



COMPLIANCE

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A Host of Compliance Rules Face Revisions in 2020

By Michael Christians

Another busy year awaits credit unions from a regulatory compliance perspective. On December 26, 2019, the Consumer Financial Protection Bureau (CFPB) published its annual regulatory agenda. It covers the CFPB's anticipated rulemaking activities from October 1, 2019 through September 30, 2020, the federal government's fiscal year.

The agenda includes a variety of issues well known to credit unions, including HMDA, the QM GSE patch, remittance transfers and loan originator compensation.

Here are the highlights:

Data Collection for Women-Owned, Minority-Owned and Small Businesses

Section 1071 of the Dodd-Frank Act requires the CFPB to prescribe rules for the collection of information in applications for credit submitted by women-owned, minority-owned and small

businesses. Expect rulemaking to commence in the new year to address the following statutory requirements:

- Creditors will be required to collect certain information such as the purpose of the loan, the census tract in which the entity's principal place of business is located and the gross annual revenue of the business during its last fiscal year.

- This information must be submitted to the CFPB annually and retained by the creditor for a period of three years.

Home Mortgage Disclosure Act (HMDA)

The CFPB anticipates issuing a final rule this spring to increase the transactional coverage threshold for closed-



end mortgage loans to either 50 or 100 loans in each of the two preceding calendar years. Remember that the CFPB has already temporarily extended the transactional coverage threshold for open-end mortgage loans (500) for an additional two years.

In addition, the CFPB is expected to take action this summer on its Advance Notice of Proposed Rulemaking (ANPR). The May 2019 ANPR sought commentary regarding whether to make changes to the data points currently required for collection under Regulation C.

Payday, Vehicle Title and Certain High-Cost Installment Loans

In February 2019, the CFPB issued a Notice of Proposed Rulemaking (NPRM) to rescind the mandatory underwriting provisions of its Payday, Vehicle Title and Certain High-Cost Installment Loans rule. The CFPB expects to take final action with regard to this NPRM in April.

Regulation F

Regulation F implements the requirements of the Fair Debt Collection Practices Act. It makes it illegal for a debt collector to engage in unfair, deceptive or abusive acts or practices while attempting to collect a debt. In May 2019, the CFPB issued a proposed rule identifying several substantive changes to Regulation F. The CFPB anticipates taking final action with regard to Regulation F sometime this year.

(Note: Most financial institutions will not be affected by these changes; Regulation F only applies to those who regularly collect, or attempt to collect, a debt owed to another.)

Remittance Transfers

Subpart B of Regulation E contains the requirements for remittance transfers, defined as the electronic transfer of



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funds from a consumer in the United States to a receiver in a foreign country. Currently, the requirements do not apply to financial institutions that provide 100 or fewer remittance transfers in a calendar year. In April 2019 the CFPB issued a request for information, that among other things, sought commentary as to whether or not to raise this threshold. The regulatory agenda states that the CFPB will continue its work related to any potential remittance transfer rulemaking into the new year.

Qualified Mortgage GSE Patch

Under certain conditions, a financial institution may originate a loan as a qualified mortgage (QM)

even if the borrower's debt-to-income (DTI) ratio exceeds 43%. Under the GSE patch, if a loan with a DTI ratio over 43% is eligible for sale to the secondary market at the time of consummation, the loan may be considered a QM even if retained in the creditor's portfolio. The catch is that the GSE patch is only temporary; it is set to expire on January 1, 2021.

In July 2019, the CFPB issued an ANPR indicating that it plans to allow the GSE patch to expire as originally scheduled. However, the ANPR also sought commentary on the following questions:

- Should the QM requirements continue to demand a maximum DTI ratio, and if so, should that remain at the current 43%?
- Should the QM underwriting standards found in Appendix Q to Regulation Z be retained as is, amended, or eliminated altogether?

Given these questions, it is possible that the CFPB will engage in further rulemaking this year regarding the QM re-

quirements of Regulation Z.

Loan Originator Compensation

Based on feedback that certain provisions of its loan originator compensation requirements are unnecessarily restrictive, the CFPB is considering further rulemaking to address the following:

- Permitting adjustments to a loan originator's compensation to facilitate the origination of state housing finance authority loans.
- Permitting adjustments to a loan originator's compensation due to errors made during the origination process.

E-Sign Act

The CFPB is considering a rule to address a range of issues related to the Electronic Signatures in Global and National Commerce (E-Sign) Act and credit cards. Any potential rulemaking would make it easier for consumers to apply for and receive information about credit cards via electronic channels.

Regulatory Flexibility Act

The Regulatory Flexibility Act requires the CFPB to consider how its rulemakings have impacted small businesses. According to the regulatory agenda, the CFPB plans to review the following this year:

- Regulation E's rules concerning overdrafts.
- The Credit Card Accountability, Responsibility and Disclosure (CARD) Act. ▲



It is possible that the CFPB will engage in further rulemaking this year regarding the QM requirements of Regulation Z.



As principal of Michael Christians Consulting, Christians assists financial institutions with ensuring their compliance programs conform to federal laws and regulations. He provides counsel on current rules, assists with the strategic implementation of regulatory changes and offers customized education and training services. For more information, visit mchristiansconsulting.com. This article, originally published on Christians's website, is used with permission.