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PLEASE REPLY TO:
Connecticut Office

May 15, 2013

Ms. Delicia Reynolds Hand
Staff Director, Consumer Advisory Board and Councils
Bureau of Consumer Financial Protection
1700 G Street, N.W.
Washington, D.C. 20552-0003

Re: Non-Compliance With Federal Advisory Committee Act

Dear Ms. Hand:

This office represents Community Financial Services Association of America, Ltd. (“CFSA”). CFSA is the principal trade association of storefront operators who engage in the business of making payday loans, within the meaning of 12 U.S.C. § 5514(a)(1)(E).

This morning at approximately 9:00 a.m. PDT, Jacqueline Gilbert, CFSA’s representative, and her professional colleagues sought to attend the entirety of the meeting of the Bureau’s Consumer Advisory Board (“CAB”), including those portions that relate to payday loans; they were been denied such attendance by you personally and informed that their participation would be limited to the so-called “public” session of the CAB’s meeting. We are advised that the remaining business of the CAB – indeed, the vast majority of the CAB’s business – is traditionally conducted in sessions that are closed to the public.

The Federal Advisory Committee Act, 5 U.S.C. App. II §§ 1-15 (“FACA”), requires that federal advisory committees such as the CAB, with very limited exceptions, conduct their activities exclusively in public. 5 U.S.C. App. II § 10(a).

We have carefully reviewed the published minutes of the CAB’s only meeting for which minutes are available, to wit, that of September 27, 2012; our review reveals, contrary to the requirements of FACA, that neither President Obama nor Director Cordray had determined any portion of the CAB’s proceedings to be of a confidential nature requiring a closed session. Indeed, *the minutes do not suggest that any confidential business was conducted by the CAB at all*. A review of the agenda for the May 15 meeting likewise discloses the absence of confidential content.

In general, the exceptions to the public-meeting requirement of FACA are incorporated by reference from a section of the Government in the Sunshine Act, 5 U.S.C. § 552b. Only where information to be discussed involves trade secrets, classified government materials or national security matters related to foreign policy – topics that are never within the

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purview of the CAB – then, and only then, the meetings or portions of the meetings of the CAB may be closed with approval of the Director and after prior notice in the Federal Register. The CAB cannot simply announce to members of the public who show up for a meeting that the CAB is in closed session or that it will adjourn to another room to discuss a matter.

In any event, the closed-session meetings of the CAB cannot be viewed as consistent with the Bureau's announced intention to conduct its business in a transparent manner. We respectfully bring to your attention that the CAB's charter, which was drafted by the CFPB, requires that its meetings to be open to the public, with limited (and irrelevant) exceptions.

We have diligently searched for any provision of federal law that may exempt the CAB from the requirements of FACA, and we can find none.

Your assurance is hereby demanded that all future proceedings of the CAB, unless they meet a specific FACA exception, will be open to the public. We also request that you provide assurance that the Bureau has undertaken to amend the CAB's charter so that non-public proceedings will be conducted only under circumstances permitted by FACA.

Please furnish such assurance in writing within twenty-one (21) days following your receipt of this letter. In the absence of timely receipt of such assurance, legal proceedings will be instituted to require compliance with, and to enjoin future breaches of, FACA by the Bureau.

While this letter concerns primarily the activities of the CAB, we call to your attention that these issues are equally applicable to other Bureau boards and councils, including the Academic Research Council.

This letter is not intended to be a complete statement of CFSA's position, and nothing contained in or omitted from this letter is intended to be, nor should it be construed as being, a waiver by CFSA of any of its rights, remedies or causes of action. To the contrary, all such rights, remedies and causes of action, whether at law or in equity, are expressly reserved and shall be vigorously pursued.

Very truly yours,



HILARY B. MILLER

VIA ELECTRONIC MAIL AND FEDERAL EXPRESS