

March 29, 2016

The CFPB Is Watching Online Marketplace Lending—So Should You

On March 7, 2016, the Consumer Finance Protection Bureau (“CFPB”)¹ announced that its complaint database would now accept complaints from consumers encountering problems with loans from online marketplace lenders. According to the CFPB, millions of consumers take out personal loans online and marketplace lending handles underwriting and customer service interactions with the borrower. Once a loan is originated, the lender generally makes arrangements to transfer ownership to the investors while it services the loan. The CFPB is watching.

The CFPB issued a bulletin entitled “Understanding Online Marketplace Lending,” which gives tips to consumers such as:

- Consumers should carefully examine how much they can afford and really need to borrow.
- Consumers should understand the total cost of the loan as well as the monthly costs.
- Consumers should check their credit reports to make sure that there are no errors that could affect their loan rates.
- Consumers should shop around.

Having followed the CFPB for the last several years, we see this guidance as the start of what will be another new area of focus for the CFPB. The CFPB will look to the marketplace lenders and examine how they interact and disclose information to the consumers. The CFPB also provides a link for those who want to file complaints against marketplace lenders. This complaint database is a key driver of the agency’s enforcement and rulemaking efforts. We have seen the agency aggregate data and use this database to build a record to determine who to target. As history shows us, when the CFPB is watching, all within eyesight must be wary.

¹ The CFPB was established through Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”), which established the CFPB as an independent bureau within the Federal Reserve System and made it responsible for protecting consumers from abusive financial services practices. The overarching purpose of the CFPB is to implement and enforce federal consumer financial law so that “markets for consumer financial products and services are fair, transparent, and competitive.” The jurisdiction of the CFPB includes banks, credit unions, security firms, payday lenders, mortgage-servicing operations, foreclosure relief services, debt collectors, mortgage companies, and private educational lenders and other financial companies. The Dodd-Frank Act grants the CFPB broad powers to assume regulatory and rulemaking authority under numerous existing federal consumer laws. It also vests the CFPB with the power to enact new regulations and to take enforcement and supervisory actions with respect to consumer financial products and the entities that deal with them.

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