro 2 guidance in the meantime as safe harbor - Long run: something from the outcome of the research - Could also be mentioned in the FTC study renewal rec
49.	Jean ↓ rejected	The Bureau should also research security freezes, including consumers' ability to lift a freeze and place a freeze at all three major credit bureaus, as well as how freezes compare to credit locks and if consumers readily understand the difference. (State engagement)

Formatted: Font: (Default) Calibri, Font color: Black, Complex Script Font: Calibri

Formatted: List Paragraph, Bulleted + Level: 1 + Aligned at: 0.25" + Indent at: 0.5"

Formatted: Font: (Default) Calibri, Font color: Black, Complex Script Font: Calibri

Formatted: List Paragraph, Bulleted + Level: 1 + Aligned at: 0.25" + Indent at: 0.5"

Formatted: List Paragraph, Bulleted + Level: 1 + Aligned at: 0.25" + Indent at: 0.5"

Formatted: Font: (Default) Calibri, Font color: Black, Complex Script Font: Calibri

		- Could be rolled into the research rec on FTC credit reporting study if necessary, but directionless right now.
126.	Jean accepted	Consider class action limitations for FCRA: The recommendation would be to include class action limitations in the law to bring it in line with other similar laws.
	4. Discrimination	
36.	Alex rejected	The Bureau should review recent reports of redlining and refer companies to Supervision or Enforcement, as appropriate. - The Bureau already does this
121.	Alex accepted	Congress should amend the ECOA to include disability as a prohibited basis. - Bureau should conduct research on the viability of this and then report/recommend to Congress. Research/collect data on this first to ameliorate data concerns in original ECOA history issues. - Look at holes in ADA that ECOA can fill, specifically looking at issues around machine readability and other things.
122.	Jean rejected	The Bureau should require collection of demographic data for all financial products like HMDA requires. - Unintended consequences
	5. Inclusion	
15.	Jean accepted	The Bureau should conduct ~~ongoing~~ a program of regular studies of the cost of extending credit in ~~each~~ key product, market~~s, so that states know how rate caps will affect the availability of credit.~~.
53.	Alex accepted	Study how to facilitate creditors' access to credit report information of recent immigrants from their home country. - Unclear why – may be AML, may be prudential regulator issues, etc. - We know this is a problem but we don't know why
	6. **Regulatory Principles**	
90.	Ross accepted	Regulators should create a unified regime for innovative technologies providing services similar to banks (REF: 5c, from federal engagement)
91.	Ross	Regulators should issue more regulatory guidance, including issuing FTC report on "40 Years of Experience with the FCRA" as commentary to Regulation V. (REF: 2e, from federal engagement).

Formatted: List Paragraph, Bulleted + Level: 1 + Aligned at: 0.25" + Indent at: 0.5"

Formatted: Font: (Default) Calibri, Font color: Black, Complex Script Font: Calibri

Formatted: Bulleted + Level: 1 + Aligned at: 0.25" + Indent at: 0.5"

Formatted: Font: Not Bold

Formatted: List Paragraph, Bulleted + Level: 1 + Aligned at: 0.25" + Indent at: 0.5"

Formatted: Font: (Default) Calibri, Font color: Black, Complex Script Font: Calibri, Bold

	accepted	
92.	Ross ↑ accepted	Regulators should continue to identify and focus on opportunities to coordinate regulatory efforts (REF: 2f. from federal engagement)
93.	Ross ↑ accepted	Federal regulators should improve their coordination and MOUs to avoid duplicative and burdensome supervision and examination of covered entities. ~~Potentially adopt FinCEN's approach to coordination.~~ (State engagement) - FinCEN gets many reports from different regulators and posts them on a central repository - Evaluate whether 90, 92-93 can or should be combined
94.	Ross ? further discussion	Wherever possible the Bureau should consider conducting automated or data-based examinations, similar to how institutions have automated their internal reviews. The Bureau has been experimenting with new methods of remote exams during the pandemic and is evaluating their efficacy and efficiency and should consider adopting similar procedures going forward. The Bureau should also consider streamlining examinations for entities with a demonstrated track record of high compliance or strong internal CMS controls. (State engagement) - Bureau ought to be the leader - Can wait until we speak with Peggy Twohig about what currently happens to strengthen this recommendation - First point approved, Peggy will help us evaluate second.
95.	Ross ↑ accepted	The Bureau should continue to increase dialogue with state regulators to bridge knowledge gaps and streamline regulation. (State engagement)
96.	Ross ↑ accepted	Because of the need for The Bureau should rethink overall approach to regulation, endorsing a principles-based regulation wherever possible, with sufficient flexibility for crises and change. (member)
97.	Ross	The Bureau should create rules that are updatable, adaptable to developing threats, and periodically reviewed. Regulation should be ~~process~~principles-based rather than a specific set of requirements. (member) - Combine with 96 - Strike this as a rec but use these ideas as preamble for the section on regulatory principles
98.	Jean ↑ accepted	The Bureau should ~~streamline~~ review credit advertising disclosure requirements, especially streamlining ~~replacing~~ advertising trigger terms, with the purpose of ~~with a requirement to~~

Formatted: List Paragraph, Bulleted + Level: 1 + Aligned at: 0.25" + Indent at: 0.5"

Formatted: List Paragraph, Bulleted + Level: 1 + Aligned at: 0.25" + Indent at: 0.5"

Formatted: List Paragraph, Bulleted + Level: 1 + Aligned at: 0.25" + Indent at: 0.5"

		avoiding misleading advertising of present terms and to require presenting additional information necessary to prevent deception. (member) - This is a principles-based rule - Jean will include several examples of illogical trigger terms in the preamble
99.	Jean rejected	Research whether the credit advertising rule can benefit from a more flexible principles-based interpretation. (member) - Subsumed by 98
72.	Jean rejected	The Bureau should address deceptive advertising by lenders offering reverse mortgages, such as deceptive "no payment" claims, when continued consumer payments of taxes and insurance are required. - Makes sense, but not ideal for a Taskforce recommendation
	7. Regulatory principles in times of emergency	
100.	Ross accepted	Clarify if necessary that ~~i~~In case of a declared emergency and where the Bureau identifies that compliance is impracticable, the Bureau ~~should have~~ has the authority to issue exceptions that are binding on itself and the courts, especially related to statutory deadlines. Consider writing these emergency provisions into future rules where applicable. (member) - Jean to tweak wording
101.	Ross accepted	Clarify if necessary that ~~i~~In case of a declared emergency and where the Bureau identifies that compliance is impracticable, the Bureau ~~should have~~ has the authority to issue exceptions to state law that are binding on relevant parties. For example, the Bureau has authority during a period of national pandemic to temporarily suspend the operation of state laws that require in-person real estate closings. (member)
102.	Ross rejected	~~In case of a declared emergency, a signature that complies with ESIGN should be found compliant in all cases. (member)~~ - Subsumed in #101
	8. Federal Engagement	
111.	Ross rejected	The Bureau should determine the extent to which entities such as debt collection agencies and credit bureaus differ from other actors in the financial services market and determine whether additional regulation is needed to protect consumers. - Bureau already does this
112.	Ross rejected	The Bureau should study abuses by nationwide mortgage servicers. - Bureau already does this

Formatted: List Paragraph, Bulleted + Level: 1 + Aligned at: 0.25" + Indent at: 0.5"

Formatted: List Paragraph, Bulleted + Level: 1 + Aligned at: 0.25" + Indent at: 0.5"

Formatted: Font: (Default) Calibri, Font color: Black, Complex Script Font: Calibri

Formatted: List Paragraph, Bulleted + Level: 1 + Aligned at: 0.25" + Indent at: 0.5"

Formatted: List Paragraph, Bulleted + Level: 1 + Aligned at: 0.25" + Indent at: 0.5"

Formatted: List Paragraph, Bulleted + Level: 1 + Aligned at: 0.25" + Indent at: 0.5"

Formatted: List Paragraph, Bulleted + Level: 1 + Aligned at: 0.25" + Indent at: 0.5"

Formatted: List Paragraph, Bulleted + Level: 1 + Aligned at: 0.25" + Indent at: 0.5"

DRAFT / DELIBERATIVE / DO NOT CITE

Potential Drops from List

63.	Defer	The Bureau should establish a standard system/procedure for mortgage servicing transfers to avoid errors and problems that arise when transfers occur. FHFA is working in this area but it might be appropriate for CFPB. Unless Bureau has specialized knowledge of this issue, we should defer to FHFA
64.	Defer	Create a central national level of property/mortgage depository-recordation. Unless Bureau has specialized knowledge of this issue, we should drop, unless we have resources to become experts. A private centralized mortgage recordation system now exists.
65.	Defer	Loss mitigation requires an "application" from the consumer. Often, consumer/mortgage servicing interactions naturally move into mitigation activity and this puts services in jeopardy so clarification of the application rule might make servicers more likely to be helpful to consumers. Is the application requirement a beneficial rule to the consumer? Would need research to determine whether this is a regulatory issue or something else.
67.	↑ Rescued!~~Defer~~	Create a safe harbor for the use of foreign language mortgage materials that will protect from CFPB English/foreign language regulations. I don't understand this; can anyone else speak to its merits?. - 2 points: ○ "best efforts at translations" – getting sued if they mistranslate things on accident ○ "providing materials in all languages that you advertise in" – if you want to advertise a product in one language, do you have to have every single piece of info in translation? - Use basic principles of deception – you can't use the foreign language to undermine/obscure a point made in English
69.	defer	Require a life expectancy set aside to pay for tax and insurance reverse mortgages. This seems to require a reverse mortgage borrower to pay estimated taxes and insurance for life in advance.
70.	defer	Add educational requirements to include impact on heirs for reverse mortgages. Federal warnings that taking out equity in home now will leave nothing for heirs does not strike me as the government's role.
71.	defer	Consider additional consumer protection rulemakings in reverse mortgages. Too vague for action.
127.	defer	Combination of (personalized) Just-in-time disclosures with license requirements for certain securities trades or certain consumers deemed to be vulnerable. [AT: Query whether Bureau has jurisdiction over this activity. See 12 U.S.C. § 5481(a)(viii).]
131.	defer	Publish CID responses/decisions. Needs clarification of CID responses. Responses from company receiving CID? Motions to quash and decisions are now public.

Formatted

Formatted: List Paragraph, Bulleted + Level: 1 + Aligned at: 0.25" + Indent at: 0.5"

132.	defer	State AG enforcement of CFPB rules - good idea? Needs clarification; AGs now have authority to enforce CFPB rules, I think.
52.	defer	The Bureau should have full GLBA authority. Needs research as to reason DFA limited authority to Privacy Rules. FTC seems to have a solid handle on Safeguards. Is this important?
134	defer	Create a forum for financial institutions to share their successes, failures, and experiences working with regulators to comply with consumer financial protection law. This would allow FIs to know what activities have passed regulatory scrutiny elsewhere and to share results from experimentation in the market. The emphasis should be on non-competitive, anonymous, frank discussion of problems and solutions in the marketplace and their regulatory oversight. Does this raise antitrust concerns?
77.	↑ Rescued!~~defer~~	The Bureau should have jurisdiction over car dealerships (REF: 6a). Most consumer issues with car dealerships is with dealers in their role as merchants, not creditors, where their involvement in credit decision is minor. FTC is well situated to handle both credit and UDAP. FTC does not object to current shared jurisdiction. Todd: It is the opinion of the Taskforce that there is no justifiable reason to treat auto dealers differently from other retail sellers and it is the view of the Taskforce that they should be treated equally. This could be done by giving sole jurisdiction to the FTC or by giving shared jurisdiction to the FTC and the Bureau. Agencies could enter into an MOU to avoid duplicative enforcement. A distinction should be drawn between lenders and retailers who only handle the marketing and sales of a product, not the financing of the product. - Jean and Bill to fight it out in the alley between the Bureau and the FDIC
114.	defer	Bureau has a tremendous research office and should utilize Office of Consumer Response for any information that has not been published. Likewise, the Bureau should look at the substantive outcomes of consumer complaints, such how often complaints result in meaningful change (e.g., a refunded fee or fixing a credit report), and whether different institutions are responding to complaints differently. Is this currently covered in regular reports on consumer complaints?
113.	defer	The Bureau should consider looking at dark patterns that may steer people to options that are not in their interest. Can someone explain this?
113.	defer	The Bureau should consider whether disclosures are working. Duplicative.
115.	defer	The Bureau should review the levels of restitution it is obtaining for consumers and how that has changed over time. Duplicative.
107.	defer	The Bureau should consider its approach to student loans and how it works with the Department of Education. Student loans are made to some of the most vulnerable borrowers, who are also actively trying to improve their financial positions. The Bureau should consider its authority to oversee ED-related loans. Not clear what Bureau should be doing that it is not doing.

Formatted: Font: (Default) Calibri, Font color: Accent 1, Complex Script Font: Calibri

Formatted: List Paragraph, Bulleted + Level: 1 + Aligned at: 0.25" + Indent at: 0.5"

Formatted: Font color: Accent 1