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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 Fall 2015 Unified Agenda of Federal Regulatory and Deregulatory Actions. The CFPB reasonably anticipates having the regulatory matters identified below under consideration during the period from November 1, 2015, to October 31, 2016. The next agenda will be published in spring 2016 and will update this agenda through spring 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 September 18, 2015.

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 fall 2015 agenda as part of the Fall 2015 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 November 1, 2015, to

October 31, 2016.¹ 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 beginning a rulemaking process to follow up on a report it issued to Congress in March 2015, concerning the use of agreements providing for arbitration of any future dispute between covered persons and consumers in connection with the offering or providing of consumer financial products or services. The report, which was required by the Dodd-Frank Act, expanded on preliminary results of arbitration research that had been released by the Bureau in December 2013. Following release of the report, the CFPB analyzed whether rules governing pre-dispute arbitration agreements are warranted, and, if so, what types of rules would be appropriate. The Bureau has preliminarily determined that it should proceed with a rulemaking regarding pre-dispute arbitration agreements. To begin the rulemaking process, the Bureau intends to convene a panel in fall 2015 under the Small Business Regulatory Enforcement Fairness Act and 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 is also considering rules 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. Under the Small Business Regulatory Enforcement Fairness Act, the Bureau released in March 2015, an outline of proposals under consideration for the rulemaking. As part of Small Business Regulatory Enforcement Fairness Act 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. The Bureau expects to issue a notice of proposed rulemaking in early 2016 after additional outreach and analysis.

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 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 working on a final rule 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 proposed rule would expressly bring prepaid products 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 proposal would also amend Regulation E and Regulation Z (which implements the Truth in

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.

Lending Act) to regulate prepaid accounts with overdraft services or credit features. The Bureau's proposed rule on prepaid accounts was issued in November 2014, and the Bureau anticipates issuing a final rule in spring 2016.

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. On June 30, 2015, the Bureau published in the **Federal Register** a final rule that defines larger participants of a market for automobile financing and defines certain automobile leasing activity as a financial product or service. 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 appropriate procedures, information safeguards, and privacy protections for information-gathering under this section.

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. The Bureau has already

issued regulations implementing Dodd-Frank Act protections for mortgage originations and servicing, and integrating various federal mortgage disclosures as discussed further below.

The Bureau is also working to implement Dodd-Frank amendments to the Home Mortgage Disclosure Act (HMDA), which augment existing data reporting requirements regarding housing-related loans and applications for such loans. In addition to obtaining data that is critical to the purposes of HMDA—which include providing the public and public officials with information that can be used to help determine whether financial institutions are serving the housing needs of their communities, assisting public officials in the distribution of public sector investments, and assisting in identifying possible discriminatory lending patterns and enforcing antidiscrimination statutes—the Bureau views this rulemaking as an opportunity to streamline and modernize HMDA data collection and reporting in furtherance of its mission under the Dodd-Frank Act to reduce unwarranted regulatory burden. The Bureau published a proposed HMDA rule in the **Federal Register** in August 2014, to add several new reporting requirements and to clarify several existing requirements. Publication of the proposal followed initial outreach efforts and the convening of a panel under the Small Business Regulatory Enforcement Fairness Act, in conjunction with the Office of Management and Budget and the Small Business Administration's Chief Counsel for Advocacy, to consult with small lenders who may be affected by the rulemaking. The Bureau expects to issue a final rule in fall 2015 and is continuing to coordinate with other agencies and prepare for support of implementation efforts.

The Bureau is also working to support implementation of its final 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. The integrated forms are the cornerstone of the Bureau's broader "Know Before You Owe" mortgage initiative. The final rule was issued in November 2013, and takes effect October 3, 2015. The Bureau has worked intensively to support implementation efforts, including consumer education initiatives. To facilitate implementation, the Bureau has released a small entity compliance

guide, a guide to forms, a readiness guide, sample forms, and additional materials. The Bureau has conducted six free, publicly available webinars to answer common questions and hosted an additional webinar targeted at housing counselors. In January 2015, after extensive outreach to stakeholders, the Bureau adopted two minor modifications and technical amendments to the Rule to smooth compliance for industry.² After discovering an administrative error in June 2015, the Bureau issued a proposal to extend the effective date from August 1, 2015, to October 3, 2015, and finalized the extension of the effective date to October 3, 2015, on July 24, 2015. The Bureau expects to continue working to support implementation of the rule, monitor the market, and make clarifications and adjustments to the rule where warranted.

The Bureau is also working to support the full implementation of, and facilitate compliance with, various mortgage-related final rules issued by the Bureau in January 2013, to strengthen consumer protections involving the origination and servicing of mortgages. These rules, implementing requirements under the Dodd-Frank Act, were all effective by January 2014. The Bureau is working diligently to monitor the market and plans to make clarifications and adjustments to the rules where warranted. For example, in order to promote access to credit, the Bureau engaged in further research to assess the impact of certain provisions implemented under the Dodd-Frank Act that modify general requirements for small creditors, including those small creditors that operate predominantly in "rural or underserved" areas, and published a notice of proposed rulemaking in the **Federal Register** in February 2015. The Bureau anticipates issuing a final rule in September 2015.

The Bureau also published a proposal in the **Federal Register** in December 2014, to amend various provisions of its mortgage servicing rules in both Regulation X (which implements RESPA) and Regulation Z. The proposal included further clarification of the applicability of certain provisions when the borrower is in bankruptcy, possible additional enhancements to loss mitigation requirements, proposed applicability of certain provisions to successors in interest, and other topics. As the Bureau develops a final rule, it is reviewing and considering public comments on the proposed rule, consulting with other agencies, conducting consumer testing of certain

² 80 FR 8767 (Feb. 19, 2015).

disclosures, and preparing to support implementation and consumer education efforts. The Bureau expects to issue a final rule in late spring 2016.

Bureau Long-Term Planning Efforts

The Bureau has also updated its long-term agenda to reflect its expectations beyond fiscal year 2016. As noted in these items, the Bureau intends to explore potential rulemakings to address important issues related to consumer reporting and student loan servicing. The Bureau has also eliminated a listing for certain mortgage-related rulemakings inherited from other agencies pursuant to the transfer of rulemaking authority under the Dodd-Frank Act in 2011. The Bureau remains interested in the subjects of these rulemakings but anticipates that it would develop new proposals rather than finalizing notices that are at least five years old.

With regard to consumer reporting, the Bureau continues to monitor the credit reporting market through its supervisory, enforcement, and research efforts, and to consider prior research, including a white paper the Bureau published on the largest consumer reporting agencies in December 2012, and reports on credit report accuracy produced by the Federal Trade Commission pursuant to the Fair and Accurate Credit Transactions Act. As this work continues, the Bureau will evaluate possible policy responses to issues identified, including potential additional rules or amendments to existing rules governing consumer reporting. Potential topics for consideration might include the accuracy of credit reports, including the processes for resolving consumer disputes, or other issues.

Further, in May 2015, the CFPB issued a request for information seeking comment from the public regarding student loan servicing practices, including those related to payment processing, servicing transfers, complaint resolution, co-signer release, and procedures regarding alternative repayment and refinancing options. In September 2015, the CFPB released a report regarding student loan servicing practices, based, in part, on comments submitted in response to the request for information. The CFPB will also continue to monitor the student loan servicing market for trends and developments. As this work continues, the Bureau will evaluate possible policy responses, including potential rulemaking. Possible topics for consideration might include specific acts or practices and consumer disclosures.

The Bureau has continued work to consider opportunities to modernize and streamline regulations that it inherited from other agencies pursuant to a transfer of rulemaking authority under the Dodd-Frank Act. This work includes implementing the consolidation and streamlining of federal mortgage disclosure forms discussed earlier, and exploring opportunities to reduce unwarranted regulatory burden as part of the HMDA rulemaking. While the Bureau considers the modernizing and streamlining effort to be important, it has determined that aspects of the inherited proposals to amend Regulation Z have become stale with the passage of several years since their issuance. At this point, the Bureau believes that any rulemaking it may undertake in the areas the proposals addressed would be best achieved

through fresh initiatives that would begin with new proposals based on new reviews of the relevant markets and other appropriate outreach and fact gathering, followed by fresh analyses of any policy and legal issues or concerns presented. The CFPB has been evaluating further action regarding these pending proposals and, at this time, has determined that it will take no further action. For this reason, the Bureau has chosen not to include the item entry titled, “TILA Mortgage Amendments (Regulations Z)” (RIN 3170-AA09) from the current edition of the semiannual regulatory agenda. The Bureau is continuing to assess the mortgage market on an ongoing basis and will revisit the need to initiate new proposals at a later date.

The Bureau also has begun planning to conduct assessments of significant rules it has adopted, pursuant to section 1022(d) of the Dodd-Frank Act. That section requires the Bureau to conduct such assessments to address, among other relevant factors, the effectiveness of the rules in meeting the purposes and objectives of title X of the Dodd-Frank Act and the specific goals of the rules assessed, to publish a report of each assessment not later than 5 years after the effective date of the subject rule, and to invite public comment on recommendations for modifying, expanding, or eliminating the subject rule before publishing each report. The Bureau will provide further information about its expectations for the lookback process as its planning continues.

Dated: September 18, 2015.

Meredith Fuchs,

General Counsel, Bureau of Consumer Financial Protection.

CONSUMER FINANCIAL PROTECTION BUREAU—PRERULE STAGE

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

CONSUMER FINANCIAL PROTECTION BUREAU—PROPOSED RULE STAGE

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

CONSUMER FINANCIAL PROTECTION BUREAU—FINAL RULE STAGE

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

CONSUMER FINANCIAL PROTECTION BUREAU—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
430	Home Mortgage Disclosure Act (Regulation C)	3170-AA10

CONSUMER FINANCIAL PROTECTION BUREAU (CFPB)

Prerule Stage

427. 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	09/00/16	

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

428. Payday Loans and Deposit Advance Products

Legal Authority: Not Yet Determined

Abstract: The Bureau is considering rules 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 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. The Bureau expects to issue a Notice of Proposed Rulemaking in early 2016 after additional outreach and analysis.

Timetable:

Action	Date	FR Cite
NPRM	02/00/16	

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

429. 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 stated in the proposal that the comment period has been extended to May 2, 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	09/00/16	

Regulatory Flexibility Analysis

Required: Yes.

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

RIN: 3170-AA31

CONSUMER FINANCIAL PROTECTION BUREAU (CFPB)

Completed Actions

430. Home Mortgage Disclosure Act (Regulation C)

Legal Authority: 12 U.S.C. 2801 to 2810

Abstract: Section 1094 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) amended the Home Mortgage Disclosure Act (HMDA), which requires certain financial institutions to collect and

report information in connection with housing-related loans and applications they receive for such loans. The amendments made by the Dodd-Frank Act, among other things, expand the scope of information relating to mortgage applications and loans that must be compiled, maintained, and reported under HMDA, including the ages of loan applicants and mortgagors, information relating to the points and fees payable at origination, the difference between the annual percentage rate associated with the loan and benchmark rates for all loans, the term of any prepayment penalty, the value of the property to be pledged as collateral, the term of the loan and of any introductory interest rate for the loan, the presence of contract terms

allowing non-amortizing payments, the application channel, and the credit scores of applicants and mortgagors. The Dodd-Frank Act also provides authority for the CFPB to require other information, including identifiers for loans, parcels, and loan originators. The CFPB released a proposal in July 2014 published in the **Federal Register** on August 29, 2014, that would add data points in accordance with the Dodd-Frank Act amendments. The proposal also included other revisions to its regulations to effectuate the purposes of HMDA, including changes to institutional and transactional coverage, modifications of reporting requirements, and clarifications of other existing regulatory provisions. The Bureau issued the final rule in fall 2015.

Timetable:

Action	Date	FR Cite
NPRM	08/29/14	79 FR 51731
NPRM Comment Period End.	10/29/14	
Final Rule	10/28/15	80 FR 66127
Final Rule Effective.	01/01/18	

Regulatory Flexibility Analysis Required: Yes.
Agency Contact: Elena Grigera Babinecz, Office of Regulations, Consumer Financial Protection Bureau, *Phone:* 202 435-7700.
RIN: 3170-AA10
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