

## ARTICLES

July 24, 2014

### CFPB TURNS THREE: THREE YEARS, BIG IMPACT

The Consumer Financial Protection Bureau (“CFPB”) has concluded its **third year**. Created under the Dodd-Frank Wall Street Reform and Consumer Protection Act (the “Dodd-Frank Act”), the Bureau has taken significant steps to define its role in the consumer financial services industry and to establish itself as a major regulatory player. There’s no doubt that as the CFPB has grown, it has had a significant impact on the consumer financial services industry, by adopting new industry-shaping regulations, better defining the voice of the consumer, and exercising supervisory and enforcement authority over players in the consumer financial services industry. The proof is in the pudding: banks and nonbanks, in order to meet CFPB expectations, have increased their focus on the full life cycle of their products and services, enhanced compliance measures, and consumer-centric policies.

While there are a lot of drivers for change in the consumer financial services market, the CFPB’s high dollar (and profile) enforcement actions show the costs of not meeting the CFPB’s expectations. In many cases, the enforcement actions amount to cash and/or forgiveness to consumers. In addition, as part of settlements and consent orders, the CFPB has collected civil money penalties averaging \$7 million per action. In one proceeding, it, in conjunction with the Federal Deposit Insurance Corporation (“FDIC”), the Board of Governors of the Federal Reserve System (“Federal Reserve Board”), and the Office of the Comptroller of the Currency (“OCC”) collected over \$27 million in penalties alone. In a more recent case, the CFPB (and the U.S. Department of Justice, U.S. Department of Housing and Urban Development (“HUD”), and various states attorneys general) awarded up to \$500 million in consumer restitution.

According to figures released by the CFPB in reports to Congress and based off press releases on its website, the CFPB has concluded approximately 34 **enforcement actions** since it opened its doors in July 2011. The CFPB’s bases for the enforcement actions have varied from specific mortgage and housing laws, such as the Real Estate Settlement Procedures Act (“RESPA”), the Truth in Lending Act (“TILA”), and the Interstate Land Sales Full Disclosure Act (“ILSA”), to its general authority to bring actions against consumer financial services providers alleged to be engaged in unfair, deceptive, and abusive acts and practices (“UDAAPs”) under the Consumer Financial Protection Act (“CFPA”). A number of these proceedings have been referred to the CFPB by other agencies; the CFPB has brought approximately 11 joint actions with other government agencies like the U.S. Department of Justice, the OCC, the FDIC, and numerous states.

In addition to the high costs associated with enforcement proceedings, the CFPB has reshaped the consumer financial services marketplace using its rulemaking and supervisory authority. In the rulemaking context, it has issued **final rules** in connection with numerous subjects and statutes, including **Truth in Lending (Regulation Z)**, **Integrated Mortgage Disclosures under the Real Estate Settlement Procedures Act (Regulation X)**, and the **Remittance Transfer Rule (Regulation E)**. It has also issued **proposed rules** in numerous areas, including additional regulations implementing the **Real Estate Settlement Procedures Act (Regulation X)**, among others. The Bureau also shook the debt collection industry when it issued an advanced notice of proposed rulemaking regarding **debt collection** practices in November 2013.

The CFPB supervises depository institutions and credit unions with total assets of more than \$10 billion, and their affiliates. The Bureau also has authority under the Dodd-Frank Act to supervise nonbanks, regardless of size, in certain specific markets: mortgage companies (originators, brokers, servicers, and providers of loan modification or foreclosure relief services); payday lenders; and private education lenders. The CFPB may also supervise the “larger participants” in other nonbank markets as the Bureau defines by rule, including entities engaged in consumer reporting, consumer debt collection, and student loan servicing. Under its supervisory authority, the CFPB anticipates that it will engage in 150 exams in 2014 (including full scope-reviews and follow-up examinations).

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Below is a quick rundown of notable facts and statistics about the CFPB's growth and impact over the last three years:

#### **CFPB Resources**

- Number of employees as of July 18, 2011: 452<sup>1</sup>
- Number of employees by the end of 2011: 750<sup>2</sup>
- Number of employees as of March 2014: 1,362 (and growing)<sup>3</sup>
- CFPB's Estimated Budget for 2014 Fiscal Year: \$497 million<sup>4</sup>

#### **CFPB Activity**

- Number of final rules issued to date: 56
- Number of Consumer Complaints Received as of July 2014: 400,000<sup>5</sup>
- Number of banks and credit unions under the CFPB's supervisory authority as of June 2014: 142<sup>6</sup>
- Number of exams planned for 2014: 150<sup>7</sup>
- Number of public enforcement actions in 2011: 0
- Number of public settlements/final judgments to date: 34<sup>8</sup>
- Number of joint settlements/final judgments to date: 11<sup>9</sup>

#### **Penalties / Consumer Relief Obtained**

- Amount of penalties ordered to be paid in enforcement actions (total): \$150 million<sup>10</sup>
- Highest civil money penalty ordered to date: \$27.5 million
- Amount ordered to be returned to consumers: \$4.6 billion (more than half of which is mortgage servicing related).<sup>11</sup>

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For more information about this and related industry topics, see [www.venable.com/cfpb/publications](http://www.venable.com/cfpb/publications).

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<sup>1</sup> Based on the "confirmed" number of employees in a report issued by the CFPB in July 2011. See Consumer Fin. Protection Bur, Building the CFPB (July 18, 2011), [http://files.consumerfinance.gov/f/2011/07/Report\\_BuildingTheCfpb1.pdf](http://files.consumerfinance.gov/f/2011/07/Report_BuildingTheCfpb1.pdf).

<sup>2</sup> See Consumer Fin. Protection Bur., Semi-Annual Report of The Consumer Financial Protection Bureau 6 (Jan. 30, 2012), [http://files.consumerfinance.gov/f/2012/01/Congressional\\_Report\\_Jan2012.pdf](http://files.consumerfinance.gov/f/2012/01/Congressional_Report_Jan2012.pdf).

<sup>3</sup> See Consumer Fin. Protection Bur., Semi-Annual Report of The Consumer Financial Protection Bureau 12 (May 28, 2014), [http://files.consumerfinance.gov/f/201405\\_cfpb\\_semi-annual-report.pdf](http://files.consumerfinance.gov/f/201405_cfpb_semi-annual-report.pdf).

<sup>4</sup> See Consumer Fin. Protection Bur., The CFPB Strategic Plan, Budget, and Performance Plan and Report (Apr. 2013), <http://files.consumerfinance.gov/f/strategic-plan-budget-and-performance-plan-and-report-FY2012-14.pdf>.

<sup>5</sup> See Consumer Fin. Protection Bur., Consumer Financial Protection Bureau: By the Numbers (July 21, 2014), [http://files.consumerfinance.gov/f/201407\\_cfpb\\_factsheet\\_by-the-numbers.pdf](http://files.consumerfinance.gov/f/201407_cfpb_factsheet_by-the-numbers.pdf).

<sup>6</sup> See Consumer Fin. Protection Bur., Consumer Financial Protection Bureau: By the Numbers (July 21, 2014), [http://files.consumerfinance.gov/f/201407\\_cfpb\\_factsheet\\_by-the-numbers.pdf](http://files.consumerfinance.gov/f/201407_cfpb_factsheet_by-the-numbers.pdf).

<sup>7</sup> See Consumer Fin. Protection Bur., Supervisory Highlights, Spring 2014, [http://files.consumerfinance.gov/f/201405\\_cfpb\\_supervisory-highlights-spring-2014.pdf](http://files.consumerfinance.gov/f/201405_cfpb_supervisory-highlights-spring-2014.pdf).

<sup>8</sup> At least 5 enforcement proceedings are currently pending. Enforcement proceedings have included proceedings involving credit cards, mortgage servicing, mortgage lending, mortgage kickbacks and illegal practices, mortgage loan modification scams, mortgage loan data reporting, auto lending, payday and installment lending, debt collection, student lending, and illegal debt-relief services, among others. See Consumer Fin. Protection Bur., Consumer Financial Protection Bureau: By the Numbers (July 21, 2014), [http://files.consumerfinance.gov/f/201407\\_cfpb\\_factsheet\\_by-the-numbers.pdf](http://files.consumerfinance.gov/f/201407_cfpb_factsheet_by-the-numbers.pdf).

<sup>9</sup>The CFPB has brought joint enforcement proceedings with the Department of Justice ("DOJ"), the Office of the Comptroller of the Currency ("OCC"), the Federal Deposit Insurance Corporation ("FDIC"), the Department of Housing and Urban Development ("HUD"), and numerous states.

<sup>10</sup> See Consumer Fin. Protection Bur., Consumer Financial Protection Bureau: Enforcing Consumer Protection Laws (July 21, 2014), [http://files.consumerfinance.gov/f/201407\\_cfpb\\_factsheet\\_supervision-and-enforcement.pdf](http://files.consumerfinance.gov/f/201407_cfpb_factsheet_supervision-and-enforcement.pdf).

<sup>11</sup> See Consumer Fin. Protection Bur., Consumer Financial Protection Bureau: Enforcing Consumer Protection Laws (July 21, 2014), [http://files.consumerfinance.gov/f/201407\\_cfpb\\_factsheet\\_supervision-and-enforcement.pdf](http://files.consumerfinance.gov/f/201407_cfpb_factsheet_supervision-and-enforcement.pdf).