

The CFPB – The Good, The Bad and The Ugly

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CFPB

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Past Regulators

OCC

FRB

NCUA

FTC

FDIC

HUD

ETC

Consumer Protection Act of 2010

CFPB was formed as independent agency
within the Board of Governors of the Federal
Reserve

CFPB

- 1,625 +++ employees – including 800+ attorneys
- FY 2016 Budget of \$605.5 million (4% increase from 2015)
- No oversight
- Reports to nobody
- Multiple regulations
- Aggressive enforcement/litigation

CFPB Budget by Strategic Goal

- Goal 1 Prevent financial harm to consumers while promoting good practices that benefit them.
- Goal 2 Empower consumers to live better financial lives.
- Goal 3 Inform the public, policy makers and the CFPB's own policy-making with data-driven analysis of consumers financial markets and consumer behavior.
- Goal 4 Advance the CFPB's performance by maximizing resource productivity and enhancing impact.



Enforcement

CFPB/NCUA will enforce the following rules:

- Equal Credit Opportunity Act (Regulation B)
- Home Mortgage Disclosure Act (Regulation C)
- Electronic Fund Transfers Act (Regulation E)
- Registration of Residential Mortgage Loan Originators
- Consumer Leasing (Regulation M)
- Privacy of Consumer Financial Information
- Fair Credit Reporting
- Truth in Lending (Regulation Z)
- Truth in Savings (Regulation DD)
- Vendor Due Diligence

Comparison

- CFPB focus on risks of harm to consumers, including risks of non-compliance with Federal consumer laws
- NCUA focus on safety and soundness – then risks of harm to consumers
- CFPB staff see themselves as law enforcers, not as regulators
- The CFPB staff is the JUDGE and the JURY and the Prosecutor

Vigorous CFPB Activity

- New regulations under TILA and RESPA
- Ability to Repay/Qualified Mortgages
- Continuing public statements, regarding consumer financial laws
- Emphasis on credit reporting and debt collection
- Seemingly endless number of Civil Investigative Demands

CFPB Jurisdiction – Credit Unions

- Very large credit unions
- It can require reports from all other credit unions if it deems it necessary (their determination is probably not reviewable or appealable)
- Although not as well-known, the CFPB also has the authority to “participate” in examinations of all other credit unions

CFPB Jurisdiction - CUSOs

- CFPB's jurisdiction extends to all entities that provide services to credit unions – CUSOs
- No worry about limitations – extensive use of Civil Investigative Demands
- Will require disclosures for any consumer financial product or service
- Broad authority to prohibit unfair, deceptive, and abusive practices

CFPB Overall Requirements

- Written policies and procedures for compliance are absolutely essential
- Monitoring and auditing for compliance is also necessary. Across the board – no exceptions
- Need for a complaint system
 - They maintain information about complaints, disputes, and validation
 - They analyze complaints to identify patterns
 - They take written and verbal complaints

What Does the Future Show?



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Credit Unions Beware

- Significant changes involving collections (disputes, communications, lawsuits)*
- TILA, RESPA*
- Ability to Repay/Qualified Mortgages*
- Comprehensive dispute procedures*
- Extraordinary documentation requirements*
- Indirect Auto lending
- Courtesy pay
- Payday lending

* Implemented ¹⁶

CFPB Factors Used to Evaluate

“Responsible Conduct”
“Appropriate Actions”

- Policy and procedures
- Self-policing
- Self-reporting
- Remediation
- Cooperation

2016 List

- Payday Loans
- Debt Collection Rule
- Overdraft
- Prepaid Cards
- TILA-RESPA
- Mortgage Servicing
- Home Mortgage Disclosure Act
- Expedited Funds Availability Act
- Appraisals
- Student Loans

Takeaways/Best Practices

- Focus on compliance policies, practices and procedures
 - Three key issues
 - Whether a policy exists
 - Whether the policy was implemented
 - Whether the policy is effective
 - Be prepared
 - CFPB Website
 - CFPB Supervision and Examination Manual

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