

May 2023

The CFPB's Commitment to Racial Equity

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Summary

An analysis of the CFPB's work to reach the goals outlined in its 2022 Racial Equity Action Plan.

Introduction

At the beginning of his term, President Biden directed¹ each federal agency to create and implement a racial equity action plan focused on championing racial equity throughout the work of the federal government. In early 2022, Public Citizen released a report² highlighting the racial equity actions taken by federal consumer protection agencies. In that report we expressed our excitement about the administration's focus on equity and urged agencies to maximize this opportunity to center racial equity in their work. The Consumer Financial Protection Bureau has done just that.

In their 2022 Equity Action Plan³, the Bureau outlined its racial equity goals in four actions items. Despite facing unfounded legal and political attacks⁴ from the right, the Bureau has managed to make substantial process on each of these actions. Below is an overview of what it has done to reach those goals and analysis on the impact the Bureau is having on creating relief for consumers of color.

¹ House, W. (2021). Executive Order on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government. *The White House*. <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-advancing-racial-equity-and-support-for-underserved-communities-through-the-federal-government/>

² Velasco, A., & Gregg, R. (2022, February 1). *Racial Equity and Consumer Protection*. Public Citizen. <https://www.citizen.org/article/racial-equity-and-consumer-protection/>

³ CFPB *Equity Action Plan*. (2022, April 14). Consumer Financial Protection Bureau. <https://www.consumerfinance.gov/data-research/research-reports/cfpb-equity-action-plan/>

⁴ *Supreme Court to Review Constitutionality of CFPB's Funding*. (2023, February 27). Public Citizen. <https://www.citizen.org/news/supreme-court-to-review-constitutionality-of-cfpbs-funding/>

Equity Action Progress

Action 1: Incorporating Racial and Economic Equity (REE) principles into the Bureau's strategic planning and divisional review process.

Shortly after releasing its Equity Action Plan, the Bureau released its DEIA strategic plan⁵ which outlined six goals and the actions planned to reach said goals. Importantly, most of the goals focused on creating an inclusive organizational culture within the CFPB. Work culture policies that center equity are critical for ensuring that equity is reflected in an organization's external work. Publicizing internal DEIA programming sets a positive example of steps that can be taken to shift work cultures and encourage inclusion.

In addition to its internal work, the Bureau released a report of best practices⁶ across the financial industry. The report analyzed the visibility of diversity and inclusion at companies in the financial services sector by evaluating online resources from various industry players after the killing of George Floyd. The trends of resources available on companies' sites varied according to size and industry sector. Overall, most companies had little or no D&I information on their sites. Based on their findings, the Bureau made a series of recommendations on how businesses can strengthen their D&I initiatives based on organizational size. These recommendations ranged from expanding value and leadership statements, to expanding workforce development efforts, to hiring designated diversity and inclusion leaders. The CFPB's report and the recommendations it lists give financial actors a starting point to strengthen their equity commitments and reflect the leadership the Bureau has exhibited thus far.

Finally, the Bureau has launched a self-assessment process so businesses can proactively report their DEIA policies and activities. While an important concept, the self-assessment has not yet had a significant amount of participation. This may be due to organizations' hesitation around how the data will be used. The Bureau may need to heighten engagement strategies to encourage more businesses to complete the self-assessment and adopt D&I policies from the recommendations the Bureau has outlined.

⁵ CFPB *Diversity, Equity, Inclusion, and Accessibility Strategic Plan*. (2022, June 2). Consumer Financial Protection Bureau. <https://www.consumerfinance.gov/data-research/research-reports/cfpb-diversity-equity-inclusion-and-accessibility-strategic-plan/>

⁶ CFPB Office of Minority and Women Inclusion. (2022, January 19). *CFPB Report on Diversity and Inclusion within Financial Services*. Consumer Financial Protection Bureau. <https://www.consumerfinance.gov/data-research/research-reports/cfpb-report-on-diversity-and-inclusion-within-financial-services/>

Action 2: Ensure bad actors do not harm consumers and small businesses by denying fair, accessible, and equitable banking options in their communities (especially the traditionally underserved).

Redlining is a discriminatory practice⁷ where people are systematically denied access to mortgages and housing financing options based on their race and geographic location. Historically, there were government drawn maps outlining where people lived by race. Financial institutions used these maps to determine where Black neighborhoods are and deem properties and land in those locations as risky investments. Redlining is discriminatory and illegal but unfortunately, it still happens today. The Bureau is doing its part by holding financial institutions that engage in redlining practices accountable.

In 2021, the Bureau joined the DOJ and OCC in the Trustmark National Bank Settlement⁸ to take action against Trademark for discriminating against Black and Brown families. In this settlement Trademark had to pay over \$8 million in penalties and compensation for its infractions. More recently, the Bureau joined the DOJ in ordering Trident Mortgage to pay more than \$22 million in damages and penalties for redlining discrimination⁹. This is the first settlement involving redlining by a non-bank mortgage lender, which now represent the majority of mortgages in the U.S.¹⁰ This settlement is of particular importance as consumers of color can now be assured that banks and non-depository entities will be held equally accountable when they engage in discriminatory practices.

Last month, the CFPB finalized the rule implementing data collection for small business lending as required by section 1071 of the Dodd-Frank Act¹¹. This data will enable the Bureau, as well as community advocacy groups, to understand how banks are lending to

⁷ Jackson, C. (2021, August 17). What Is Redlining? *The New York Times*. <https://www.nytimes.com/2021/08/17/realestate/what-is-redlining.html>

⁸ CFPB, DOJ and OCC Take Action Against Trustmark National Bank for Deliberate Discrimination Against Black and Hispanic Families. (2021, October 22). Consumer Financial Protection Bureau. https://www.consumerfinance.gov/about-us/newsroom/cfpb-doj-and-occ-take-action-against-trustmark-national-bank-for-deliberate-discrimination-against-black-and-hispanic-families/?_gl=1*15b03ik*_ga*MTc1NjA1MTU2MC4xNjQ3MjcwMTMx*_ga_DBYIL30CHS*MTY4MDAyNTA1MS40MC4xLjE2ODAwMjY4MzUuMC4wLjA.

⁹ CFPB, DOJ Order Trident Mortgage Company to Pay More Than \$22 Million for Deliberate Discrimination Against Minority Families. (2022, July 27). Consumer Financial Protection Bureau. https://www.consumerfinance.gov/about-us/newsroom/cfpb-doj-order-trident-mortgage-company-to-pay-more-than-22-million-for-deliberate-discrimination-against-minority-families/?_gl=1*kkv8pu*_ga*MTc1NjA1MTU2MC4xNjQ3MjcwMTMx*_ga_DBYIL30CHS*MTY4MDAyNTA1MS40MC4xLjE2ODAwMjY5NDYuMC4wLjA.

¹⁰ Summary of 2021 Data on Mortgage Lending. (2022, June 16). Consumer Financial Protection Bureau. <https://www.consumerfinance.gov/data-research/hmda/summary-of-2021-data-on-mortgage-lending/>

¹¹ CFPB Finalizes Rule to Create a New Data Set on Small Business Lending in America. (2023, March 30). Consumer Financial Protection Bureau. <https://www.consumerfinance.gov/about-us/newsroom/cfpb-finalizes-rule-to-create-a-new-data-set-on-small-business-lending-in-america/>

small businesses and to be able to see trends among the industry. More specifically, this data will let us know which banks are lending to Black- and Brown- owned small businesses and identify gaps in access to loans and instances of discrimination.

Action 3: Ensure that Big Tech's involvement in consumer financial markets does not impede fair competition

The comment period for the CFPB's Inquiry into Big Tech Payment Platforms¹² was reopened at the end of 2022. The Bureau is working to identify and build protections related to Big Tech's effects on prices, services, and digital redlining. The CFPB has to make clear that the legal obligation of financial institutions does not change when they make use of technology. As companies expand and operate payment platforms that enable consumers to share payments with one another, grow their small businesses, and pay for goods over time there are questions about how data on consumer behavior is utilized or exploited. The CFPB is working to identify risks involved in the growing use of technology in the financial market and being proactive in protecting consumers from these risks. Additionally, the Bureau has made it a priority to ensure that consumers are able to discern competitive pricing and protect them from deceitful tech platforms that use comparison shopping models to profit off consumers¹³. Finally, the Bureau has concerns about the innate bias of automated valuations¹⁴, algorithms, and cloud services, and is exploring its authorities to address these issues and protect impacted consumers in marginalized communities.

Action 4: Collaborate with other organizations, regulators, and stakeholders, to ensure there is fairness and equity in property valuations.

Thirteen federal agencies, including the CFPB, have collaborated to ensure fairness in property valuation and appraisals. This is a critical effort, as there have been an increase

¹² *Notice and Request for Comment Regarding the CFPB's Inquiry Into Big Tech Payment Platforms*. (2022, November 7). Federal Register. <https://www.federalregister.gov/documents/2022/11/07/2022-24214/notice-and-request-for-comment-regarding-the-cfpbs-inquiry-into-big-tech-payment-platforms>

¹³ *CFPB Issues Guidance to Protect Mortgage Borrowers from Pay-to-Play Digital Comparison-Shopping Platforms*. (2023, February 7). Consumer Financial Protection Bureau. https://www.consumerfinance.gov/about-us/newsroom/cfpb-issues-guidance-to-protect-mortgage-borrowers-from-pay-to-play-digital-comparison-shopping-platforms/?_gl=1*770pak*_ga*MTc1NjA1MTU2MC4xNjQ3MjcwMTMx*_ga_DBYJL30CHS*MTY4MDAyNTA1MS40MC4xLjE2ODAwMjc0OTYuMC4wLjA.

¹⁴ *Consumer Financial Protection Bureau Outlines Options To Prevent Algorithmic Bias In Home Valuations*. (2022b, February 23). Consumer Financial Protection Bureau. <https://www.consumerfinance.gov/about-us/newsroom/cfpb-outlines-options-to-prevent-algorithmic-bias-in-home-valuations/>

in instances where Black and Brown homeowners are being discriminated¹⁵ against by the home valuation industry. Agents are appraising homes of people of color grossly below their actual value¹⁶. The interagency task force on property appraisal and valuation equity, or PAVE, released an Action Plan¹⁷ that explores the forms of racial and ethnic bias that impact residential property valuation and provides concrete actions to end these biases and advance equity. Over 20 action commitments are made in the plan. These actions are grouped into five categories that strengthen legal guardrails, tackle enforcement and accountability, bridge data gaps, diversify the workforce, and empower consumer action. These agencies sent their plan to President Biden and since have been working together to end discrimination in appraisal transactions.

The CFPB has played an active role in many of the goals outlined in the PAVE Action Plan. Action item 2.3 which is to “expand regulatory agency examination procedures of mortgage lenders to include identification of patterns of appraisal bias,” has been a priority for the Bureau. The Bureau is currently reviewing options to prevent discrimination and algorithmic bias in home valuations¹⁸. Additionally, the CFPB has commented¹⁹ on universal standards for appraisers and ethics rules created by the Appraisal Foundation²⁰. Through the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA), Congress authorized the Appraisal Foundation to set the standards and qualifications for real estate and personal property appraisers. The CFPB along with other agencies urged the Appraisal Foundation against trying to create distinctions between types of discrimination in their Ethics Rules²¹. Early drafts of these rules have alleged distinctions between “ethical” versus “unethical” discrimination and “supported” versus “unsupported” discrimination. These distinctions do not exist. Discrimination is wholly unethical and unsupported on its face. The CFPB has made it clear that discrimination based on race is illegal and has no place in the home appraisal

¹⁵ Kamin, D. (2022, August 25). Home Appraised With a Black Owner: \$472,000. With a White Owner: \$750,000. *The New York Times*. <https://www.nytimes.com/2022/08/18/realestate/housing-discrimination-maryland.html>

¹⁶ Rothwell, J., & Perry, A. M. (2023, March 23). How racial bias in appraisals affects the devaluation of homes in majority-Black neighborhoods. *Brookings*. <https://www.brookings.edu/research/how-racial-bias-in-appraisals-affects-the-devaluation-of-homes-in-majority-black-neighborhoods/>

¹⁷ Advanced Solutions International, Inc. (n.d.). *Home*. <https://www.appraisalfoundation.org/>

¹⁸ *Consumer Financial Protection Bureau Outlines Options To Prevent Algorithmic Bias In Home Valuations*. (2022, February 23). Consumer Financial Protection Bureau. <https://www.consumerfinance.gov/about-us/newsroom/cfpb-outlines-options-to-prevent-algorithmic-bias-in-home-valuations/>

¹⁹ *Appraisal standards must include federal prohibitions against discrimination*. (2023, February 14). Consumer Financial Protection Bureau. https://www.consumerfinance.gov/about-us/blog/appraisal-standards-must-include-federal-prohibitions-against-discrimination/?gl=1*1phxcrd* ga*MTc1NjA1MTU2MC4xNjQ3MjcwMTMx* ga DBYJL30CHS*MTY4MD AyNTA1MS40MC4xLjE2ODAwMjgyNTIuMC4wLjA.

²⁰ Advanced Solutions International, Inc. (n.d.). *Home*. <https://www.appraisalfoundation.org/>

²¹ https://files.consumerfinance.gov/f/documents/cfpb_fourth-exposure-draft-letter_2023-02-14.pdf

process. They have also continuously advocated for appraisal standards to include federal prohibitions against discrimination. The Appraisal foundation asserts that their work “ensures that appraisals are independent, consistent, and objective²²” and the CFPB’s actions are ensuring that this is an accurate assertion.

The Federal Financial Institutions Examination Council (FFIEC) Appraisal Subcommittee (ASC)²³ includes members from seven federal agencies and oversees the real estate appraisal regulatory framework. The ASC recently had a hearing on appraisal bias where witnesses from several sides of the residential appraisal transaction shared their experiences and perspectives with representatives of the agencies comprising the ASC board²⁴. The Bureau has also highlighted how mortgage borrowers can challenge inaccurate appraisals²⁵ through reconsideration of value, a process in which a homeowner or buyer can ask their lender to reconsider valuation believed to be inaccurate based on information presented or omitted from the appraisal report.

Conclusion

Consumer protection is essential to ensuring Black and Brown communities can thrive. The Bureau’s acknowledgement of that fact, and the staff and Director’s ongoing dedication to centering racial equity in their strategies and priorities will ensure that the agency continues to address the systemic racism in our country. This work is both urgent and long-term, and the Bureau’s commitment to ongoing engagement towards racial equity should be viewed as an example for other agencies.

²² Advanced Solutions International, Inc. (n.d.-a). *About The Appraisal Foundation*. [https://www.appraisalfoundation.org/imis/TAF/About Us/TAF/About Us.aspx?hkey=52dedd0a-de2f-4e2d-9efb-51ec94884a91](https://www.appraisalfoundation.org/imis/TAF/About%20Us/TAF/About%20Us.aspx?hkey=52dedd0a-de2f-4e2d-9efb-51ec94884a91)

²³ *About the Appraisal Subcommittee (ASC)*. (n.d.). <https://www.asc.gov/about>

²⁴ *Appraisal Subcommittee Hearing on Appraisal Bias*. (2023, January 25). Consumer Financial Protection Bureau. https://www.consumerfinance.gov/about-us/events/archive-past-events/appraisal-subcommittee-hearing-on-appraisal-bias/?_gl=1*1ur8nmv*_ga*MTc1NjA1MTU2MC4xNjQ3MjcwMTMx*_ga_DBYJL30CHS*MTY4MDAyNTA1MS40MC4xLjE2ODAwMjgzODMuMC4wLjA.

²⁵ *Mortgage Borrowers Can Challenge Inaccurate Appraisals Through the Reconsideration of Value Process*. (2022, October 6). Consumer Financial Protection Bureau. https://www.consumerfinance.gov/about-us/blog/mortgage-borrowers-can-challenge-inaccurate-appraisals-through-the-reconsideration-of-value-process/?_gl=1*1ag1hvu*_ga*MTc1NjA1MTU2MC4xNjQ3MjcwMTMx*_ga_DBYJL30CHS*MTY4MDAyNTA1MS40MC4xLjE2ODAwMjgzODMuMC4wLjA.