NEWS

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CFPB Focus

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CFPB Website Makes it Simple to Lodge Formal Complaints

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In an apparent effort to help consumers feel that their grievances are being heard, the CFPB features a prominent portal on their website that allows consumers to lodge official complaints against mortgage servicers. A quick glance at the CFPB homepage reveals a distinctively colored link in the top right corner inviting consumers to submit a complaint to the CFPB for review. These CFPB complaints may pose a concern for mortgage servicers for two key reasons. First, while the complaints are not formal lawsuits, they do require formal responses from mortgage servicers to the consumer as well as to the CFPB. Second, the CFPB is compiling and publishing data regarding these complaints.

The process for submitting online complaints is fairly simple. Initially, the consumer is directed to create a username and a password on the CFPB website. After that, the consumer fills out an online questionnaire and discloses the underlying facts of their grievance as well as their desired resolution. Once the online questionnaire is complete, the CFPB provides the consumer with a tracking number and forwards the complaint to the respective mortgage servicer.

Once the complaint is forwarded to the mortgage servicer in question, the servicer is given 15 days to respond to both the consumer and the CFPB. Interestingly, the CFPB asserts on its site that servicers (and all other companies receiving online complaints through the CFPB) are expected to close all complaints – except for the most complicated – within a 60-day period. After the servicer responds to the complaint, the consumer is given another opportunity to provide the CFPB feedback on whether he/she is satisfied with the servicer's response.

One particularly noteworthy aspect of this online complaint box is the data compilation being done by the CFPB. According to the CFPB's site, it is collecting data regarding complaints in order to share the data with Congress as well as state and federal agencies. The database itself is readily accessible to the public on the CFPB's site and is categorized by product classification.

This virtual complaint box has been available to consumers since December 2011 and, as of January 2013, contains almost 89,000 complaints regarding mortgages alone. This aspect of the CFPB website strongly resonates with consumers, and the CFPB's ability to collect data regarding these complaints is impressive. In keeping with the CFPB's overall aim to help consumers be heard, the complaint box provides an easily accessible way to lodge a complaint against a servicer, for significantly less time and effort than filing a lawsuit.

New Consumer Resources are Offered by the CFPB

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In conjunction with the January 10, 2014, effective date for new mortgage rules, the CFPB published a number of new resources for consumers. These resources include sample letters for consumers to send their servicers, tip sheets, fact sheets, lists of questions and answers, and a tool to help consumers find local housing counseling agencies.

The sample letters address such topics as:

- **Requesting that a servicer correct errors**. The instructions for the template describe what information to include in a letter to a servicer and how to identify the error, as well as other tips.

- **Requesting information from a servicer**. The instructions describe what information to include in the letter, examples of information requests and other tips.

Templates also tell consumers what to expect from the servicer and provide a general idea of the timeline of events once the letter is sent.

Although the resources are an attempt to offer helpful information, they are broadly generic in nature with few details and would only give consumers a general overview of the new rules. There is a concern that attempting to standardize important issues such as complaints, errors or requests for information could potentially be misleading to consumers and increase the regulatory burden on servicers.

Student Loans: The Next CFPB Target?

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There is approximately $1 trillion in total outstanding student loan debt in the United States, according to the Consumer Finance Protection Bureau. With the large amount of student loan debt nationwide as well as on a per-household basis, and with defaults and delinquencies on the rise, many student loan borrowers are looking for relief. In response to the increase in this and related borrower concerns, over the past several months the CFPB has expanded its role in the student loan servicing and lending markets. In October 2013, the Bureau released a report highlighting many of the key problems with the student loan industry. In particular, the report detailed how challenging it can be for borrowers to pay off loans early when lenders apply payments inconsistently, especially when the borrower has several loan accounts with the servicer.

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Student Loans: The Next CFPB Target?, *continued*

On December 3, 2013, the CFPB announced that it will begin to supervise certain non-bank student loan servicers by gathering reports from and examining the entities. The Bureau will ensure compliance with all relevant federal consumer financial laws and will focus on three primary areas of concern: (1) application of prepayments; (2) application of partial payments; and (3) servicing transfers.

Subsequently, on January 9, 2014, the CFPB held its initial meeting with the nation's largest private student lenders and servicers. The Bureau's primary concern for the meeting was to address complaints related to the lenders' and servicers' failure to modify student loans – especially private student loans. Finally, the CFPB has indicated that it will investigate the use of arbitration agreements in connection with student loans.

Student loan borrowers continue to experience difficulties and pressures with regard to repayment. With the CFPB's increased role in the student loan industry, and with the new rules and regulations that the CFPB will soon promulgate, servicers and lenders will need to carefully review their internal processes to ensure compliance.

Keep Your Eye On the Ball: Begin 2014 With a Renewed Effort at Compliance

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While most of the financial world has been focused on the new CFPB mortgage rules that went into effect on January 10, the Bureau has continued its enforcement activities in other areas. On January 16, 2013, the CFPB announced an order against a Missouri mortgage lender and its former owner and current president to pay a fine of $81,076 to the CFPB for illegal payments to a bank for mortgage referrals.

The Bureau charged that Fidelity Mortgage Corporation, a St. Louis-based non-depository mortgage lender, entered into an agreement with a bank in which the bank referred potential borrowers to Fidelity in exchange for kickbacks. The order claimed the kickbacks were disguised as inflated lease payments for renting office space within the bank. Section 8 of the Real Estate Settlement Procedures Act (RESPA) and its implementing regulation prohibits giving and receiving kickbacks for referrals of settlement-service business involving federally-related mortgages.

As organizations pay attention to the ever-changing compliance requirements, it is important they not lose sight of the CFPB's announced enforcement actions. In this new heightened regulatory environment, it appears the CFPB is using its enforcement actions to signal where it will focus its future enforcement proceedings. In light of this, we are urging our clients to proactively begin internal reviews of all current financial operations to ensure compliance, in order to avoid costly and avoidable enforcement proceedings.

Keep Your Eye On the Ball: Begin 2014 With a Renewed Effort at Compliance, *continued*

If you haven't already done so, the beginning of the year is a great time to review your internal compliance policies and procedures to protect against these types of enforcement actions. Services that we offer our clients include both keeping them informed of developments in the regulatory arena and reviewing internal policies and procedures to make sure they are up to date with the spirit and letter of the CFPB's regulations.

As the CFPB continues to accelerate the pace and scope of its investigative and enforcement actions and implements many new regulations, it is past time for financial services companies to get serious about internal compliance.