GreenbergTraurig
CFPB Observer
March 2014

The Consumer Financial Protection Bureau (CFPB), Recent Developments: March 17, 2014 – March 21, 2014

CFPB Issues Report on Debt Collection Industry

On March 20th, the CFPB issued a report on the more than 30,000 consumer complaints it has received regarding the debt collection market.[1] The CFPB started to accept debt collection complaints in July 2013 and these complaints quickly became the largest share of complaints received. According to the report, the top three complaints concerned:

- **Collectors pursuing consumers about debts they do not owe:** More than one-third of the complaints concerned a debt collector continually attempting to collect a debt that the consumer does not believe is owed.
- **Aggressive communication tactics:** Nearly one quarter of the complaints concerned debt collectors using inappropriate communication tactics. Such tactics included frequent or repeated calls, calling a consumer's place of employment, and use of obscene, profane, or abusive language.
- **Threatening an illegal action:** About 14 percent of consumers reported that a collector is taking or threatening an illegal action, including threats of arrest or seizure of property.

The main federal law governing the debt collection industry is the Fair Debt Collection Practices Act (FDCPA), which generally governs the practices of third-party debt collectors. The Dodd-Frank Act revised the FDCPA in 2010 to give the CFPB power to promulgate substantive rules that implement the FDCPA. The Dodd-Frank Act separately authorized the CFPB to issue rules to prevent unfair, deceptive, and abusive acts and practices, including with respect to the collection of consumer debts. In November 2013, the CFPB took its first step to exercise these authorities by issuing an Advanced Notice of Proposed Rulemaking for the debt collection industry. It is likely that the consumer complaints discussed in the CFPB's report will factor into this rulemaking.

CFPB Releases Model Disclosures for Prepaid Cards

On March 18th, the CFPB released model disclosures for prepaid cards that it is continuing to test at field events.[2] The CFPB is developing the new disclosures in conjunction with a proposed rule covering prepaid cards, which it expects to issue later this Spring. The two model forms standardize the format for disclosing prepaid card fees such as reloading, purchase, ATM withdrawal and inactivity fees. The CFPB is soliciting feedback from the public on the model forms, asking commenters to focus on how easy the forms are to understand and whether any additional information would be valuable.

[1] See the report here.
[2] See the model disclosures here.

In related news, CFPB Director Richard Cordray spoke at the National Association of State Treasurers on March 18th where he discussed some of the CFPB's concerns regarding prepaid cards.[3] Specifically, he said that "it is critical for consumers to have a choice of how to receive government payments as well. When considering how to design a prepaid card program for distribution of child support payments or state tax refunds, we think that states should mandate that consumers have the option of direct deposit into a bank account and, if they do choose a prepaid card, it should include the option to easily switch to direct deposit at any time."

State AG Sues Short-term Lender under Dodd-Frank Act

On March 18th, the Illinois Attorney General filed suit against a Chicago-area short-term lender.[4] Of note is the fact that the complaint alleges violation of section 106(a)(1)(B) of the Dodd-Frank Act, 12 U.S.C. § 5536(a)(1)(B), which prohibits the use of abusive practices with respect to consumer financial products. The complaint alleges that the lender is engaging in abusive conduct and evading Illinois' 36 percent interest-rate cap by offering a short-term loan product structured as a revolving line of credit, but which offers none of the protections of a credit card line of credit. While the lender offers the product with advertised interest rates of 18 percent to 24 percent, the complaint alleges that the lender evades the state interest rate cap by adding additional "required account protection fees." When this fee is factored into the total cost of the loan, the annualized interest rate rises above the cap. The complaint further alleges the minimum payments for the loans only cover the fees and do not cover any principal payments.

CFPB Releases Annual FOIA Report

The CFPB recently released its annual Freedom of Information Act (FOIA) report.[5] The report details the number of FOIA requests received by the CFPB and the disposition of those requests. In the last fiscal year, the CFPB received 209 FOIA requests, of which 49 were granted and 78 were partially granted. Approximately 40 percent of the requests were denied. The report also disclosed that the CFPB maintains five full-time employees dedicated to FOIA requests. Its total FOIA costs for the past fiscal year were $584,122.

CFPB Audited Financial Statements Released

The Board of Governors of the Federal Reserve System recently released the CFPB's financial statements for 2012-13, along with independent audit reports prepared by Deloitte & Touche LLP.[6] According to the financial statements, CFPB spending was up nearly 50 percent year-on-year, increasing from $385 million in 2012 to $563 million in 2013. Included in the expenses for 2013 was the $145 million cost of renovating the CFPB's headquarters. Under the Dodd-Frank Act, the CFPB's funding, which is provided by the Federal Reserve, is capped at a percentage of the Federal Reserve's operating expenses. In fiscal year 2013, the cap was $598 million and the CFPB asked for and received $518.4 million from the Federal Reserve.

---

[3] See Director Cordray's prepared remarks here.
[4] See the complaint here.
[5] See the FOIA report here.
[6] See the audited financial statement here.

In related news, on March 19th the *Washington Examiner* filed a federal lawsuit against the CFPB seeking the release of public documents regarding the CFPB's renovation of its headquarters.[7] The *Washington Examiner* filed the lawsuit under FOIA after the CFPB refused to release its financial and design records of the renovation requested by the newspaper.

Consumer Mortgage Complaint Volume Remains High

Speaking on March 19th before the U.S. Chamber of Commerce, CFPB Deputy Director Steven Antonakes said that the CFPB continues to receive a high volume of mortgage complaints from consumers, averaging around 4,300 per month.[8] Antonakes stated that the complaints "are not only opportunities for us to assist specific people; they also make a difference by informing our work and helping us identify areas of concern, which then feed into our supervision and enforcement prioritization process."

This *GT Alert* was prepared by **Gil Rudolph, Brett Kitt, Scott Sheehan** and **Peter Cockrell.** Questions about this information can be directed to any member of Greenberg Traurig's **Consumer Financial Protection Bureau (CFPB)** team of professionals:

- Gil Rudolph | Co-Chair, Financial Regulatory & Compliance | 703.749.1383 | rudolphg@gtlaw.com
- Brett Kitt | Financial Regulatory & Compliance | 202.533.2359 | kittb@gtlaw.com
- Scott Sheehan | Financial Regulatory & Compliance | 713.374.3543 | sheehans@gtlaw.com
- Michael Sklaire | Financial Services Litigation & Regulation | 703.749.1308 | sklairem@gtlaw.com
- Andy Berg | Financial Services Litigation & Regulation | 202.331.3181 | berga@gtlaw.com
- Michele Stocker | National Chair, Financial Services Litigation | 954.768.8271 | stockerm@gtlaw.com
- Jennifer Gray | Financial Services Litigation & Regulation | 310.586.7730 | grayjen@gtlaw.com
- Brian Schulman | Financial Services Litigation & Regulation | 602.445.8407 | schulmanb@gtlaw.com
- Jacob Bundick | Financial Services Litigation & Regulation | 702.792.3773 | bundickj@gtlaw.com
- Alan Slomowitz | Government Law & Policy| 202.533.2318 | slomowitza@gtlaw.com
- Patrick Anderson | Government Law & Policy | 202.331.3100 | andersonp@gtlaw.com
- Thomas McKee | Litigation | 703.749.1300 | mckeet@gtlaw.com

[7] See the complaint here.
[8] See Deputy Director Antonakes' prepared remarks here.

- Michael Lawrence | Litigation | 310.586.7719 | lawrencem@gtlaw.com
- Peter Cockrell | Financial Regulatory & Compliance | 703.749.1357 | cockrellp@gtlaw.com

Albany 518.689.1400	**Denver** 303.572.6500	**New York** 212.801.9200	**Shanghai** +86 21 6391 6633
Amsterdam + 31 20 301 7300	**Fort Lauderdale** 954.765.0500	**Northern Virginia** 703.749.1300	**Silicon Valley** 650.328.8500
Atlanta 678.553.2100	**Houston** 713.374.3500	**Orange County** 949.732.6500	**Tallahassee** 850.222.6891
Austin 512.320.7200	**Las Vegas** 702.792.3773	**Orlando** 407.420.1000	**Tampa** 813.318.5700
Boca Raton 561.955.7600	**London*** +44 (0)203 349 8700	**Philadelphia** 215.988.7800	**Tel Aviv^** +03.636.6000
Boston 617.310.6000	**Los Angeles** 310.586.7700	**Phoenix** 602.445.8000	**Warsaw~** +48 22 690 6100
Chicago 312.456.8400	**Mexico City+** +52 55 5029.0000	**Sacramento** 916.442.1111	**Washington, D.C.** 202.331.3100
Dallas 214.665.3600	**Miami** 305.579.0500	**San Francisco** 415.655.1300	**West Palm Beach** 561.650.7900
Delaware 302.661.7000	**New Jersey** 973.360.7900	**Seoul∞** 82-2-369-1000	**White Plains** 914.286.2900