



Financial Services Reform

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Office of Financial Research

- Established immediately, but director must be appointed by the president and approved by the Senate
- Supports the council in assessing systemic risk
- Has subpoena power, limited rulemaking authority, and the ability to issue reports
- Key Question: How broadly can they cast their data collection net?



Consumer Financial Protection Bureau

- Under the FRB
- Independent
- Presidentially-appointed director
- Funding coming from the FRB budget and appropriations process, if necessary
- Functional Units
 - Office of Fair Lending and Equal Opportunity
 - Office of Research
 - Office of Community Affairs
 - Office of Service Member Affairs



Consumer Financial Protection Bureau *cont.*

– Rulemaking Authority

- Exclusive authority to write rules of enumerated consumer protections, i.e. ECOA, TILA, etc. (increases cap from \$25,000 to \$50,000)
- New rulemaking authority
 - To address unfair, deceptive, and *abusive* acts
 - To design consumer disclosures, including model disclosures, to provide a safe harbor (TILA/RESPA)
 - To give consumers broad rights to request information related to their accounts
 - To prohibit or restrict the use of mandatory pre-dispute arbitration provisions (after conducting a study)



Consumer Financial Protection Bureau *cont.*

- Explicitly prohibited from imposing a usury limit
 - Prohibition excludes ability to regulate ancillary products
 - CFPB could also set requirements for the manner and form of product delivery
 - CFPB has broad discretion to classify terms and conditions as being abusive



Consumer Financial Protection Bureau *cont.*

– Federal Preemption

- State laws enforceable as long as not inconsistent with federal laws and provide greater consumer protection
- State laws preempted if they have a discriminatory effect on a national bank compared to a state-chartered bank
- State AGs can enforce “nonpreempted” state laws, but not federal laws
- Standard for preemption: state law must violate National Bank Act standards



Consumer Financial Protection Bureau *cont.*

– Private Right of Action

- Does not expressly foreclose a private right of action
- Includes problematic language that makes it “unlawful” to “advertise, market, or sell a consumer financial product or service” or “enforce, or attempt to enforce, any agreement with a consumer . . . or impose, or attempt to impose, any fee or charge on a consumer in connection with a consumer financial product” that is not “in conformity with” the bill or CFPB regulations



Consumer Financial Protection Bureau Timeline

Date of Enactment

- CFPB is established
- CFPB gains general rulemaking authority
- CFPB must coordinate supervisory authority
- Treasury can direct the FRB to fund the CFPB
- State AGs have enforcement power

2 Months Later

- Financial regulatory agencies designate a date for transfer of functions to CFPB that is within 6 to 12 months of enactment
- Transfer date can be extended up to 18 months

6 to 12 Months Later

- General transfer to the CFPB of consumer financial protections (can be extended up to 18 months)
- State law preemption provisions become effective
- Funding mechanism for CFPB becomes effective

9 Months Later

- FRB must issue interchange fee rules for debit cards

18 Months Later

- Last possible designated transfer date for the CFPB

Designated Transfer Date + 1 Year

- CFPB & FTC define “nondepository covered persons”
- CFPB can restrict use of mandatory pre-dispute arbitration agreements
- CFPB can issue disclosure rules & must issue model disclosures for mortgages