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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 (Bureau) is publishing this agenda as part of the Spring 2018 Unified Agenda of Federal Regulatory and Deregulatory Actions. The Bureau reasonably anticipates having the regulatory matters identified below under consideration during the period from May 1, 2018, to April 30, 2019. The next agenda will be published in fall 2018 and will update this agenda through fall 2019. 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 March 15, 2018.

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. If you require this document in an alternative electronic format, please contact CFPB_Accessibility@cfpb.gov.

SUPPLEMENTARY INFORMATION: The Bureau is publishing its spring 2018 Agenda as part of the Spring 2018 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 Bureau reasonably anticipates having under consideration during the period from May 1, 2018, to April 30, 2019, as described further below.¹ The Bureau's participation in the Unified Agenda is voluntary. The complete Unified Agenda is available to the public at the following website: <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 Bureau has rulemaking, supervisory, enforcement, and other authorities relating to consumer financial products and services. These authorities include the

authority to issue regulations under more than a dozen Federal consumer financial laws, which transferred to the Bureau 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 Bureau is working on various 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 ensuring that consumers are provided with timely and understandable information to make responsible decisions about financial transactions; that consumers are protected from unfair, deceptive, or abusive acts and practices and from discrimination; that outdated, unnecessary, or unduly burdensome regulations are regularly identified and addressed in order to reduce unwarranted regulatory burden; that Federal consumer financial law is enforced consistently without regard to the status of a person as a depository institution in order to promote fair competition; and that markets for consumer financial products and services operate transparently and efficiently to facilitate access and innovation.

The Bureau is under interim leadership pending the appointment and confirmation of a permanent director. In light of this status, Bureau leadership is prioritizing during coming months (a) Meeting specific statutory responsibilities; (b) continuing selected rulemakings that were already underway; and (c) reconsidering two regulations issued under the prior leadership. Those projects are described further below. The Bureau's Acting Director has decided to reclassify as "inactive" certain other rulemakings that had been listed in previous editions of the Bureau's Unified Agenda in the expectation that final decisions on whether and when to proceed with such projects will be made by the Bureau's next permanent director. This change in designation is not intended to signal a substantive decision on the merits of the projects. For similar reasons, and also in light of general directions by the Office of Management and Budget with regard to agencies' inclusion or exclusion of

longer-term items, the Bureau has designated as "inactive" several items that were listed as potential long-term projects in the fall 2017 Unified Agenda.

The Bureau has recently launched a "call for evidence" to ensure that the Bureau is fulfilling its proper and appropriate functions to best protect consumers. As part of that initiative, the Bureau is seeking public feedback with respect to the regulations that the Bureau inherited from other agencies as well as regulations that the Bureau has adopted. In addition, the Bureau is in the process of assessing the effectiveness of three rules pursuant to section 1022(d) of the Dodd-Frank Act, and, as part of those assessments, has solicited and received public comment on recommendations for modifying, expanding, or eliminating those significant rules. In developing future regulatory agendas, the Bureau will carefully consider the feedback received through the call for evidence and the assessment project to identify areas in which rulemaking may be appropriate to achieve the Bureau's strategic goals and objectives.

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 conducting follow-up rulemakings as warranted to address issues that have arisen during the process of implementing various mortgage requirements under the Dodd-Frank Act. The Bureau recently issued a final rule to address certain narrow issues concerning the timing of providing mortgage servicing statements to consumers in bankruptcy. It also expects in May 2018, to issue a final rule to amend regulations that implement a Dodd-Frank Act requirement to consolidate various disclosures that consumers receive under the Real Estate Settlement Procedures Act (RESPA) and Truth in Lending Act (TILA) when applying for and closing a mortgage loan. Specifically, the follow-up rule addresses when a creditor may compare charges paid by or imposed on the consumer to amounts disclosed on a Closing Disclosure, instead of a Loan Estimate, to determine if an estimated

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.

closing cost was disclosed in good faith and if an increase may therefore be passed on to the consumer. The broader consolidated disclosures rule is the cornerstone of the Bureau's broader "Know Before You Owe" mortgage initiative.

The Bureau is also working to implement section 1071 of the Dodd-Frank Act, which amends the Equal Credit Opportunity Act to require financial institutions to collect, report, and make public certain information concerning credit applications made by women-owned, minority-owned, and small businesses. This rulemaking could provide important information about how these businesses—which are critical engines for economic growth—access credit. In 2017, the Bureau released a white paper summarizing preliminary research on the small business lending market and held a public hearing to gather feedback on related issues. The Bureau also issued a Request for Information seeking public comment on, among other things, the types of credit products offered and the types of data currently collected by lenders in this market and the potential complexity of, cost of, and privacy issues related to, small business data collection. The information received will help the Bureau determine how to implement the rule efficiently while minimizing burdens on lenders.

Continuation of Other Rulemakings

The Bureau is also continuing certain other rulemakings to ensure that markets for consumer financial products and services operate transparently and efficiently and to address potential unwarranted regulatory burdens.

For example, the Bureau has engaged in research and pre-rulemaking activities regarding the debt collection market, which continues to be a top source of complaints to the Bureau. 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 in August 2016, 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 representatives of small businesses that

might be affected by the rulemaking. The Bureau is preparing a proposed rule focused on FDCPA collectors that may address such issues as communication practices and consumer disclosures.

The Bureau also announced in spring 2017, that it had launched the first in what it expects to be 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.² The Bureau expects to focus its initial review on subparts B and G of Regulation Z, which implement the Truth in Lending Act with respect to open-end credit generally and credit cards in particular. For instance, the Bureau expects to consider adjusting rules concerning the database of credit card agreements that it is required to maintain under the Credit Card Accountability Responsibility and Disclosure Act of 2009 (CARD Act) 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 Bureau expects to identify other opportunities to clarify ambiguities, address developments in the marketplace, and modernize or streamline the open-end credit provisions. Because of timing and resource considerations, the Bureau has reclassified the project as a long-term action. As noted above, the Bureau has also issued two Requests for Information seeking feedback on other potential revisions to both rules that the Bureau inherited from other Federal regulators and rules that the Bureau has issued over time, and may identify other projects for future regulatory agendas after reviewing the responses.

As noted above, Bureau leadership has decided to reclassify as "inactive" certain other projects that had been listed in previous editions of the Bureau's Unified Agenda in the expectation that final decisions on whether and when to proceed with such rulemakings will be made by the Bureau's next permanent director. These

² As noted in previous agendas, the Bureau had previously sought feedback on the inherited rules as a whole and identified and executed several burden reduction projects from that undertaking. See 76 FR 75825 (Dec. 5, 2011); see also 79 FR 64057 (Oct. 28, 2014); 78 FR 25818 (May 3, 2013); 78 FR 18221 (Mar. 26, 2013). The Bureau believed the next logical step was 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 noted that other Federal financial services regulators have engaged in these types of reviews over time, and viewed such an initiative as a natural complement to its work to facilitate implementation of new regulations. See 83 FR 1968 (Jan. 12, 2018).

projects include potential rulemakings regarding overdraft programs on checking accounts and to exercise the Bureau's authority, pursuant to section 1024 of the Dodd-Frank Act, to supervise certain non-depository institutions that offer personal loans by defining larger participants in that market.³ The decision to classify such projects as inactive is not intended as a decision on the merits.

Reconsideration of Previous Rules

The Bureau announced in December 2017, that it intends to open a rulemaking to reconsider various aspects of a 2015 final rule that amended regulations implementing the Home Mortgage Disclosure Act. The reconsideration could involve such issues as the institutional and transactional coverage tests and the rule's discretionary data points. The Bureau also expects the rulemaking to follow up on its action in August 2017, to amend Regulation C to increase the threshold for collecting and reporting data with respect to open-end lines of credit for a period of 2 years so that financial institutions originating fewer than 500 open-end lines of credit in either of the preceding 2 years would not be required to begin collecting such data until January 1, 2020. The Bureau indicated at the time of that initial rulemaking that it intended to conduct follow-up rulemaking in that interim period to consider whether to make permanent adjustments to the open-end threshold.

The Bureau also announced in January 2018, that it intends to engage in a rulemaking to reconsider a 2017 rule titled Payday, Vehicle Title, and Certain High-Cost Installment Loans. Most provisions of that rule would not require compliance until August 2019. The Bureau also noted that it will entertain requests to waive the application deadline for preliminary approval to become a registered information system under that rule.

³ Section 1024 of the Dodd-Frank Act authorizes the Bureau to supervise "larger participants" of markets for various consumer financial products and services as defined by Bureau rule. The Bureau had previously announced that it was preparing to conduct a rulemaking to define larger participants in the market for personal loans, including consumer installment loans and vehicle title loans, and considering whether rules to require registration of these or other non-depository lenders would facilitate supervision. The Bureau believes that further consideration of these issues should be postponed pending reconsideration of the Bureau's 2017 rule concerning payday, vehicle title, and certain high-cost installment loans as discussed further below.

Further Planning

As required by the Dodd-Frank Act, the Bureau is continuing to monitor the functioning of markets for consumer financial products and services to identify risks to consumers and the proper functioning of such markets.

Future regulatory agendas are expected to reflect this monitoring, the feedback received through the call for evidence initiative and the assessment project, and prioritization by the Bureau’s next permanent director to determine which rulemakings are appropriate to achieve

the Bureau’s strategic goals and objectives.

Dated: March 15, 2018.

Kelly Thompson Cochran,
Assistant Director for Regulations, Bureau of Consumer Financial Protection.

CONSUMER FINANCIAL PROTECTION BUREAU—PRERULE STAGE

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

CONSUMER FINANCIAL PROTECTION BUREAU (CFPB)

Prerule Stage

250. Business Lending Data (Regulation B)

E.O. 13771 Designation: Independent agency.

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, maintained, and reported, 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 issued a Request for Information in 2017 seeking public comment on, among other things, the types of credit products offered and the types of data currently collected by lenders in this market, and the potential complexity, cost of, and privacy issues related to, small business data collection. The information received will help the Bureau determine

how to implement the rule efficiently while minimizing burdens on lenders.

Timetable:

Action	Date	FR Cite
Request for Information.	05/15/17	82 FR 22318
Request for Information Comment Period End.	09/14/17	
Prerule Activities	03/00/19	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: James Wylie, Office of Regulations, Consumer Financial Protection Bureau, *Phone:* 202 435-7700.

RIN: 3170-AA09

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