

# Expectations from the Consumer Financial Protection Bureau

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# CFPB – Origin

- The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 established the Consumer Financial Protection Bureau (CFPB)
- The Treasury Secretary is responsible for setting up the CFPB
- On September 17, 2010, President Obama and Treasury Secretary Geithner named Elizabeth Warren as Assistant to the President and Special Advisor on the CFPB
- Designated transfer date – July 21, 2011



# CFPB - Mission

- The new independent bureau shall regulate the offering and provision of consumer financial products and services under the Federal consumer financial laws.
- The new bureau will consolidate consumer protection responsibilities that currently reside in a number of federal agencies



# CFPB – What is a “Consumer Financial Product or Service”?

- “Consumer Financial Products or Services” include:
  - Financial products and services for use by consumers for personal, family or household purposes, such as loans, mortgages, deposit accounts, other credit accounts, etc.
  - This does not include insurance, securities and commodities trading, real estate brokerage, tax preparation



# CFPB – What will it be?

- The Consumer Financial Protection Bureau (CFPB) will be an independent agency housed within the Federal Reserve Board
  - Fed will provide CFPB's base funding
  - Fed has no jurisdiction over CFPB
  - CFPB has its own supervision, enforcement, rulemaking authority

# CFPB – Core Functions

- Conduct rule-making, supervision and enforcement for Federal consumer protection laws
- Restrict unfair, deceptive, abusive acts or practices
- Create a center to take consumer complaints
- Promote financial education
- Research consumer behavior
- Monitor financial markets for any risks to consumers
- Enforce laws that outlaw consumer discrimination

# CFPB – How will it be structured?

- The CFPB will have a single director
  - Appointed by the President and confirmed by the Senate
  - Will serve a 5-year term
  - Interim management: Treasury Department
  - Designated transfer date – July 21, 2011
  - Many consumer regulatory staff from the other banking agencies will transition to the CFPB on the transfer date or before
  - Note: The CFPB is already looking at policies and potential rulemakings, but cannot publish rules until after the transfer date

# CFPB – Mandatory Units & Offices

- Research Unit
- Community Affairs Unit
- Consumer Complaint Unit
- Office of Fair Lending and Equal Opportunity
- Office of Financial Education
- Office of Service Member Affairs
- Office of Financial Protection for Older Americans

## CFPB – How will it be funded?

- Funded by 10% of the Fed's operating budget with an additional \$200 million appropriation authorized
- Not funded by annual appropriations, fees, or litigation recovery
- Financial literacy can be funded with civil money penalties recovered by the CFPB

# CFPB – Rule-writing Authority

- The CFPB will have primary rule-writing authority over the following laws:
  - Alternative Mortgage Transaction Parity Act of 1982
  - Consumer Leasing Act
  - Electronic Fund Transfer Act (except with regard to Section 920 of that Act)
  - Equal Credit Opportunity Act
  - Fair Credit Billing Act
  - Fair Credit Reporting Act (except with regard to Sections 615(e) and 628 of that Act)
  - Home Owners Protection Act of 1998
  - Fair Debt Collection Practices Act

# CFPB – Rule-writing Authority cont...

- The CFPB will have primary rule-writing authority over the following laws:
  - The Home Mortgage Disclosure Act
  - The Home Ownership and Equity Protection Act
  - The Real Estate Settlement Procedures Act
  - The SAFE Mortgage Licensing Act of 2008
  - The Truth in Lending Act
  - The Truth in Savings Act
  - The Interstate Land Sales Full Disclosure Act

# CFPB – What is not included?

- Data security
- Red flags
- data disposal
- Community Reinvestment Act

# CFPB – Unfair, Deceptive, and Abusive Authority

- CFPB can issue regulations prohibiting “unfair, deceptive, or abusive” acts or practices
- “Abusive” is a new standard and includes an act or practice that:
  - Materially interferes with the ability of a consumer to understand the terms or conditions of the product or service, or
  - Takes unreasonable advantage of
    - A lack of consumer understanding of risks, costs, or conditions
    - The inability of the consumer to protect their interests in selecting or using a financial product or service
    - The reasonable reliance by the consumer on the Covered Person to act in the consumer’s interest

# CFPB – Limitations on Rule-writing Authority

- The CFPB must consider when writing rules:
  - Costs and benefits and the potential reduction in access to credit
  - Impact on banks with less than \$10 billion in assets
  - Impact on consumers in rural areas

# CFPB – Limitations on Rule-writing Authority

- Rules issued by the CFPB are reviewable by the Financial Stability Oversight Council (FSOC) but may be set aside only if such rule would “put the safety and soundness of the US banking system or the stability of the financial system of the US at risk.”
  - Must have 2/3 vote by FSOC to set aside a CFPB rule

# Who will be examined by the CFPB?

- Large depositories (more than \$10 billion in assets)
- Lenders and loan services, including payday lenders, mortgage-related businesses, and private student loan providers
- Loan acquirers, purchasers, sellers, and brokers
- Sellers, providers, and issuers of stored-value instruments
- Those engaged in check cashing, collecting, and guaranty services

# Who will be examined by the CFPB?

- Payment processors
- Providers of credit counseling, debt management, and debt settlement services
- Consumer reporting services
- Debt collectors

# CFPB – Smaller depository institutions

- CFPB will not have examination authority over banks and credit unions with under \$10 billion in assets
- CFPB may require reports of these entities to support its exams of other depository institutions or assess risks to consumers and markets
- “Ride along” provision - CFPB may include examiners on a “sampling” basis on exams of smaller banks and credit unions

# CFPB – Who else is excluded from CFPB jurisdiction?

- Attorneys
- Merchants, retailers, and other sellers of non-financial goods or services
- Realtors
- Manufactured and modular home retailers (who do not offer consumer financial products or services)
- Tax preparers
- Persons regulated by state insurance or state securities regulators

# CFPB – Who else is excluded from CFPB jurisdiction?

- Persons regulated by the SEC, CFTC, and Farm Credit Administration
- Auto dealers
- Employee benefit and compensation plans
- Activities related to charitable contributions

# CFPB - Enforcement Authority

- May bring litigation administratively or in federal court
- Remedies may include:
  - Injunctions
  - Money damages
  - Costs
  - Penalties up to \$1 million per day
  - Civil Penalty Fund, which can be used for redress and consumer education

# CFPB - Expectations

- Exam expectations
- Potential for more rulemakings
  - TILA/RESPA coordinated disclosure
  - Changes to credit card disclosures
- Greater emphasis on consumer education
- Greater emphasis on consumer testing
- Potential inconsistencies in agency exams
- Non-depository financial institutions now being examined

# CFPB – How do I learn more about it?

- CFPB website - <http://www.consumerfinance.gov/>
- ICBA status updates and alerts

# Questions???

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