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CFPB's Latest Supervisory Report Signals Enforcement Trends

Authors: Kristine L. Roberts
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The CFPB's most recent *Supervisory Highlights* report, which covers the second half of 2014, confirms that the bureau is continuing an aggressive focus on debt collection, overdraft fees, mortgage origination, fair lending and consumer reporting agencies. Banks and other consumer financial services providers should remain vigilant in their monitoring of policies and practices in these priority areas.

The CFPB has made the debt collection industry an enforcement priority since 2012. The bureau issued a rule establishing its supervisory authority over large nonbank debt collectors in October 2012 and began accepting debt collection complaints in July 2013. During the most recent supervisory period, the bureau's review of creditors' debt collection activities found that some debt collectors for student loans purportedly overstated the benefits of loan rehabilitation and inaccurately implied that legal action was impending. The CFPB also found a risk of deception based on debt collectors' inconsistent statements regarding the time frame required to cancel or adjust a recurring ACH payment.

In the area of consumer reporting, the CFPB's examinations assess the consumer reporting agencies' (CRAs) compliance with their dispute-handling obligations under the Fair Credit Reporting Act. The bureau previously reported that its examiners had found that some CRAs failed to provide documents submitted by consumers disputing information on their credit reports. In this latest *Supervisory Highlights*, the CFPB commended the CRAs that had improved training and implemented systems to improve the submission of consumers' dispute documents, but criticized the CRAs that did not meet their obligations.

With respect to overdraft protection and deposit accounts, the bureau was critical of financial institutions that switched from a ledger-balance method to an available-balance method to decide whether to authorize certain debit card and electronic transactions, as well as to determine whether a transaction overdrafts an account and whether to assess overdraft fees. The report complained that, in some instances, the available-balance method resulted in additional overdrafts and fees. (A ledger-balance method factors in only settled transactions to calculate account balance. An available-balance method also includes authorized transactions that have not yet settled and reflects holds on deposits.) According to the CFPB, some banks inadequately disclosed changes to their balance calculation methods and/or to their overdraft processing logic.

The bureau's mortgage origination examination findings focused the bureau's rules issued in January 2013 under Title XIV of the Dodd-Frank Act, which have been in effect since January 2014. The examiners found, among other things, that branch managers originating loans were improperly receiving compensation based on the terms of the transactions they originated, that lenders were not providing good faith estimates to prospective borrowers within the required three-business day period, that lenders were failing to include required disclosures in advertisements, that lenders were not providing denial of credit notices in a timely manner or stating the specific reasons for the denial, and that lenders failed to implement effective and robust compliance management systems, including policies and procedures, training, and monitoring and corrective action processes.

Finally, the CFPB examiners identified violations in the area of fair lending. The bureau concluded that certain lenders violated the Equal Credit Opportunity Act (ECOA) and its implementing regulation, Regulation B, by failing to consider public assistance and other sources of income in assessing applicants' ability to repay loans. The ECOA prohibits lenders from engaging in a blanket practice of denying applicants' requests for credit on the basis that the applicants' receive public assistance. On November 18, 2014, the bureau issued a bulletin providing guidance for lenders on complying with the ECOA, specifically describing how to verify Social Security disability income.

The bureau also reported that its supervisory activities in the areas of payday lending, mortgage servicing and mortgage origination led to roughly $19.4 million in remediation to consumers during the six-month period covered by the report.