Congressional Research Service

A Brief Overview of Actions Taken by the Consumer Financial Protection Bureau (CFPB) in Its First Year

Sean M. Hoskins
Analyst in Financial Economics

August 29, 2012

Congressional Research Service
7-5700
www.crs.gov
R42615

CRS Report for Congress
Prepared for Members and Committees of Congress

Overview of the Bureau

The Consumer Financial Protection Bureau (CFPB), which formally started operating on July 21, 2011,[1] was established by Title X of the Dodd-Frank Wall Street Reform and Consumer Financial Protection Act (P.L. 111-203; the Dodd-Frank Act). The creation of the CFPB consolidates many consumer financial protection responsibilities into one agency.[2] The Dodd-Frank Act states that the purpose of the CFPB is to implement and enforce federal consumer financial laws while ensuring that consumers can access financial products and services.[3] The CFPB is also instructed to ensure that the markets for consumer financial services and products are fair, transparent, and competitive.[4] To fulfill its mandate, the CFPB can issue rules, examine certain institutions, and enforce consumer protection laws and regulations.

Congress is currently engaged in oversight of the CFPB, but not its funding. The Dodd-Frank Act established that the CFPB is to be headed by a director, appointed by the President with the advice and consent of the Senate, who shall serve a five-year term. The current director, Richard Cordray, was installed by President Obama via recess appointment on January 4, 2012.[5] The bureau is administratively situated within the Federal Reserve System (the Fed). The Federal Reserve Board, however, cannot veto a rule issued by the CFPB, but the Financial Stability Oversight Council (FSOC), with the vote of two-thirds of its members, can set aside a CFPB proposed rule.[6] The CFPB is funded through the earnings of the Fed, which is not subject to congressional appropriation. The Dodd-Frank Act caps the CFPB's funding at 11% of the Fed's operating expense for FY2011 (approximately $547.8 million[7]) and at 12% thereafter. If the director determines that additional funding is needed, the Dodd-Frank Act provides authorization for an additional $200 million in appropriations per year through FY2014. As of June 30, 2012, the CFPB had spent $247 million in FY2012[8] and had a staff of 889.[9]

The CFPB has the authority to enforce many of the financial consumer laws,[10] primarily for large depository institutions with assets of more than $10 billion as well as some nonbank institutions.[11] However, some consumer protection responsibilities were not given to the bureau. The CFPB is

---

[1] Consumer Financial Protection Bureau, "Designated Transfer Date," 75 *Federal Register* 57252, September 20, 2010.

[2] See CRS Report R41338, *The Dodd-Frank Wall Street Reform and Consumer Protection Act: Title X, The Consumer Financial Protection Bureau*, by David H. Carpenter.

[3] Dodd-Frank Act §1021.

[4] Ibid.

[5] For more on the legal issues surrounding the recess appointment, see CRS Report R42323, *President Obama's January 4, 2012, Recess Appointments: Legal Issues*, by David H. Carpenter et al.

[6] The FSOC is a council of financial regulators, including CFPB, that is charged with monitoring systemic risk in the financial system and coordinating several federal financial regulators. For more on the FSOC, see CRS Report R42083, *Financial Stability Oversight Council: A Framework to Mitigate Systemic Risk*, by Edward V. Murphy. The authority to review CFPB regulations is found in Dodd-Frank §1023.

[7] Consumer Financial Protection Bureau, "Semi-Annual Report of the Consumer Financial Protection Bureau," p. 52, at http://www.consumerfinance.gov/reports/2012-annual-report-to-the-committee-on-appropriations-of-the-house-of-representatives/.

[8] Ibid., p. 53.

[9] Ibid., p. 6.

[10] For the list of the enumerated consumer laws that have been transferred to the CFPB, see Dodd-Frank §1002.

[11] For more on the CFPB's authority over nonbanks, see CRS Report R42156, *The Early Agenda of the Consumer Financial Protection Bureau: The Nonbank Supervision Program* , by Sean M. Hoskins.

not the primary consumer protection regulator of depositories with less than $10 billion in assets. The prudential regulators that regulate the smaller institutions for safety and soundness will continue to regulate them for consumer protection.[12] The Dodd-Frank Act also provides some industries with exemptions from CFPB regulation. The CFPB will not oversee automobile dealers, merchants, retailers, or sellers of nonfinancial goods and services, real estate brokers, real estate agents, sellers of manufactured and mobile homes, income tax preparers, insurance companies, or accountants.[13]

Multiple proposals have been introduced in the 112th Congress to alter the structure of the CFPB. For example,

- H.R. 1315, which passed the House in July 2011, and S. 737 would establish a five-person commission to lead the bureau in place of a single director.
- H.R. 1355 would place the CFPB in the Department of the Treasury, modifying its current status as an independent bureau attached to the Fed.
- H.R. 1640 would repeal the requirement of an annual transfer to the CFPB of funds from the Fed and would subject the CFPB to the regular authorization, budget, and appropriations process.

Major CFPB Activities

Initiatives

The CFPB initiated the "Know Before You Owe" campaign, which is aimed at simplifying and consolidating disclosure forms for mortgages, credit cards, and student loans.[14] For example, on July 9, 2012, the CFPB proposed new Loan Estimate and Closing Disclosure forms for mortgages.[15] If adopted, the prototypes would reduce the number of forms given to borrowers when they apply for and close on a mortgage.[16]

In a second initiative, the CFPB is collecting borrower complaints about credit cards, mortgages, bank products and services, private student loans, and other consumer loans.[17] The CFPB forwards the complaint to the relevant company and keeps the borrower updated on the status of the complaint. Consumer complaints are used to inform CFPB's supervision of companies and its enforcement of consumer protection laws and regulations. Between July 21, 2011, and June 1,

[12] For more on the regulation of financial institutions, see CRS Report R40249, *Who Regulates Whom? An Overview of U.S. Financial Supervision*, by Mark Jickling and Edward V. Murphy.

[13] The Dodd-Frank Act provides exceptions such that, under certain conditions, the CFPB may regulate these otherwise excluded industries. See CRS Report R41338, *The Dodd-Frank Wall Street Reform and Consumer Protection Act: Title X, The Consumer Financial Protection Bureau*, by David H. Carpenter.

[14] See Consumer Financial Protection Bureau, at http://www.consumerfinance.gov/knowbeforeyouowe/.

[15] See Consumer Financial Protection Bureau, at http://www.consumerfinance.gov/knowbeforeyouowe/#disclosure.

[16] CRS Report R41980, *Revisiting Mortgage Loan Disclosures Under the Consumer Financial Protection Bureau*, by Darryl E. Getter and Sean M. Hoskins.

[17] Consumer Financial Protection Bureau, "Consumer Response: A Snapshot of Complaints Received," at http://files.consumerfinance.gov/f/201206_cfpb_shapshot_complaints-received.pdf. Consumers may contact the CFPB about products besides the ones listed above.

2012, more than 45,000 consumer complaints were submitted to the CFPB.[18] The CFPB makes the consumer complaints available to the public, though there is no personally identifiable information associated with individual complaints.[19]

A third set of CFPB initiatives involves providing resources to help servicemembers, students, and older Americans address their particular financial circumstances. For example, the CFPB's Office of Servicemember Affairs has hosted multiple events to help servicemembers with future financial planning and protecting their personal finances. The CFPB has also partnered with the Department of Defense, the Federal Trade Commission, and state Attorneys General to develop the Repeat Offenders Against Military (ROAM) database to track financial frauds directed at members of the military and their families.[20] As part of their efforts to protect older Americans, the CFPB released a Report to Congress on reverse mortgages on June 28, 2012.[21]

Rulemaking Activities in the Mortgage Market

The Dodd-Frank Act authorizes the CFPB to issue rules to enforce many of the federal consumer protection laws, and the housing and mortgage markets have been central to many of the CFPB's rulemaking activities.[22] In addition to proposed rules for mortgage disclosures in the Know Before You Owe campaign, the CFPB has proposed rules related to property appraisals,[23] high cost mortgages,[24] loan originator compensation,[25] mortgage servicers,[26] and other aspects of the mortgage market.

The CFPB has stated its intention to propose several rules during the second half of 2012 and the beginning of 2013. One of the most frequently discussed rules that is expected to be issued by January 2013 is the "ability to repay" or "qualified mortgage" (QM) rule.[27] Section 1411 of the Dodd-Frank Act states that

[18] Consumer Financial Protection Bureau, "Consumer Response: A Snapshot of Complaints Received," p. 4, at http://files.consumerfinance.gov/f/201206_cfpb_shapshot_complaints-received.pdf.

[19] Consumer Financial Protection Bureau, "Making consumer complaints available to the public," at http://www.consumerfinance.gov/blog/making-consumer-complaints-available-to-the-public/.

[20] Consumer Financial Protection Bureau, "Federal and state officials announce new law enforcement partnership to protect military community," January 25, 2012, at http://www.consumerfinance.gov/pressreleases/federal-and-state-officials-announce-new-law-enforcement-partnership-to-protect-military-community/.

[21] Consumer Financial Protection Bureau, "Reverse Mortgages," June 28, 2012, at http://files.consumerfinance.gov/a/assets/documents/201206_cfpb_Reverse_Mortgage_Report.pdf.

[22] The CFPB also issued several non-mortgage market rules, such as one related to international remittance transfers. See Consumer Financial Protection Bureau, "Electronic Fund Transfers (regulation E0," 77 *Federal Register* 6194, February 7, 2012.

[23] See CRS Report RS22953, *Regulation of Real Estate Appraisers*, by Edward V. Murphy.

[24] Consumer Financial Protection Bureau, "High-Cost Mortgage and Homeownership Counseling Amendments to the Truth in Lending Act (Regulation Z) and Homeownership Counseling Amendments to the Real Estate Settlement Procedures Act (Regulation X)," July 9, 2012, at http://files.consumerfinance.gov/f/201207_cfpb_proposed-rule_high-cost-mortgage-protections.pdf.

[25] Consumer Financial Protection Bureau, "Consumer Financial Protection Bureau proposes rules to bring greater accountability to mortgage market," August 17, 2012, at http://www.consumerfinance.gov/pressreleases/consumer-financial-protection-bureau-proposes-rules-to-bring-greater-accountability-to-mortgage-market/.

[26] Consumer Financial Protection Bureau, "Putting the 'service' back in 'mortgage servicing'," August 10, 2012, at http://www.consumerfinance.gov/blog/putting-the-serviceback-in-mortgage-servicing/.

[27] CRS Report R42056, *Ability to Repay, Risk-Retention Standards, and Mortgage Credit Access*, by Darryl E. Getter.

> In accordance with regulations prescribed by the (Federal Reserve) Board, no creditor may make a residential mortgage loan unless the creditor makes a reasonable and good faith determination based on verified and documented information that, at the time the loan is consummated, the consumer has a reasonable ability to repay the loan, according to its terms, and all applicable taxes, insurance (including mortgage guarantee insurance), and assessments.

On April 19, 2011, the Federal Reserve, as mandated by the Dodd-Frank Act, announced a proposed rule to implement the ability to repay requirement. One of the ways in which a lender may comply with the proposed rule would be to issue a QM that meets certain criteria, as spelled out in the rule. The Dodd-Frank Act transferred the authority to prescribe the final rule to the CFPB. In May 2012, the CFPB re-opened the comment period on the QM rule, seeking further comments on the litigation risks that could potentially arise from the new requirements. Under the Dodd-Frank Act, the CFPB has until January 21, 2013, to finalize the rule.

Supervision and Enforcement of Banks and Nonbanks

The CFPB has the authority to enforce many of the federal financial consumer protection laws, primarily for large depository institutions (defined as holding assets of more than $10 billion) as well as certain nonbank institutions.[28] As part of its supervision and enforcement efforts, the CFPB started its Large Bank Supervision Program in July 2011.[29] In this program, the CFPB's examiners perform on-site examinations, data analysis, and other forms of monitoring. The CFPB performs periodic examinations of most large depositories, but has a year-round program for large and complex institutions. The CFPB can seek corrective actions if institutions are not in compliance. On July 18, 2012, the CFPB issued its first public enforcement action, requiring Capital One Bank "to refund approximately $140 million to 2 million customers and pay an additional $25 million penalty."[30] A CFPB examination identified "deceptive marketing tactics used by Capital One's vendors to pressure or mislead consumers into paying for 'add-on products' such as payment protection and credit monitoring when they activated their credit cards."[31]

The CFPB could not exercise its power to regulate nonbanks for consumer protection until its director was put in place. When President Obama installed Richard Cordray as the director of the Consumer Financial Protection Bureau via recess appointment, the CFPB announced the Nonbank Supervision Program.[32] The Nonbank Supervision Program subjects some nonbanks to the same consumer protection standards as are currently applied to banks.[33] Under the program, the CFPB has authority to supervise nonbanks under three circumstances. First, the CFPB can

---

[28] For more on the CFPB's authority over nonbanks, see CRS Report R42156, *The Early Agenda of the Consumer Financial Protection Bureau: The Nonbank Supervision Program*, by Sean M. Hoskins.

[29] Department of the Treasury, "Consumer Financial Protection Bureau Outlines Bank Supervision Approach," at http://www.treasury.gov/press-center/press-releases/Pages/tg1236.aspx.

[30] Consumer Financial Protection Bureau, "CFPB probe into Capital One credit card marketing results in $140 million consumer refund," July 18, 2012, at http://www.consumerfinance.gov/pressreleases/cfpb-capital-one-probe/.

[31] Ibid.

[32] See CRS Report R42323, *President Obama's January 4, 2012, Recess Appointments: Legal Issues*, by David H. Carpenter et al.

[33] See CRS Report R42156, *The Early Agenda of the Consumer Financial Protection Bureau: The Nonbank Supervision Program*, by Sean M. Hoskins.

regulate nonbanks in three specific markets—mortgage companies, payday lenders, and private education lenders. Second, the CFPB can regulate the "larger participants" in other financial markets, such as debt collection and consumer reporting.[34] Third, the CFPB may supervise a nonbank that is performing actions that may pose a risk to consumers with regard to consumer financial products or services.[35] The CFPB uses the same examination manual and similar procedures for nonbank supervision as for bank supervision.[36]

Author Contact Information

Sean M. Hoskins
Analyst in Financial Economics
shoskins@crs.loc.gov, 7-8958

[34] Consumer Financial Protection Bureau, "Semi-Annual Report of the Consumer Financial Protection Bureau," p. 42, at http://www.consumerfinance.gov/reports/2012-annual-report-to-the-committee-on-appropriations-of-the-house-of-representatives/.

[35] See Consumer Financial Protection Bureau, "Consumer Financial Protection Bureau proposes procedural rule on supervising nonbanks that pose risks to consumers," at http://www.consumerfinance.gov/pressreleases/consumer-financial-protection-bureau-proposes-procedural-rule-on-supervising-nonbanks-that-pose-risks-to-consumers/.

[36] Consumer Financial Protection Bureau, "Consumer Financial Protection Bureau launches nonbank supervision program," at http://www.consumerfinance.gov/pressreleases/consumer-financial-protection-bureau-launches-nonbank-supervision-program/.