



Practical Compliance

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Unified Agenda Submission by CFPB

Under the Regulatory Flexibility Act, federal agencies must publish its regulatory agenda twice a year. The Unified Agenda provides information about regulations that the Government is considering or reviewing. The Unified Agenda has appeared in the Federal Register twice each year since 1983 and has been available online since 1995. The Consumer Financial Protection Bureau participates, filing an update to the agenda in Spring and Fall. The most recent update was posted May 21. The CFPB [news release](#) is dated May 22. The overall agenda is posted by the Office of Management and Budget at RegInfo.gov.

The CFPB has listed three topics in the pre-rule stage of review and nine more are in process to a final rule. Included in those pre-rule topics under study are Overdrafts, Debt Collection, Payday Loans and Deposit Advance products, Title loans, and Arbitration.

We summarize here the nine areas on the way to a final rule.

HMDA-Regulation C

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 better meet the purposes of HMDA, including changes to institutional and transactional coverage, modifications of reporting requirements, and clarifications of other existing regulatory provisions. The comment period ended in October.

The CFPB is currently reviewing that proposal and comments, and plans to publish a final rule in August this year.

Rules Transferred to CFPB

Under Title X of the Dodd-Frank Act the rulemaking authority for 14 consumer financial protection laws was transferred from various agencies to the CFPB. In February 2012 separate Interim Final Rules place those regulations under the CFPB section of the Code of Financial Regulations in Chapter 10. No issues have arisen apparently with that move, and the CFPB intends no further action on those interim rules this year.

Prepaid Accounts under Regulation E and Regulation Z

The CFPB issued a proposed rule, published in the [Federal Register](#) on December 23, 2014, to create comprehensive consumer protections for prepaid financial products. The proposal would expressly put these accounts within the coverage of Regulation E, requiring disclosures, and would clarify coverage of Regulation Z when such cards or accounts include access to credit. The comment period ended in March. A final rule is apparently anticipated early next year.

Funds Availability– Regulation CC

Regulations for funds availability must be approved jointly by the Federal Reserve and the CFPB. The Board proposed amendments in 2011 to adjust availability timing and revise forms, and a revised proposal was published in the [Federal Register](#) on February 4, 2014. The second comment period ended in May 2014. The goal appears to be to have a final rule ready by the end of this year. Clearly this has not been a high priority.

FIRREA Appraisals

This is about the Dodd-Frank Act requirements for appraisal management companies and automated valuation models. It is a joint agency effort. A final rule was issued by the Agencies on [April 30, 2015](#) concerning appraisal management companies, which has yet to be published in the Federal Register. Proposals are anticipated for the AVM sections, but no date is set.

Mortgage Servicing Rules–Regulation Z and X

In December 2014 the CFPB published a [proposed rule](#) in the Federal Register to amend the mortgage servicing rules. The proposed changes would address issues when the borrower is in bankruptcy, loss mitigation requirements and other similar topics. The comment period ended in March, but a final rule is not anticipated until March 2016.

2013 Mortgage Rules (ATR/QM) –Regulation X and Z

Since issuing the final rules in January 2013 regarding numerous requirements, amendments have been proposed and finalized for some sections regarding qualified mortgages and ability to repay, as well as successors-in Interest. In [January 2015](#) a proposed rulemaking was issued to modify general requirements for small creditors including small creditors that operate predominantly in “rural or underserved” areas. Further changes are anticipated with a final rule expected in September 2015.

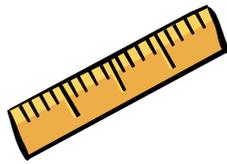
Civil Penalty Fund

The Dodd Frank Act established a fund to be managed by the CFPB into which is deposited civil money penalties. These funds are to be used for payments to victims of the activities for which the fines are assessed. When victims are not identifiable the funds are to be used for general consumer education and financial literacy. The CFPB issued a [final rule](#) to establish procedures for allocating funds in May 2013, as well as [proposals](#) for further refinements. An completed final rule is not expected until April of 2016.

Large Participants in Auto Financing

Pursuant to the Dodd Frank Act authorization to the CFPB to supervise “larger participant[s]” of markets for other consumer financial products or services, such as non-bank lenders, the CFPB [proposed a rule](#) in October 2014 to further define those entities, specifically with regard to automobile financing and leasing. A final rule is expected as soon as June 2015.

Short Clips



CFPB EXAM MANUAL—MORTGAGE ORIGINATIONS

On May 4, 2015 the CFPB announced updates to the [Exam Manual](#) to reflect recent regulatory changes for residential mortgages including the August 1 disclosure rules. The [revised section](#) includes eight modules with good descriptions of mortgage types, including qualified mortgages. Other exam modules are referenced also.

GUIDANCE ON HOUSING COUNSELOR REQUIREMENT

The CFPB published a [final interpretive rule](#) on April 21, 2015, which adds guidance on how to provide a list of local homeownership counseling organizations. The April 15 [news release](#) states:

Today's interpretive rule restates the detailed guidance from 2013. It also includes new instructions about: how to provide applicants abroad with homeownership counseling lists; permissible geolocation tools; combining the homeownership counseling list with other disclosures; use of a consumer's mailing address to provide the list; and high-cost mortgage counseling qualifications and lender participation in such counseling.

SUBMISSION OF CREDIT CARD AGREEMENTS—REGULATION Z

The Truth in Lending Act as implemented by [Regulation Z §1026.58](#) requires creditors to post agreements for open-end consumer credit card plans on the creditors' Web sites and to submit those agreements to the Bureau. In our last issue we noted the proposal, which the CFPB has made final, to suspend the requirement for one year (four quarterly submissions) while the Bureau works to streamline the process. Beginning with the submission due on the first business day on or after April 30, 2016, card issuers shall resume submitting credit card agreements on a quarterly basis to the Bureau. The [final rule](#) was published April 17, 2015.

APPRAISAL MANAGEMENT COMPANIES

A final rule was [announced](#) on April 30, 2015 by the five prudential regulators and the Federal Housing Finance Agency that "implements minimum requirements for state registration and supervision of appraisal management companies (AMCs)." The rule takes effect 60 days after publication in the Federal Register which has not yet occurred. Although states are not required to set up a registration process, "in states that have not established a regulatory structure after 36 months from the effective date of this final rule, any non-federally regulated AMC is barred by section 1124 of Title XI [Dodd-Frank Act] from providing appraisal management services for federally related transactions." Clients using such companies will want to watch for both the state process and the registration of the vendor.

In the States

MASSACHUSETTS ACT "MODERNIZING THE BANKING LAWS AND ENHANCING THE COMPETITIVENESS OF STATE-CHARTERED BANKS"

The previous legislature in 2014 passed [Chapter 482](#) of the Massachusetts Session Laws, which was signed by then Governor Patrick, and took effect April 7 this year. The Act amends numerous sections of the Massachusetts statutes.

The law firm of Nutter, McClennen & Fish provided a public [white paper](#) analysis in February 2015. Their analysis states that the new law expands bank powers and eases some restrictions. In reviewing the white paper for consumer compliance related items, we note that the law:

- Eliminates specific Massachusetts insider lending rules;
- Affirms the federal TILA and CFPB rules unless the Commissioner determines Massachusetts law to be more protective of consumers;
- Requires monthly loan statements to be mailed at least 14 days before the end of the next billing cycle, or the next payment due date (whichever is earlier), which changes the current 15 day requirement;

- Repeals the Massachusetts Truth In Savings Law (Regulators have generally accepted compliance with the federal rules for some time);
- Requires compliance with specified federal laws, though retaining authority for the Commissioner to supervise and examine state banks. The list includes expedited funds availability, fair credit billing, electronic funds transfers, safeguarding money and securities, minimum security devices and procedures, bank secrecy and insider lending. Note that the Massachusetts electronic funds transfer requirements will still apply to entities that are not banks or credit unions.

If you have met the conditions, then you may use the short annual notice. To do so you must use the model language from Regulation P. Use the following wording with Privacy Notice bolded to be conspicuous.

Privacy Notice—Federal law requires us to tell you how we collect, share, and protect your personal information. Our privacy policy has not changed and you may review our policy and practices with respect to your personal information at [Web address] or we will mail you a free copy upon request if you call us at [telephone number].

Good To Know

Send your questions to the answerperson@mmconsulting.info

Sending requests to the above address gets you a written response to your questions. Emails sent to the answer person are received five days a week.

Q: We are planning for our annual privacy notice mailing, and have thought we would like to use the new abbreviated notice process. Can you remind us of how that works?

A. The idea of using an abbreviated notice is good, but there are some conditions of which you should be aware.

First your institution must meet the qualifications that allow for the notice. According to [Regulation P](#) at 12 CFR 1016.9(c) you may use the alternative method if:

- You do not disclose the customer's nonpublic personal information to nonaffiliated third parties other than under the exceptions permitted in the regulation;
- You do not need to include on your privacy notice an opt out under the Fair Credit Reporting Act;
- The information you are required to convey on your annual privacy notice has not changed since you provided the immediately previous privacy notice; and
- You use the model form (tabular format) for your privacy notice.

You can put the notice on an account statement, coupon book, or any other required disclosure being sent. Of course, for those not receiving statements, you'll need to do an actual mailing, and we recommend that you mail your actual privacy notice.

You must post the full current privacy notice on your web site on a page which contains only that notice, and that the consumer can get to without having to sign it, that is, it must be on your public site.

You must also mail the full privacy statement within 10 days to anyone who requests it.



Important Dates- Don't Forget!

(Generally we retain the prior month, and go forward for at least a year as known. Dates are either effective dates of final rules, or end of the comment period for proposed rules.)

04/07/2015 [MA Bank Modernization Act](#). Amends several Massachusetts compliance regulations.
04/17/2015 [Regulation Z](#). Credit Card Agreements one year hiatus finalized.
04/21/2015 [Regulation Z](#). Homeownership Counseling Lists & High-Cost Mortgage Counseling Rules
08/01/2015 [Integrated Disclosures](#). TILA and RESPA combined disclosures required.
08/01/2015 [Integrated Disclosures](#). TILA and RESPA rate lock timing and NMLS numbers amended.
08/01/2015 [Regulation X](#). RESPA Settlement Booklet replaced by [Your Home Loan Toolkit](#).
1/01/2016 Flood Insurance. Escrow rules effective date as delayed by [HR3370](#) in Sec.25.

The 2015 M&M Consulting Compliance School

When?

June 23, 24 & 25 (Tuesday - Thursday)

What's special this year?

This year's school will be unique in the sheer amount of new material that will be covered:

- A full day on the new Integrated Mortgage Disclosure requirements - with workshop approach examples
- Focus on selected BSA concerns
- Flood insurance requirements - what is effective now!

Please email jaybanker@mmconsulting.info for more information.