

July 21, 2011 Established as Transfer Date for the New Bureau of Consumer Protection

Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Act") enacted the Consumer Financial Protection Act of 2010, which created the Bureau of Consumer Financial Protection ("Bureau"). The Bureau is a powerful new agency that will regulate the provision of most consumer financial services by depository financial institutions. Among the Bureau's powers will be the authority to develop and interpret most consumer protection regulations relating to the financial services industry; to prohibit activities it defines to be unfair, deceptive, or abusive; to collect and respond to consumer complaints related to financial products and services; and to order (for institutions with more than \$10 billion in assets) or recommend (for smaller institutions) "any appropriate legal or equitable relief" for violations, including rescission or modification of contracts, restitution, restrictions on future activities, and the assessment of civil money penalties. The Bureau will also have several new offices, including the Office of Fair Lending and Equal Opportunity, Office of Financial Education, Office of Service Member Affairs, and Office of Financial Protection for Older Americans. While institutions with assets of \$10 billion or less will continue to receive their compliance examinations from their prudential regulators, the Bureau will have the authority to participate in the examinations of smaller institutions and to create recordkeeping requirements for financial institutions of all sizes.

With the exception of retaining compliance examination authority for institutions with assets of \$10 billion or less, most of the consumer protection powers and duties of the current financial institution regulators, along with the staff and resources used for those purposes, are to be turned over to the Bureau under the Act. The effective date for that transfer is referred to in the Act as the Transfer Date. The Transfer Date is important for a number of reasons. First, it will be the date the Bureau officially takes over responsibility for the interpretation and enforcement of most consumer protection financial services rules. Second, the Act requires that a number of new regulations be created within certain time periods of the Transfer Date. Finally, the transfer date serves as a timing device for the requirements of the Act to create many of the new Offices.

The Transfer Date was announced by the Bureau in the September 20, 2010 *Federal Register* and will be July 21, 2011. Now that the Transfer Date is known, financial institutions have a better idea of when to expect certain new rules, regulations, and requirements under the Act. **Some of the more significant actions that can or must occur within a specified time period after the Transfer Date include:**

- Creation of the Office of Fair Lending and Equal Opportunity, Office of Financial Education, and Office of Service Member Affairs within **one year**,
- Creation of the Office of Financial Protection for Older Americans within **180 days**,
- Enforcement, rulemaking, recordkeeping powers **as early as the Transfer Date**,
- Adoption of new model disclosures **as early as the Transfer Date**,
- Integration of RESPA and Truth in Lending Act Disclosures within **one year**,
- Creation of new interagency consumer complaint response procedures **as early as the Transfer Date**,
- Increase in the minimum next-day funds availability amount under the Expedited Funds Availability Act from \$100 to \$200 **on the Transfer Date**,

- New HMDA disclosure requirements **on the Transfer Date**, and
- A large number of new regulations in final form relating to residential mortgage loans, including changes to underwriting requirements, verification of ability to repay, initial and final disclosures, escrow requirements, prepayment penalties, and payment notices **within 18 months, to be effective not later than 12 months after the final rules are adopted.**

If you have any questions about the Act or the Bureau, please contact [Wayne Hood](mailto:whood@millermartin.com) at whood@millermartin.com | 615.744.8421 or any member of Miller & Martin's [Financial Reform Act Task Force](#).

The opinions expressed in this bulletin are intended for general guidance only. They are not intended as recommendations for specific situations. As always, readers should consult a qualified attorney for specific legal guidance. Should you need assistance from a Miller & Martin attorney, please call 1-800-275-7303.

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