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Bureau of Consumer Financial Protection

Semiannual Regulatory Agenda

BUREAU OF CONSUMER FINANCIAL PROTECTION**12 CFR CH. X****Semiannual Regulatory Agenda**

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Bureau of Consumer Financial Protection (CFPB or Bureau) is publishing this agenda as part of the Spring 2016 Unified Agenda of Federal Regulatory and Deregulatory Actions. The CFPB reasonably anticipates having the regulatory matters identified below under consideration during the period from May 1, 2016, to April 30, 2017. The next agenda will be published in fall 2016 and will update this agenda through fall 2017. Publication of this agenda is in accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

DATES: This information is current as of March 25, 2016.

ADDRESSES: Bureau of Consumer Financial Protection, 1700 G Street NW., Washington, DC 20552.

FOR FURTHER INFORMATION CONTACT: A staff contact is included for each regulatory item listed herein.

SUPPLEMENTARY INFORMATION: The CFPB is publishing its spring 2016 agenda as part of the Spring 2016 Unified Agenda of Federal Regulatory and Deregulatory Actions, which is coordinated by the Office of Management and Budget under Executive Order 12866. The CFPB's participation in the Unified Agenda is voluntary. The complete Unified Agenda is available to the public at the following Web site: <http://www.reginfo.gov>.

Pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376 (Dodd-Frank Act), the CFPB has rulemaking, supervisory, enforcement, and other authorities relating to consumer financial products and services. These authorities include the ability to issue regulations under more than a dozen federal consumer financial laws, which transferred to the CFPB from seven federal agencies on July 21, 2011. The CFPB is working on a wide range of initiatives to address issues in markets for consumer financial products and services that are not reflected in this notice because the Unified Agenda is limited to rulemaking activities.

The CFPB reasonably anticipates having the regulatory matters identified below under consideration during the period from May 1, 2016, to April 30,

2017.¹ Among the Bureau's more significant regulatory efforts are the following.

Bureau Regulatory Efforts in Various Consumer Markets

The Bureau is working on a number of rulemakings to address important consumer protection issues in a wide variety of markets for consumer financial products and services.

For example, the Bureau is preparing to issue a Notice of Proposed Rulemaking this spring concerning the use of agreements between a covered person and a consumer for a consumer financial product or service providing for arbitration of any future disputes. The rulemaking follows on a report that the Bureau issued to Congress in March 2015, as required by the Dodd-Frank Act, as well as on preliminary results of arbitration research that were released by the Bureau in December 2013. In fall 2015, the Bureau began the rulemaking process by releasing an outline explaining that it was considering whether to limit arbitration agreements from being used to compel arbitration of consumer class actions and whether to require the reporting of certain information concerning consumer arbitrations to the Bureau to facilitate monitoring. The Bureau convened a panel under the Small Business Regulatory Enforcement Fairness Act (SBREFA) in conjunction with the Office of Management and Budget and the Small Business Administration's Chief Counsel for Advocacy to consult with small businesses that may be affected by the policy proposals under consideration. The Bureau has also gathered extensive feedback from other stakeholders in preparation for the rulemaking.

The Bureau also expects to release later this spring a Notice of Proposed Rulemaking to address consumer harms from practices related to payday loans, auto title loans, and other similar credit products, including failure to determine whether consumers have the ability to repay without default or reborrowing and certain payment collection practices. The Bureau convened a SBREFA panel in April 2015, along with the Office of Management and Budget and the Small Business Administration's Chief Counsel for Advocacy to meet with small lenders that may be affected by the rulemaking, and has gathered extensive feedback

from other stakeholders in the last year to obtain feedback on the proposals. This rulemaking builds on Bureau research, including a white paper the Bureau published on these products in April 2013, a data point providing additional research in March 2014, and ongoing analysis.

The Bureau also expects to issue a final rule in early summer to create a comprehensive set of consumer protections for prepaid financial products, such as general purpose reloadable cards and other similar products, which are increasingly being used by consumers in place of traditional checking accounts or credit cards. The Bureau issued a proposed rule in November 2014, to bring prepaid products expressly within the ambit of Regulation E (which implements the Electronic Fund Transfer Act) as prepaid accounts and create new provisions specific to such accounts. The Bureau also proposed to amend Regulation E and Regulation Z (which implements the Truth in Lending Act) to regulate prepaid accounts with overdraft services or credit features.

The Bureau also expects to issue a proposal to amend Regulation P, which implements the Gramm-Leach-Bliley Act (GLBA). Congress recently amended the GLBA to provide an exception to the requirement for financial institutions to deliver annual privacy notices when certain conditions are met. The Bureau plans to make conforming amendments to Regulation P for consistency with the statutory amendment.

Building on Bureau research and other sources, the Bureau is also engaged in policy analysis and further research initiatives in preparation for a rulemaking on overdraft programs on checking accounts. The CFPB issued a white paper in June 2013, and a report in July 2014, based on supervisory data from several large banks that highlighted a number of possible consumer protection concerns, including how consumers opt in to overdraft coverage for ATM and one-time debit card transactions, overdraft coverage limits, transaction posting order practices, overdraft and insufficient funds fee structure, and involuntary account closures. The CFPB is continuing to engage in additional research and has begun consumer testing initiatives relating to the opt-in process.

The Bureau is also engaged in policy analysis and research initiatives in preparation for a rulemaking on debt collection activities, which are the single largest source of complaints to the Federal Government of any industry. Building on the Bureau's November

¹ The listing does not include certain routine, frequent, or administrative matters. Further, certain of the information fields for the listing are not applicable to independent regulatory agencies, including the CFPB, and, accordingly, the CFPB has indicated responses of "no" for such fields.

2013, Advance Notice of Proposed Rulemaking, the CFPB is in the process of analyzing the results of a survey to obtain information from consumers about their experiences with debt collection. The Bureau is also undertaking consumer testing initiatives to determine what information would be useful for consumers to have about debt collection and their debts and how that information should be provided to them.

The Bureau is also continuing rulemaking activities that will further establish the Bureau's nonbank supervisory authority by defining larger participants of certain markets for consumer financial products and services. Larger participants of such markets, as the Bureau defines by rule, are subject to the Bureau's supervisory authority. The Bureau expects that its next larger participant rulemaking will focus on the markets for consumer installment loans and vehicle title loans for purposes of supervision. The Bureau is also considering whether rules to require registration of these or other non-depository lenders would facilitate supervision, as has been suggested to the Bureau by both consumer advocates and industry groups.

The Bureau is also continuing to develop research on other critical markets to help implement statutory directives and to assess whether regulation of other consumer financial products and services may be warranted. For example, the Bureau is starting its work to implement section 1071 of the Dodd-Frank Act, which amends the Equal Credit Opportunity Act to require financial institutions to report information concerning credit applications made by women-owned, minority-owned, and small businesses. The Bureau will focus on outreach and research to develop its understanding of the players, products, and practices in the small business lending market and of the potential ways to implement section 1071. The CFPB then expects to begin developing proposed regulations concerning the data to be collected and determining the appropriate procedures and privacy protections needed for information-gathering and public disclosure

Implementing Dodd-Frank Act Mortgage Protections

The Bureau is also continuing efforts to implement critical consumer protections under the Dodd-Frank Act to guard against mortgage market practices that contributed to the nation's most significant financial crisis in several decades. Since 2013, the Bureau has issued regulations as directed by the Dodd-Frank Act to implement certain protections for mortgage originations and servicing, integrate various federal mortgage disclosures, and amend mortgage reporting requirements under the Home Mortgage Disclosure Act (HMDA). The Bureau is continuing intensive work to facilitate implementation of the new requirements, including follow-up rulemaking where warranted.

For example, the Bureau expects this summer to release a Notice of Proposed Rulemaking to make small clarifications and provide further regulatory guidance concerning its rule combining several federal mortgage disclosures that consumers receive in connection with applying for and closing on a mortgage loan under the Truth in Lending Act (TILA) and the Real Estate Settlement Procedures Act (RESPA). The project to integrate and streamline the disclosures was mandated under the Dodd-Frank Act and took effect in October 2015. The rule is the cornerstone of the Bureau's broader "Know Before You Owe" mortgage initiative.

The Bureau also expects to issue a final rule in the summer to amend various provisions of its January 2013, mortgage servicing rules in Regulation X (which implements RESPA) and Regulation Z. The Bureau has proposed clarifications of the applicability of certain provisions when the borrower is in bankruptcy, additional enhancements to loss mitigation requirements, provisions to address the applicability of certain rules to successors in interest, and other amendments. The Bureau has been conducting consumer testing of certain disclosures as it prepares the final rule.

The Bureau is also working intensely to conduct outreach with industry and coordinate with other agencies to monitor and facilitate implementation of its rule to implement Dodd-Frank

amendments to HMDA. The Bureau has already released a small entity compliance guide in connection with the rule, which was finalized in October 2015. Certain elements of the rule take effect in January 2017, and most new data collection requirements begin in January 2018. The Bureau is working to streamline and modernize HMDA data collection and reporting processes in conjunction with implementation.

The Bureau is also continuing to facilitate the full implementation of and compliance with other rules that it issued in January 2013, to implement Dodd-Frank Act requirements concerning mortgage originations. Most recently, the Bureau has adjusted the thresholds defining small creditors and small creditors operating in rural and underserved areas for purposes of certain special rules concerning balloon loans, escrows, and other topics. The Bureau issued a final rule adjusting the thresholds for small creditors in October 2015. The Bureau then issued two rules to implement the Helping Expand Lending Practices in Rural Communities Act. The first rule, which the Bureau issued on March 2, 2016, established a process for creditors to apply to the Bureau for an area to be designated as rural. The second rule, which the Bureau issued on March 22, 2016, was an interim final rule that revised the test to determine which small creditors operate in rural areas in light of the Congressional amendments to the underlying statutory language.

Further Planning

Finally, the Bureau is continuing to conduct outreach and research to assess issues in various other markets for consumer financial products and services. As this work continues, the Bureau will evaluate possible policy responses, including possible rulemaking actions, taking into account the critical need for and effectiveness of various policy tools. The Bureau will update its regulatory agenda in fall 2016, to reflect the results of this further prioritization and planning.

Dated: March 25, 2016.

Kelly Thompson Cochran,

Assistant Director for Regulations, Bureau of Consumer Financial Protection.

CONSUMER FINANCIAL PROTECTION BUREAU—PRERULE STAGE

Sequence No.	Title	Regulation Identifier No.
291	Business Lending Data (Regulation B)	3170-AA09

CONSUMER FINANCIAL PROTECTION BUREAU—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
292	Payday Loans and Deposit Advance Products	3170-AA40

CONSUMER FINANCIAL PROTECTION BUREAU—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
293	The Expedited Funds Availability Act (Regulation CC)	3170-AA31

CONSUMER FINANCIAL PROTECTION BUREAU (CFPB)

Prerule Stage

291. Business Lending Data (Regulation B)

Legal Authority: 15 U.S.C. 1691c–2
Abstract: Section 1071 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) amends the Equal Credit Opportunity Act (ECOA) to require financial institutions to report information concerning credit applications made by women-owned, minority-owned, and small businesses. The amendments to ECOA made by the Dodd-Frank Act require that certain data be collected and maintained, including the number of the application and date the application was received; the type and purpose of loan or credit applied for; the amount of credit applied for and approved; the type of action taken with regard to each application and the date of such action; the census tract of the principal place of business; the gross annual revenue of the business; and the race, sex, and ethnicity of the principal owners of the business. The Dodd-Frank Act also provides authority for the CFPB to require any additional data that the CFPB determines would aid in fulfilling the purposes of this section. The Bureau will focus on outreach and research to develop its understanding of the players, products, and practices in the small business lending market and of the potential ways to implement section 1071. The CFPB then expects to begin developing proposed regulations concerning the data to be collected and appropriate procedures, information safeguards, and privacy protections for information-gathering under this section.

Timetable:

Action	Date	FR Cite
Prerule Activities	12/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Elena Grigera Babinecz, Office of Regulations, Consumer Financial Protection Bureau, Phone: 202 435–7700.
RIN: 3170-AA09

CONSUMER FINANCIAL PROTECTION BUREAU (CFPB)

Proposed Rule Stage

292. Payday Loans and Deposit Advance Products

Legal Authority: Not Yet Determined
Abstract: The Bureau is conducting a rulemaking to address consumer harms from practices related to payday loans and other similar credit products, including failure to determine whether consumers have the ability to repay without default or reborrowing and certain payment collection practices. Under the Small Business Regulatory Enforcement Fairness Act (SBREFA), the Bureau released in March 2015 an outline of proposals under consideration for the rulemaking. As part of the SBREFA process, in April 2015, the Bureau along with the Office of Management and Budget and the Small Business Administration's Chief Counsel for Advocacy, met with small lenders that may be affected by the rulemaking to obtain feedback on the proposals. This rulemaking builds on Bureau research, including a white paper the Bureau published on these products in April 2013, a data point providing additional research in March 2014, and ongoing analysis.

Timetable:

Action	Date	FR Cite
NPRM	06/00/16	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Mark Morelli, Office of Regulations, Consumer Financial Protection Bureau, Phone: 202 435–7700.

RIN: 3170-AA40

CONSUMER FINANCIAL PROTECTION BUREAU (CFPB)

Final Rule Stage

293. The Expedited Funds Availability Act (Regulation CC)

Legal Authority: 12 U.S.C. 4001 *et seq.*
Abstract: The Expedited Funds Availability Act (EFA Act), implemented by Regulation CC, governs availability of funds after a check deposit and check collection and return processes. Section 1086 of the Dodd-Frank Wall Street Reform and Consumer Protection Act amended the EFA Act to provide the CFPB with joint rulemaking authority with the Board of Governors of the Federal Reserve System (Board) over certain consumer-related EFA Act provisions. The Board proposed amendments to Regulation CC in March 2011, to facilitate the banking industry's ongoing transition to fully-electronic interbank check collection and return. The Board's 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 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.

Timetable:

Action	Date	FR Cite
NPRM	03/25/11	76 FR 16862
NPRM Comment Period End.	06/03/11	
Final Rule	12/00/16	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Joseph Baressi, Office of Regulations, Consumer Financial Protection Bureau, Phone: 202 435–7700.

RIN: 3170-AA31

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