

PUBLICATION

CFPB in 2016

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A new year is upon us and what better resolution for the financial services industry than thinking ahead and planning for the CFPB's potential agenda in 2016? After the flurry of mortgage activity in both 2014 and 2015, action in the last quarter of 2015 gave us likely clues regarding the focus of the Bureau for 2016. Specifically, the CFPB ended 2015 with a number of enforcement actions in the areas of vendor management, auto lending and debt collection. Given the wide scope of each of these industries and the numerous regulations governing them, it is logical to conclude that additional enforcement actions are likely.

As in 2015, we can expect that the CFPB will continue to emphasize enforcement on purported "Unfair, Deceptive, or Abusive Acts and Practices" (UDAAP) violations. UDAAP has quickly become the "go-to" basis for the Bureau to crack down on conduct across the financial services spectrum, with more than half of all enforcement actions alleging UDAAP violations. While enforcement actions are fact-intensive and only binding on the entity at issue, we will continue to monitor CFPB UDAAP activities in 2016 in order to identify potential guidance for regulated entities, to ensure compliance programs are up to par.

In addition to pursuing various enforcement actions, the CFPB spent the majority of 2015 heavily focused on implementation of the TILA-RESPA Integrated Disclosure (TRID) final rule. Now that the TRID rules are in place, the mortgage industry is gearing up for the inevitable examination process so that the CFPB can confirm compliance. Also in the mortgage area, the next issues will be finalizing both the Home Mortgage Disclosure Act (HMDA) proposed rule and the proposed rule on Access to Credit in Rural and Underserved Markets.

And while many observers predicted that the rules on prepaid products would be a 2015 focus, it now appears that it will be early-to-mid 2016 before the proposal is revealed. We expect this proposal to be the subject of extensive discussion, as there was significant activity during the comment period as banks and other institutions raised concerns about the potential scope of the rules.

One area that is just beginning to heat up for the CFPB is student loans, a \$1.2 trillion market that has flown relatively under the radar for decades. In 2015, the CFPB, along with the U.S. Departments of Education and the Treasury, released a *Joint Statement of Principles on Student Loan Servicing*, which was accompanied by a detailed CFPB report. In discussing student loans, the Bureau pointed to perceived "widespread servicing failures reported by both federal and private student loan borrowers." The CFPB promised to focus on "illegal actions" and to "clean up" the student loan servicing market. In at least this area of regulation, the CFPB is not going to be acting alone, as the agencies intend to work together on the regulations and enforcement. Anticipated actions in this arena include:

- Issuance of industry-wide standards for student loan origination and servicing.
- Increased coordination among agencies regarding examination and enforcement against servicers.
- New regulations about information given to borrowers.
- Publishing data about student loans and servicers to allow borrowers to compare types of loans and servicers. This push for data will certainly require more reporting from the originators and servicers.

2016 will no doubt be a busy year for the CFPB and the financial services industry. Baker Donelson will keep you informed about all the developments with newsletters, alerts and webinars. Happy New Year!

