



Regulatory: The Consumer Financial Protection Bureau

The bureau issues its first regulation.

By [Martin Bishop](#)

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This column is the fourth in a series of articles on the coming of the Consumer Financial Protection Bureau and the direction it is likely to take in the regulation of consumer financial products and services.

We know that the new Consumer Financial Protection Bureau will have significant regulatory authority under Title X of the Dodd-Frank Act, but precisely what does that mean? On May 31, 2011, the bureau itself took the first step toward answering that question when it published in the Federal Register its first rule for public comment.

The Act provides that the seven existing federal agencies currently tasked with oversight of various consumer financial services protection laws – (1) the Board of Governors; (2) the Federal Deposit Insurance Company (FDIC); (3) the Federal Trade Commission (FTC); (4) the National Credit Union Administration (NCUA); (5) the Office of Comptroller of the Currency (OCC); (6) the Office of Thrift Supervision (OTS); and (7) the Department of Housing and Urban Development (HUD) – must transfer their consumer protection functions to the bureau on the designated transfer date – July 21, 2011. Beginning on that date, the bureau will have the authority to enforce the rules and orders issued by these seven transferor agencies under the enumerated consumer laws, a term defined in a previous installment.

Section 1063(i) of the Act specifically requires the bureau to consult with each of these transferor agencies to identify the rules and orders that the bureau will enforce and publish that list in the Federal Register. Hence, the May 31st proposed rule. So what does the rule say?

First, the rule states a few prefatory facts. The bureau has, for instance, consulted with each of the transferor agencies as Section 1063(i) requires. Additionally, the bureau and the transferor agencies identified only rules, not any orders, that will be enforced by the bureau.

Second, the rule sets forth a few general pronouncements. Specifically, the bureau (which is acting through the Secretary of Treasury until the designated transfer date) proclaims that the rule does not have any substantive effect, and disclaims that “the inclusion or exclusion of any rule or order would not alter the [bureau’s] authority.” Further, the rule purportedly is not subject to the Administrative Procedure Act (APA), so notice and comment are not even required according to the bureau. Read: do not rely on the rule and, if you do, there is no remedy under the APA.

Finally, the rule lists the rules that the bureau will, subject to certain limitations in the Act, begin enforcing on the designated transfer date. The list includes substantially all the big regulations issued under all the major consumer financial protection acts.

For instance, the bureau will enforce Regulations B, C, E, P, V, and Z, which had been within the province of the Board under the Equal Credit Opportunity Act, the Home Mortgage Disclosure Act, the Electronic Funds Transfers Act, the Gramm-Leach-Bliley Act, the Fair Credit Reporting Act, and the Truth in Lending Act, respectively. The bureau will take over enforcement of a series of rules on the privacy of consumer financial information that, up until the designated transfer date, were enforced by the FDIC, OCC, OTS, NCUA, FTC, and HUD.

In addition, the bureau will take over enforcement of large swaths of the regulations previously enforced by these agencies addressing mortgage disclosures and the like. Indeed, the bureau has already designed new disclosure forms and sought feedback from the public on them via its [website](#).

The bottom line is that the bureau will be overseeing – enforcing – virtually all of the day-to-day regulations that impact the consumer financial services industry. To the extent these regulations impact you, start looking away from the old regulator and toward the bureau. To keep up, follow the bureau on Twitter, or “friend” the bureau on Facebook. The bureau has so far been prolific in its use of social media.

In the final two installments of this series, we will take a look at the bureau’s enforcement powers and the Act’s new unfair, deceptive, or abusive acts or practices provisions.

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