

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR CH. X

Semiannual Regulatory Agenda

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau) is publishing this agenda as part of the Fall 2019 Unified Agenda of Federal Regulatory and Deregulatory Actions. The Bureau reasonably anticipates having the regulatory matters identified below under consideration during the period from October 1, 2019, to September 30, 2020. The next agenda will be published in spring 2020 and will update this agenda through spring 2021. Publication of this agenda is in accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

DATES: This information is current as of July 25, 2019.

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FOR FURTHER INFORMATION CONTACT: A staff contact is included for each regulatory item listed herein. If you require this document in an alternative electronic format, please contact CFPB_Accessibility@cfpb.gov.

SUPPLEMENTARY INFORMATION: The Bureau is publishing its Fall 2019 Agenda as part of the Fall 2019 Unified Agenda of Federal Regulatory and Deregulatory Actions, which is coordinated by the Office of Management and Budget under Executive Order 12866. The agenda lists the regulatory matters that the Bureau reasonably anticipates having under consideration during the period from October 1, 2019, to September 30, 2020, as described further below.¹ The Bureau's participation in the Unified Agenda is

¹ The listing does not include certain routine, frequent, or administrative matters. Further, the fields "Unfunded Mandates," "EO 13771 Designation," and "Federalism Implications" are not required for independent regulatory agencies, including the Bureau, and, accordingly, the Bureau has indicated responses of "no" or "Independent Agency" for such fields.

voluntary. The complete Unified Agenda is available to the public at the following website:

<http://www.reginfo.gov>.

Pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111-203, 124 Stat. 1376 (Dodd-Frank Act), the Bureau has rulemaking, supervisory, enforcement, consumer education, and other authorities relating to consumer financial products and services. These authorities include the authority to issue regulations under more than a dozen Federal consumer financial laws, which transferred to the Bureau from seven Federal agencies on July 21, 2011. The Bureau's general purpose, as specified in section 1021(a) of the Dodd-Frank Act, is to implement and enforce Federal consumer financial law consistently for the purpose of ensuring that all consumers have access to markets for consumer financial products and services and that markets for consumer financial products and services are fair, transparent, and competitive.

Section 1021 of the Dodd-Frank Act specifies the objectives of the Bureau, including ensuring that, with respect to consumer financial products and services, consumers are provided with timely and understandable information to make responsible decisions about financial transactions; consumers are protected from unfair, deceptive, or abusive acts and practices and from discrimination; outdated, unnecessary, or unduly burdensome regulations are regularly identified and addressed in order to reduce unwarranted regulatory burdens; that Federal consumer financial law is enforced consistently, without regard to the status of a person as a depository institution, in order to promote fair competition; and markets for consumer financial products and services operate transparently and efficiently to facilitate access and innovation.

As a general matter, the Bureau believes that it can best achieve these statutory purposes by using its various tools to focus on the prevention of consumer harm. With specific regard to rulemaking, the Bureau seeks to articulate clear rules of the road for regulated entities that promote competition, increase transparency, and preserve fair markets for financial products and services. If Congress directs the Bureau to promulgate rules or address specific issues through rulemaking, the Bureau will comply with the law. If the Bureau has discretion, the Bureau will focus on preventing consumer harm by maximizing informed consumer choice, and by reducing unwarranted regulatory burden which can adversely affect

competition and consumers' access to financial products and services. The Bureau is working on various initiatives to achieve these objectives as described below.

A new permanent director of the Bureau took office in December 2018. The Director embarked on a listening tour to engage with Bureau stakeholders, employees, and outside experts, building on feedback submitted through more than 88,000 public comments in response to the Bureau's 2018 "Call for Evidence" initiative. This Unified Agenda represents the first one the Bureau has prepared following the Director's listening tour. It seeks to provide the public with visibility into the rulemaking activities in which the Bureau is likely to be engaged over the next 12 months and those that are contemplated in the ensuing year. To enhance transparency, the Bureau has updated this Unified Agenda to identify current priorities and to delete outdated items.

Implementing Statutory Directives

The Bureau is engaged in a number of rulemakings to implement directives mandated in the Economic Growth, Regulatory Relief, and Consumer Protection Act of 2018 (EGRRCPA), Public Law 115-174, 132 Stat. 1297, the Dodd-Frank Act, and other statutes. As part of these rulemakings, the Bureau is working to maximize consumer welfare and achieve other statutory objectives through protecting consumers from harm and minimizing regulatory burden, including facilitating industry compliance with rules.

For example, in March 2019, the Bureau published an Advance Notice of Proposed Rulemaking (ANPRM) to seek public comment relating to implementation of section 307 of the EGRRCPA, which amends the Truth in Lending Act (TILA) to mandate that the Bureau prescribe certain regulations relating to "Property Assessed Clean Energy" (PACE) financing. As defined by EGRRCPA section 307, PACE financing results in a tax assessment on a consumer's real property and covers the costs of home improvements. The required regulations must carry out the purposes of TILA's ability-to-repay (ATR) requirements, currently in place for residential mortgage loans, with respect to PACE financing, and apply TILA's general civil liability provision for violations of the ATR requirements the Bureau will prescribe for PACE financing. The regulations must "account for the unique nature" of PACE financing. The Bureau is reviewing the comments it received in response to the ANPRM, as it considers next steps to facilitate the development of a Notice of Proposed Rulemaking (NPRM).

The Bureau has also been engaged in a range of other activities to support its rulemaking to implement the EGRRCPA. For example, the Bureau updated its small entity compliance guides and other compliance aids to reflect the EGRRCPA's statutory changes. The Bureau also issued written guidance as encouraged by section 109 of the Act, which states that the Bureau "should endeavor to provide clearer, authoritative guidance" on certain mortgage regulations.² Finally, the Bureau anticipates engaging in guidance activity, as needed, to facilitate compliance, regarding the EGRRCPA provisions that do not require rulemaking to take effect.

In anticipation of rulemaking activity, the Bureau has also conducted a preliminary analysis of the number of lenders potentially impacted by implementation of section 108 of the EGRRCPA, which relates to escrow requirements for loans made by certain creditors. The Bureau released the analysis late this summer, which shows that a limited number of additional lenders would be exempt under section 108 of the EGRRCPA once implemented by rule.

Section 1071 of the Dodd-Frank Act amended the Equal Credit Opportunity Act to require, subject to rules prescribed by the Bureau, financial institutions to collect, report, and make public certain information concerning credit applications made by women-owned, minority-owned, and small businesses. The Bureau is hosting a symposium on small business data collection in November 2019 in order to facilitate a robust discussion with outside experts on the issues implicated by creating such a data collection and reporting regime. After the symposium, the Bureau anticipates that its next step will be the release of materials in advance of convening a panel under the Small Business Regulatory Enforcement Fairness Act, in conjunction with the Office of Management and Budget and the Small Business Administration's Chief Counsel for Advocacy, to consult with representatives of small businesses that may be affected by the rulemaking.

Promoting Competition, Increasing Transparency and Preserving Fair Markets

1. Continuation of Other Rulemakings

² See, e.g., "[TILA-RESPA Integrated Disclosure FAQs](https://www.consumerfinance.gov/policy-compliance/guidance/tila-respa-disclosure-rule/tila-respa-integrated-disclosure-faqs/)" - available at <https://www.consumerfinance.gov/policy-compliance/guidance/tila-respa-disclosure-rule/tila-respa-integrated-disclosure-faqs/>

The Bureau is continuing certain other rulemakings described in its Spring 2019 Agenda to articulate clear rules of the road for regulated entities that promote competition, increase transparency, and preserve fair markets for financial products and services.

For example, to consider concerns about possible unwarranted regulatory burden, the Bureau issued an NPRM in May 2019 to reconsider the thresholds for reporting data about closed-end mortgage loans and open-end lines of credit under the Bureau's 2015 Home Mortgage Disclosure Act (HMDA) rule. The NPRM also proposed to incorporate into Regulation C an interpretive and procedural rule that the Bureau issued in August 2018 to clarify partial HMDA exemptions created by the EGRRCPA. This summer, the Bureau reopened the comment period of certain aspects of the proposed rule until mid-October. Thus, the Bureau plans to issue two separate final rules to address different aspects of the proposed rule at different times--the first one in the fall of 2019 would address the proposed 2-year extension of the temporary threshold for collecting and reporting data on open-end lines of credit and the EGRRCPA partial exemption provisions, and the second one in the spring of 2020 would address the proposed changes to the permanent thresholds for collecting and reporting data on open-end lines of credit and closed-end mortgage loans. Likewise, to consider concerns about possible unwarranted regulatory burden, the Bureau also issued an ANPRM in May 2019 concerning certain data points that are reported under the 2015 HMDA rule and coverage of certain business or commercial purpose loans. In June 2019, the Bureau extended the comment period on the ANPRM to mid-October. In summer 2020, the Bureau expects to issue an NPRM to follow up on the ANPRM. The Bureau also expects to issue an NPRM addressing the public disclosure of HMDA data in light of consumer privacy interests, so that collection and reporting of data points and public disclosure of those data points can be considered concurrently.³

³ The 2010 Dodd-Frank Act amendments to HMDA direct the Bureau to develop regulations that modify or require modification of the public HMDA data for the purpose of protecting consumer privacy interests. The Bureau's 2015 HMDA rule adopted a balancing test to determine whether and how HMDA data should be modified prior to its disclosure to the public in order to protect applicant and borrower privacy while also fulfilling HMDA's public disclosure purpose. The Bureau in 2018 issued final policy guidance applying the test to current data points and announced its intention to conduct a notice-and-comment rulemaking to seek further input on the public release going forward. Commencing a notice-and-comment rulemaking will also enable the Bureau to adopt a more definitive approach to disclosing HMDA data to the public in future years after considering new information concerning the privacy risks and benefits of disclosure of the HMDA data. Until the Bureau promulgates a final rule on the public disclosure of HMDA data, it anticipates that it will continue to disclose HMDA data in the manner detailed in the final policy guidance.

In addition, in February 2019, the Bureau issued an NPRM relating to reconsideration of the mandatory underwriting requirements of a 2017 rule titled Payday, Vehicle Title, and Certain High-Cost Installment Loans. In the NPRM, the Bureau initially determined that the evidence underlying the identification of the unfair and abusive practice in the mandatory underwriting provisions of the 2017 rule was not sufficiently robust and reliable to support that determination, in light of the impact those provisions will have on the market for covered short-term and longer-term balloon-payment loans, and the ability of consumers to obtain such loans, among other things. The Bureau also initially determined that its approach for its unfairness and abusiveness determinations was sufficiently problematic to necessitate reconsideration. Based on its reconsideration of those issues, the Bureau proposed to rescind the mandatory underwriting provisions in their entirety. The comment period for the NPRM closed in May 2019 and the Bureau is carefully reviewing the approximately 190,000 comments it received. The Bureau expects to take final action with respect to this proposal in April 2020.

Finally, the Bureau issued an NPRM in May 2019, which would prescribe rules under Regulation F to govern the activities of debt collectors, as that term is defined under the Fair Debt Collection Practices Act. The Bureau's proposal would, among other things, address communications in connection with debt collection; interpret and apply prohibitions on harassment or abuse, false or misleading representations, and unfair practices in debt collection; and clarify requirements for certain consumer-facing debt collection disclosures. The proposal builds on the Bureau's research and pre-rulemaking activities regarding the debt collection market, which remains a top source of complaints to the Bureau. The Bureau also is engaged in testing of consumer disclosures related to time-barred debt disclosures that were not the focus of the May 2019 proposal. After testing, the Bureau will assess whether to issue a supplemental NPRM seeking comments on any disclosure proposal related to the collection of time-barred debt. The Bureau expects to take final action with regard to the May 2019 NPRM in 2020.

In addition to these three rulemakings in which the Bureau already has issued proposals, the Bureau also is continuing work related to a potential rulemaking to amend the Bureau's Remittance Rule. After completing an assessment in October 2018 of its rules to implement Dodd-Frank Act requirements for

remittance transfers,⁴ the Bureau issued in April 2019 a Request for Information to gather information related to the scope of the Remittance Rule's coverage and the expiration of a statutorily-established exception in the Remittance Rule that permits insured banks and insured credit unions to estimate certain required disclosures and other potential remittance transfer issues. In its consideration of appropriate next steps, including potentially rulemaking, the Bureau is considering stakeholder feedback during the assessment process and comments received in response to the Request for Information.

2. New Projects and Further Planning

In January 2019, the Bureau completed an assessment of rules implementing Dodd-Frank Act provisions that require mortgage lenders to determine consumers' ability to repay loans and define certain "qualified mortgages" that are presumed to comply with the statutory requirements.⁵ The Bureau is now focusing its attention on a regulatory provision that extends qualified mortgage status to loans that are eligible to be purchased or guaranteed by either Fannie Mae or Freddie Mac (which are often called the Government Sponsored Enterprises or GSEs) while they operate under Federal conservatorship or receivership. The "GSE patch" provision is set to expire in January 2021, meaning that loans originated after that date would not be eligible for qualified mortgage status under its criteria. In July 2019, the Bureau issued an ANPRM to solicit information about possible amendments to the qualified mortgage provisions of Regulation Z, specifically information about issues related to the scheduled expiration of the GSE patch. The Bureau currently plans to allow the GSE patch to expire and is considering whether to revise Regulation Z's general qualified mortgage definition in light of this planned expiration. The Bureau is further considering a limited extension of the expiration date only as necessary to allow for a smooth and orderly transition away from the GSE Patch.

In light of feedback received in response to the Bureau's 2018 Call for Evidence and various other outreach to stakeholders, the Bureau has decided to add two new entries to its long-term regulatory agenda. This portion of the agenda focuses on potential regulatory actions that an agency may engage in

⁴ "[Remittance rule assessment report](https://www.consumerfinance.gov/data-research/research-reports/remittance-rule-assessment-report/)" - available at <https://www.consumerfinance.gov/data-research/research-reports/remittance-rule-assessment-report/>

⁵ "[2013 Ability-to-Repay and Qualified Mortgage Assessment Report](https://www.consumerfinance.gov/data-research/research-reports/2013-ability-repay-and-qualified-mortgage-assessment-report/)" - available at <https://www.consumerfinance.gov/data-research/research-reports/2013-ability-repay-and-qualified-mortgage-assessment-report/>

beyond the current fiscal year, and currently includes issues such as potential rulemaking or other activity regarding the Dodd-Frank Act's prohibition on abusive acts or practices. The Bureau is now adding entries to address issues of concern in connection with loan originator compensation and to facilitate the use of electronic channels of communication in the origination and servicing of credit card accounts.

As to loan originator compensation, the Bureau has received feedback that aspects of Regulation Z's loan originator compensation requirements are unnecessarily restrictive. The Bureau is considering a rulemaking to address certain of these concerns. In particular, the Bureau plans to examine whether to permit adjustments to a loan originator's compensation in connection with originating State housing finance authority loans in order to facilitate the origination of such loans. The Bureau also plans to examine whether to permit creditors to decrease a loan originator's compensation due to the loan originator's error in order to provide clearer rules of the road for regulated entities. The Bureau has no current plans to consider other significant potential changes.

As to electronic communications, the Bureau has received feedback that the intersection of certain requirements of Regulation Z and the Electronic Signatures in Global and National Commerce Act (E-SIGN) are too restrictive for consumers applying for credit card accounts via electronic channels and for consumers willing, or preferring, to receive account information electronically only. To decrease regulatory burdens that may be inhibiting the use of electronic communication, the Bureau is considering a rulemaking to address a range of issues at the intersection of E-SIGN and Regulation Z with regard to credit cards. The Bureau also notes that similar concerns about the effect of E-SIGN have been raised with respect to other types of consumer financial products and services including checking accounts. The Bureau anticipates that what it learns in considering these issues in the credit card context may assist the Bureau in assessing whether there are similar concerns with other financial products and services that may be appropriate to address in future rulemakings.

The Bureau is engaged in other rulemakings consistent with its general interest in modernizing disclosure rules in light of new and emerging technology. For example, the Bureau issued an NPRM in May that, among other things, proposed regulations that would modernize content and delivery requirements for certain disclosures in the debt collection context. The Bureau is interested in exploring ways to adapt disclosure regulations so that they more effectively inform the increasing number of

consumers who use digital media for financial products and services, including, but not limited to, financial products, such as credit cards.

The Bureau is also actively reviewing existing regulations. Section 1022(d) of the Dodd-Frank Act requires the Bureau to conduct an assessment of each significant rule or order adopted by the Bureau under Federal consumer financial law and publish a report of each assessment not later than 5 years after the effective date of the subject matter or order. The Bureau will be conducting an assessment of its regulations to consolidate various mortgage origination disclosures under the Truth in Lending Act and Real Estate Settlement Procedures Act. The Regulatory Flexibility Act (RFA) requires the Bureau to consider the effect on small entities of certain rules it promulgates. The Bureau published in May 2019 its plan for conducting reviews, consistent with section 610 of the RFA, of certain regulations which are believed to have a significant impact on a substantial number of small entities. Congress specified that the purpose of such reviews shall be to determine whether such rules should be continued without change, or should be amended or rescinded, consistent with the stated objectives of the applicable statutes, to minimize any significant economic impact of the rules upon a substantial number of such small entities. The Bureau is reviewing comments received in response to its request for comment on the first such review, concerning the impact on small banks and credit unions of a 2009 Regulation E amendment concerning overdraft. In 2020, the Bureau expects to conduct additional reviews pursuant to section 610 of the RFA, including a review of the Regulation Z rules that implement the Credit Card Accountability Responsibility and Disclosure Act of 2009.

Finally, as required by the Dodd-Frank Act, the Bureau is also continuing to monitor markets for consumer financial products and services to identify risks to consumers and the proper functioning of such markets. As discussed in a recent report by the Government Accountability Office, the Bureau's Division of Research, Markets, and Regulations and specifically its Markets Offices continuously monitor market developments and risks to consumers. The Bureau also has created a number of cross-Bureau working groups focused around specific markets which advance the Bureau's market monitoring work. The Bureau's market monitoring work assists in identifying issues for potential future rulemaking work.

**[THIS SIGNATURE PAGE PERTAINS TO THE PREAMBLE TO
THE FALL 2019 SEMIANNUAL REGULATORY AGENDA]**

Dated: July 26, 2019.

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