

CREDIT UNION UPDATE

Consumer Financial Protection Board Announces Agenda That Stands to Impact Financial Institutions

On June 2, 2016, I read in the Wall Street Journal that the Consumer Financial Protection Bureau (CFPB) will announce today its new rule to curb the activities of the payday loan industry. I also recently obtained a listing of the other areas that the CFPB has on its upcoming agenda for review, many of which stand to impact financial institutions and the ways they do business. These additional areas likely include rules regarding prepaid bank cards, overdraft fees and debt collection. I have included below a list of the CFPB's Spring agenda list which I thought would be of interest, and worthy of monitoring as these areas have a likelihood of impacting your institution.

CFPB Publishes Spring 2016 Rulemaking Agenda

Recently, the CFPB published its latest rulemaking agenda detailing what we can expect on the horizon in terms of new proposed and final rules. Based on the agenda, it looks like the CFPB plans to keep compliance folks plenty busy throughout the summer!

Current initiatives include the following:

- **Large participants and non-depository lender registration:** The CFPB is continuing rulemaking activities that will further establish its non-bank supervisory authority by defining larger participants of certain markets for consumer financial products and services (translation: CFPB once again attempts to expand the scope of its authority).
- **Women-owned, minority-owned, and small business data collection:** The Bureau is in the very early stages of starting work to implement section 1070 of Dodd-Frank, which requires financial institutions to report information about credit applications made by women-owned, minority-owned, and small businesses.
- **Debt collection:** Right now the CFPB is developing proposed rules to regulate debt collection practices, as this area has been the primary source of consumer complaints. The Bureau is still in the process of analyzing responses to a survey seeking information from consumers about their experience with debt collectors and will then engage in qualitative testing to analyze and apply this data.
- **Overdraft:** The Bureau is engaged in pre-rulemaking activities right now to consider potential regulation of overdraft services on checking accounts. They are continuing to engage in additional research and have begun testing initiatives relating to the opt-in process.



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- **Payday, auto title, and small dollar lending:** The CFPB expects to release a Notice of Proposed Rulemaking in the next few weeks; the rulemaking will build on feedback gathered from the SBREFA panel the Bureau convened in April 2015 and from research published in a previous white paper.
- **Arbitration:** No surprise here given the Notice of Proposed Rulemaking earlier this month concerning mandatory arbitration clauses.
- **Mortgage servicing:** A final rule is expected this summer to amend a proposal from December 2014 that addressed loss mitigation requirements when the borrower is a successor in interest or is in bankruptcy.
- **Prepaid accounts:** The Bureau expects a final rule this summer to create a comprehensive set of consumer protections for prepaid financial products, such as reloadable cards.
- **Funds availability:** In March 2011 there were proposed amendments to facilitate the banking industry's ongoing transition to fully-electronic interbank check collection and return. The proposal includes some provisions that are subject to the CFPB's joint rulemaking authority, including the period for funds availability and revising model form disclosures. In addition, in December 2013, the Board of Governors of the FRB proposed revised amendments to certain Regulation CC provisions that are not subject to the CFPB's authority and extended the comment period to May 2014. The CFPB will work with the Board to issue jointly a final rule that includes provisions within the CFPB's authority.
- **Implementation of other mortgage rules:** The CFPB is working intensely on planning for implementation of HMDA as certain elements of the rule become effective January 2017. Additionally, the Bureau is also working to streamline and modernize the HMDA data reporting process and is conducting outreach with the industry to prepare for both regulatory and operational changes. Since the new HMDA rule will create many implementation challenges for most credit unions, let's hope they devote substantial resources to mitigate the hefty compliance burden this rule creates.
- **"Know Before You Owe" mortgage disclosure rule:** The Bureau recently announced that it expects to release a Notice of Proposed Rulemaking in late July to make clarifications and provide further guidance concerning the TRID mortgage disclosures.

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