

Practice Update

CFPB COVID-19 Policy Statements

March 26, 2020

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On March 26, the CFPB announced it does not intend to take supervisory or enforcement action for failure to report quarterly HMDA data. The CFPB will take the same approach for a credit or prepaid card issuer that does not comply with information reporting requirements under Regulations E and Z. The CFPB also committed to working with financial institutions to minimize supervisory burdens, as well as taking into account staffing and resource issues faced by institutions as a result of the pandemic. These steps were announced in three policy statements addressing:

HMDA. Regulation C, 12 CFR 1003.5(a)(1)(ii), imposes a quarterly reporting requirement on financial institutions that reported at least 60,000 covered loans and applications, excluding purchased loans, in the preceding calendar year. This requirement only recently went into effect, with the first quarterly submissions due by May 30, 2020. According to the policy statement “the Bureau does not intend to cite in an examination or initiate an enforcement action against any institution for failure to report its HMDA data quarterly.” Financial institutions have the option of submitting quarterly data, but the policy statement noted that financial institutions must continue collecting and recording HMDA data. The CFPB intends to issue further guidance on quarterly reporting in the future.

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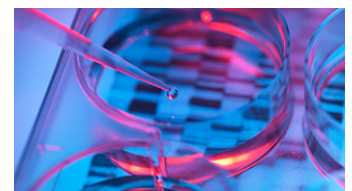
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Credit and Prepaid Issuers. Regulation Z, 12 CFR 1026.57(d)(3), requires issuers of college credit card agreements to submit an annual report about the agreements by March 31, 2020. Regulation Z, 12 CFR 1026.58(c), requires card issuers to submit a quarterly report detailing certain information in credit card agreements by April 30, 2020. Regulation E, 12 CFR 1005.19(b), requires prepaid account issuers to submit prepaid account agreements to the CFPB on a rolling basis no later than 30 days after an issuer offers, amends, or ceases to offer the agreement. TILA, 15 USC §1646(b)(1), requires the CFPB to collect information about credit card price and availability from a broad sample of financial institutions. According to the Policy Statement “the Bureau does not intend to cite in an examination or initiate an enforcement action against any entity for failure to submit” the information required by any of these provisions. Entities are permitted to submit these reports if they choose to do so. The CFPB will provide guidance on delayed submissions at a later date and directed entities to maintain sufficient records to make delayed submissions.

Supervision and Enforcement. The CFPB acknowledged the operational challenges faced by financial institutions stemming from COVID-19 and issued this policy statement to explain its enforcement and supervisory approach in light of the circumstances. The CFPB stated its enforcement activities would take into account current staffing and related resource challenges faced by institutions. On the supervisory side, the CFPB intends to: (1) work with affected financial institutions in scheduling examinations and other supervisory activities to minimize disruption and burden; and (2) keep in close contact with affected institutions to determine when supervisory events can be appropriately scheduled. Importantly, the CFPB also stated:

“The Bureau encourages prudent efforts undertaken in good faith that are designed to meet the exigent needs of financial institutions’ borrowers and other

customers. To that end, when conducting examinations and other supervisory activities and in determining whether to take enforcement action, the Bureau will consider the circumstances that entities may face as a result of the COVID-19 pandemic and will be sensitive to good-faith efforts demonstrably designed to assist consumers.”

This statement should provide some comfort to financial services providers concerned about potential compliance errors when making good faith efforts to assist affected borrowers. However, the CFPB appears to be taking the position that the extent to which a financial institution assists affected borrowers will be considered when determining good faith compliance in light of a particular institution’s facts and circumstances.

Please see the links below for the full text of these policy statements.

[Statement on Supervisory and Enforcement Practices Regarding Quarterly Reporting Under the Home Mortgage Disclosure Act](#)

[Statement on Supervisory and Enforcement Practices Regarding Bureau Information Collections for Credit Card and Prepaid Account Issuers](#)

[Statement on Bureau Supervisory and Enforcement Response to COVID-19 Pandemic](#)

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