Through the Crystal Ball: Predicting Important CFPB Developments in 2015

April 2, 2015

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Your Presenters

Alan S. Kaplinsky

Richard J. Andreano, Jr.

Christopher J. Willis

Bowen “Bo” Ranney
Overview

• Rulemaking developments
  - Prepaid accounts, debt collection, payday loans, arbitration
  - Auto finance “larger participant” rule
  - TILA / RESPA integrated mortgage disclosure rule
  - HMDA / Regulation C revisions

• Likely student loan focus?

• Likely Supervision and Enforcement priorities?
Rulemaking developments

• Prepaid accounts
• Debt collection
• Payday, vehicle title, and similar loans
• Credit cards
• Complaint narratives
• Arbitration
Rulemaking developments - auto

• Auto finance “larger participant” rule
  - Expected to be finalized later this year
  - Likely to increase scrutiny on disparate impact / dealer finance charge participation issue (but with the caveat of *Inclusive Communities*)
  - Attention on other auto finance issues:
    • Daily simple interest disclosures/contract language
    • Payment allocation issues
    • Deferments
    • Advertising of finance terms
    • Ancillary products
Rulemaking developments - mortgages

• TILA / RESPA integrated mortgage disclosure rule--TRID
  - Released November 20, 2013.
  - Published in December 31, 2013 Federal Register.
  - Scheduled effective date, August 1, 2015.

• Will CFPB delay TRID implementation?
  - Comments to date.
  - Potential industry ask.
  - CFPB staff aspects, TRID and mortgage rules in general.

• Thoughts regarding implementation and the future.
  - Written guidance?

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Rulemaking developments - mortgages

- HMDA / Regulation C revisions
  - CFPB released proposal to implement Dodd-Frank changes and more on July 24, 2014.
  - Comment Period ended October 29, 2014.

- Proposed modifications addressed:
  - Covered institutions.
  - Covered transactions.
  - Reportable data.
  - Disclosure and reporting requirements.
Rulemaking developments - mortgages

- Industry views on HMDA proposal.
  - Industry challenges with existing requirements.
  - Privacy aspect.
- Final rule expected in summer to fall timeframe.
  - When will it be effective?
- What will the CFPB do in the final rule?
Student loans

- Credit reporting
- SCRA rate adjustments (with possible DMDC scrubs required)
- Loans mods and other default avoidance/aversion channels
- Greater scrutiny of all aspects of servicing: payment allocation and application; responses to disputes and validation requests; collections practices (including legal collections)
- For-profit school lawsuits
Likely Supervision priorities

• Public comments from leadership
  - “higher risk” financial markets
  - “emerging risks”

• Complaint portal data
  - Complaint volume by product
  - Investigator observations

• Supervisory Highlights
  - Non-public supervisory actions

• Mortgage market
Enforcement in the mortgage arena

- Servicing.
- RESPA Section 8.
- Loan Originator Compensation.
- Ability to Repay/QM.
- Appraisal Copy.
Likely Enforcement priorities

- Auto finance (with DOJ)
- Debt collection (including the Hanna lawsuit)
- “Operation Choke Point”-like investigations
- Payday and auto title lending (overlap with rulemaking in process)
- Student lending
Thank you for joining us!

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Moderator – Alan S. Kaplinsky

- Practice Leader of the Consumer Financial Services Group at Ballard Spahr
- Devotes his practice to counseling financial institutions with respect to bank regulatory and transactional matters and defending them in individual and class action lawsuits (including CFPB investigations and government enforcement matters)
- First President of the American College of Consumer Financial Services Lawyers
- Former Chair of the American Bar Association Committee on Consumer Financial Services of the Business Law Section
- Co-Chair of the Practising Law Institute's Annual Consumer Financial Services Institute, now on its 20th year
- Has been named as a tier one banking and consumer financial services lawyer in the 2006 through 2014 editions of *Chambers USA*
- Has been named in *The Best Lawyers in America* under financial services regulation law and banking and finance litigation from 2007 to 2014
- Member of the Bloomberg BNA Banking Report Advisory Board
Panelist – Richard J. Andreano, Jr.

- Practice Leader of the Mortgage Banking Group and a member of the Consumer Financial Services and Privacy and Data Security Groups
- Has devoted more than 25 years of practice to financial services, mortgage banking, and consumer finance law
- Advises lenders, servicers, brokers, home builders, title companies, real estate professionals, and other settlement providers on regulatory compliance and related matters, including issues concerning Dodd-Frank, RESPA, TILA, ECOA, Fair Housing Act, FCRA, HMDA, and Gramm-Leach-Bliley Act
- Author, MBA Compliance Essentials Loan Originator Compensation Rule Resource Guide
Panelist – Christopher J. Willis

- Partner at Ballard Spahr and a member of the firm’s Consumer Financial Services and Mortgage Banking Groups
- Counsels financial institutions on regulatory matters, advises them on compliance with consumer financial services laws, and defends them in both individual and class action lawsuits, as well as governmental enforcement actions (including CFPB investigations)
- Chairs the firm’s Fair Lending Task Force and Collection Documentation Task Force
- Fellow of the American College of Consumer Financial Services Lawyers
- Recognized by Chambers USA for financial services regulation: consumer finance (litigation) nationwide for 2014
- Named in The Best Lawyers in America for banking and finance litigation and commercial litigation for 2013-2015
- Frequent author and speaker on issues relating to consumer financial services regulation and litigation
Panelist – Bowen “Bo” Ranney

- Associate in the Consumer Financial Services and Mortgage Banking Groups at Ballard Spahr
- Practice focuses on assisting clients with the implementation of compliance systems, preparation for CFPB exams, and the handling of CFPB and other agency exams, civil investigations, and enforcement proceedings
- Additionally advises on compliance with the full range of federal and state consumer financial services laws, including the various laws enumerated by the Dodd-Frank Act; prohibitions against unfair, deceptive, and abusive acts and practices; and usury, licensing, and privacy laws
- Previously a Presidential Management Fellow and later an Examiner with the CFPB, Mr. Ranney worked in both supervision, where he served as EIC and in other leadership positions on examinations, and in enforcement, where he played a key role on the team that filed the CFPB’s first application for a temporary restraining order