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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 2017 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, 2017 to April 30, 2018. The next agenda will be published in fall 2017, and will update this agenda through fall 2018. 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 April 7, 2017.

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 2017 Agenda as part of the Spring 2017 Unified Agenda of Federal Regulatory and Deregulatory Actions, which is coordinated by the Office of Management and Budget under Executive Order 12866. The agenda lists the regulatory matters that the CFPB reasonably anticipates having under consideration during the period from May 1, 2017 to April 30, 2018, as described further below.¹ 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 Bureau's general purpose as specified in section 1021 of the Dodd-Frank Act is to implement and enforce Federal consumer financial law consistently for the purpose of ensuring that all consumers have access to markets for consumer financial products and services and that markets for consumer financial products and services are fair, transparent, and competitive.

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. Section 1021 of the Dodd-Frank Act specifies the objectives of the Bureau, including providing consumers with timely and understandable information to make responsible decisions about financial transactions; protecting consumers from unfair, deceptive, or abusive acts and practices and from discrimination; addressing outdated, unnecessary, or unduly burdensome regulations; enforcing Federal consumer financial law consistently in order to promote fair competition, without regard to the status of a covered person as a depository institution; and promoting the transparent and efficient operation of markets for consumer financial products and services to facilitate access and innovation. The CFPB's regulatory work in pursuit of those objectives can be grouped into three main categories: (1) Implementing statutory directives; (2) other efforts to address market failures, facilitate fair competition among financial services providers, and improve consumer understanding; and (3) modernizing, clarifying, and streamlining consumer financial regulations to reduce unwarranted regulatory burdens.

Implementing Statutory Directives

Much of the Bureau's rulemaking work is focusing on implementing directives mandated in the Dodd-Frank Act and other statutes. As part of these rulemakings, the Bureau is working to achieve the consumer protection objectives of the statutes while minimizing regulatory burden on financial services providers and facilitating a smooth implementation process for both industry and consumers.

For example, the Bureau is continuing efforts to facilitate implementation of critical consumer protections under the Dodd-Frank Act that 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 conducting follow-up rulemakings as warranted to address issues that have arisen during the implementation process for these rules and to provide greater clarification and certainty to financial services providers. The Bureau has three such efforts underway at this time:

- The Bureau expects to issue a final rule this summer to make certain adjustments and clarifications to prior rules mandated by the Dodd-Frank Act to combine 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 consolidated disclosures rule is the cornerstone of the Bureau's broader "Know Before You Owe" mortgage initiative.

- The Bureau is conducting two follow-up rulemakings to facilitate compliance with its prior rule to implement Dodd-Frank amendments to HMDA, which largely takes effect in 2018, as well as provisions of the Equal Credit Opportunity Act that also concern data collection and reporting. The Bureau is also continuing to work closely with industry and other regulators to streamline and modernize HMDA data collection and reporting in conjunction with implementation of the Dodd-Frank amendments.

- The Bureau is expecting to issue a small final rule later this summer making technical corrections to the mortgage servicing rule that the Bureau issued in August 2016 under Regulation X (which implements RESPA) and Regulation Z (which implements TILA).

The Bureau is also starting work to implement section 1071 of the Dodd-Frank Act, which amends ECOA to require financial institutions to report information concerning credit applications made by women-owned, minority-owned, and small businesses. The Bureau is focusing 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, potential ways to minimize burdens on lenders, and appropriate procedures and privacy protections needed for

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.

information-gathering and public disclosure.

Other Efforts To Address Market Failures, Facilitate Fair Competition Among Financial Services Providers, and Improve Consumer Understanding

The Bureau is considering rules in places where there are substantial market failures that make it difficult for consumers to engage in informed decision making and otherwise protect their own interests. In addition, the Dodd-Frank Act directs the Bureau to focus on activities that promote fair competition among financial services providers, which itself has substantial benefits for consumers.

For example, the Bureau released a Notice of Proposed Rulemaking (NPRM) in June 2016, building on several years of research documenting consumer harms from practices related to payday loans, auto title loans, and other similar credit products. In particular, the Bureau is concerned that product structure, lack of underwriting, and certain other lender practices are interfering with consumer decision making with regard to such products and trapping large numbers of consumers in extended cycles of debt that they do not expect. The Bureau is also concerned that certain lenders' payment collection practices are causing substantial harm to consumers, including substantial unexpected fees and heightened risk of losing their checking accounts. The Bureau continues to believe that the concerns articulated in the NPRM are substantial, and is carefully considering more than one million comments received in response to the proposal with respect to how best to address those concerns in a manner consistent with the Bureau's objectives under the Dodd-Frank Act.

The Bureau is also considering comments received in response to its May 2016 NPRM concerning the use of agreements between financial services providers and consumers providing for arbitration of any future disputes. The rulemaking follows on a groundbreaking study by the Bureau, as mandated by Congress under the Dodd-Frank Act. The Bureau is concerned that these "mandatory pre-dispute arbitration agreements" are being used to prevent consumers from joining together to obtain relief for legal violations concerning consumer financial products and services, and that financial services providers who use such agreements therefore have far weaker incentives to obey the law than providers who do not. The Bureau continues to believe that the concerns articulated in the NPRM are substantial, and is carefully considering

more than 120,000 comments received in response to the proposal with respect to how best to address those concerns in a manner consistent with the Bureau's objectives under the Dodd-Frank Act.

The Bureau is also engaged in rulemaking activities regarding the debt collection market, which continues to be the single largest source of complaints to the Federal Government of any industry. The Bureau is concerned that because consumers cannot choose their debt collectors or "vote with their feet," they have less ability to protect themselves from harmful practices. In January 2017, the Bureau published the results of a survey of consumers about their experiences with debt collection. The Bureau has also received encouragement from industry to engage in rulemaking to resolve conflicts in case law and address issues of concern under the Fair Debt Collection Practices Act (FDCPA), such as the application of the FDCPA to modern communication technologies under the 40-year-old statute. The Bureau released an outline of proposals under consideration in July 2016, concerning practices by companies that are "debt collectors" under the FDCPA, in advance of convening 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 representatives of small businesses that might be affected by the rulemaking. Building on the feedback received through the SBREFA process and other sources, the Bureau has now decided to issue a proposed rule later in 2017 concerning FDCPA collectors' communications practices and consumer disclosures. The Bureau intends to follow up separately at a later time about concerns regarding information flows between creditors and FDCPA collectors and about potential rules to govern creditors that collect their own debts.

The Bureau is also engaged in policy analysis and further research initiatives in preparation for a potential rulemaking regarding overdraft programs on checking accounts. After several years of research, the Bureau believes that there are consumer protection concerns with regard to these programs. Consumers do not shop based on overdraft fee amounts and policies, and the market for overdraft services does not appear to be competitive. Under the current regulatory regime consumers can opt in to permit their financial institution to charge fees for ATM and point-of-sale debit overdrafts,

but the complexity of the system may complicate consumer decision making. Despite widespread use of disclosure forms, the regime produces substantially different opt-in rates across different depository institutions and the Bureau's supervisory and enforcement work indicates that some institutions are aggressively steering consumers to opt in. The CFPB is engaged in consumer testing of revised opt-in forms and considering whether other regulatory changes may be warranted to enhance consumer decision making.

In addition, the Bureau is continuing rulemaking activities that will ensure meaningful supervision of non-bank financial services providers in order to create a more level playing field for depository and non-depository institutions. Under section 1024 of the Dodd-Frank Act, the CFPB is authorized to supervise "larger participants" of markets for various consumer financial products and services as defined by Bureau rule. The Bureau has defined the threshold for larger participants in several markets in past rulemakings, and is now working to develop a proposed rule that would define non-bank "larger participants" in the market for personal loans, including consumer installment loans and vehicle title loans. 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's recent rulemaking concerning prepaid financial products also advanced fairness and consistency objectives by creating a uniform disclosure regime and providing basic protections similar to those enjoyed by users of debit cards and credit cards. The Bureau is in the process of working with industry to facilitate implementation of this rule, and recently proposed to extend the October 2017, effective date by six months in order to ensure a smoother transition for consumers and industry. The Bureau is also considering concerns raised by industry participants regarding certain substantive aspects of the prepaid rule that they assert are posing particular complexities for implementation or may have negative consequences for consumers that were not anticipated or fully explained by commenters in the course of the original rulemaking. The Bureau expects to issue a proposal to make some substantive changes to the rule in response to these concerns later this spring.

Modernizing, Streamlining, and Clarifying Consumer Financial Regulations

The Bureau's third group of activities concerns modernizing, streamlining, and clarifying consumer financial regulations and other activities to reduce unwarranted regulatory burdens as directed by the Dodd-Frank Act. Since most of the Federal consumer financial laws that the Bureau administers were enacted in the 1960s and 1970s, there is often substantial demand for these activities from both industry and consumer advocates alike.

In addition to some of the projects mentioned above that advance these objectives, such as the HMDA processes modernization and debt collection rulemakings, the Bureau is pursuing a number of other research, policy, and rulemaking initiatives. For example, section 1022(d) of the Dodd-Frank Act specifically directs the Bureau to assess the effectiveness of significant rules five years after they are implemented, including seeking public comment. The Bureau recently published a request for comment on its plan to assess the effectiveness of the rule the Bureau adopted to implement provisions of the Dodd-Frank Act regulating consumer remittance transfers of money to international recipients,² and expects to seek comment later this year on its plans to assess the effectiveness of certain of the Dodd-Frank Act mortgage rules discussed above. As required by section 1022(d), those notices will solicit comments on recommendations for modifying, expanding, or eliminating the rules in regulation. The Bureau expects to conduct substantial research for each of the section 1022(d) assessments, which will not only lay the foundation for subsequent decisions as to whether adjustments to the specific rules are warranted but also to continue to refine its thinking about how best to assess the benefits and costs of individual regulations more generally.

The Bureau is also considering rules to modernize the Bureau's database of credit card agreements to reduce burden on issuers that submit credit card agreements to the Bureau and make the database more useful for consumers and the general public. The Credit Card Accountability Responsibility and Disclosure Act of 2009 (CARD Act) requires credit card issuers to post their credit card agreements to their Internet

site, and submit those agreements to the Bureau to be posted on an Internet site maintained by the Bureau. The Bureau believes an improved submission process and database would be more efficient for both industry and the Bureau and would allow consumers and the general public to access and analyze information more easily.

The Bureau has also launched several initiatives focusing on ways to facilitate technological and product innovation that could benefit consumers. These include the CFPB's Trial Disclosure Waiver Program, which is designed to implement the Bureau's authority under section 1032 of the Dodd-Frank Act to grant financial services providers temporary waivers to conduct controlled field experiments of consumer disclosures. In addition, the Bureau has published a policy to facilitate the issuance of "No Action Letters" indicating that Bureau staff has no present intention to recommend enforcement or supervisory action with respect to specific applicants who wish to provide innovative financial products or services that promise substantial consumer benefit but raise substantial uncertainty as to application of existing consumer financial laws. The Bureau has also recently published two Requests for Information (RFI) seeking to explore the potential benefits and risks to consumers of recent developments in the marketplace relating to use of consumer data. Specifically, one RFI focused on how consumers are exercising control over their own personal financial data, including the data maintained by their financial institutions, both through direct access of the data and consumers' sharing of such data with third parties such as companies that use aggregated data to provide consumers with financial advice and tracking services across multiple types of financial accounts.³ The other concerned use of so-called "alternative data" in the credit process, including to assess the creditworthiness of consumers who do not have substantial traditional credit histories.⁴

The Bureau also expects later this year to begin the first in a series of reviews of existing regulations that it inherited from other agencies through the transfer of authorities under the Dodd-Frank Act. The Bureau had previously sought feedback on the

inherited rules as a whole,⁵ and identified and executed several burden reduction projects from that undertaking.⁶ The Bureau has largely completed those initial projects,⁷ and believes that the next logical step is to review individual regulations—or portions of large regulations—in more detail to identify opportunities to clarify ambiguities, address developments in the marketplace, or modernize or streamline provisions. The Bureau notes that other Federal financial services regulators have engaged in these types of reviews over time, and believes that such an initiative would be a natural complement to its work to facilitate implementation of new regulations.

The Bureau has also recently formed an internal task force to coordinate and deepen the Agency's focus on concerns about regulatory burdens and on projects to identify and reduce unwarranted regulatory burdens consistent with the Bureau's objectives under section 1021 of the Dodd-Frank Act.

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 beyond those discussed above. 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 2018, to reflect the results of this further prioritization and planning.

Dated: April 7, 2017.

Kelly Thompson Cochran,

Assistant Director for Regulations, Bureau of Consumer Financial Protection.

⁵ 76 FR 75825 (Dec. 5, 2011).

⁶ See 79 FR 64057 (Oct. 28, 2014); 78 FR 25818 (May 3, 2013); 78 FR 18221 (Mar. 26, 2013). In some cases Congress took action related to the same topics identified as part of the Bureau's streamlining initiative. See, e.g., 81 FR 44801 (July 11, 2016); 78 FR 18221 (Mar. 26, 2013).

⁷ The Bureau expects to complete work later this year on a final rule amending certain requirements concerning annual privacy notices under the Gramm-Leach-Bliley Act. The Bureau conducted a prior rulemaking to make it easier for financial services providers to deliver such notices via their Web sites. 79 FR 64057 (Oct. 28, 2014). Congress then amended the underlying law to create a broader exception. That amendment took effect in December 2015, and the Bureau is completing certain conforming regulatory amendments to reflect the statutory change.

³ 81 FR 83806 (Nov. 22, 2016).

⁴ 82 FR 11183 (Feb. 17, 2017).

² 82 FR 15009 (Mar. 24, 2017).

CONSUMER FINANCIAL PROTECTION BUREAU—PRERULE STAGE

| Sequence No. | Title | Regulation Identifier No. |
|--------------|--|---------------------------|
| 267 | Business Lending Data (Regulation B) | 3170-AA09 |

CONSUMER FINANCIAL PROTECTION BUREAU—PROPOSED RULE STAGE

| Sequence No. | Title | Regulation Identifier No. |
|--------------|--|---------------------------|
| 268 | Payday, Vehicle Title, and Certain High-Cost Installment Loans | 3170-AA40 |

CONSUMER FINANCIAL PROTECTION BUREAU (CFPB)

Prerule Stage

267. 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 the 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 is focusing 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, potential ways to minimize burdens on

lenders, and appropriate procedures and privacy protections needed for information-gathering and public disclosure.

Timetable:

| Action | Date | FR Cite |
|--------------------|----------|---------|
| Prerule Activities | 06/00/17 | |

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

268. Payday, Vehicle Title, and Certain High-Cost Installment Loans

Legal Authority: 12 U.S.C. 5531; 12 U.S.C. 5532; 12 U.S.C. 5512; 12 U.S.C. 5551
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. The Bureau released a Notice of Proposed Rulemaking in June 2016 that would identify it as an abusive and unfair practice for a lender to make a covered loan without reasonably determining that the consumer has the ability to repay the loan. Among other

things, the proposal would require that, before making a covered loan, a lender must reasonably determine that the consumer has the ability to repay the loan. The Bureau received more than 1 million comments on the proposal.

Timetable:

| Action | Date | FR Cite |
|--|----------|-------------|
| NPRM | 07/22/16 | 81 FR 47863 |
| Request For Information. | 07/22/16 | 81 FR 47781 |
| NPRM Comment Period End. | 10/07/16 | |
| Request For Information Comment Period End. | 11/07/16 | |
| Complete Initial Review of Comments to NPRM. | 06/00/17 | |

Regulatory Flexibility Analysis Required: Yes.

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

RIN: 3170-AA40

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