GT GreenbergTraurig

CFPB Observer

March 2014

The Consumer Financial Protection Bureau (CFPB), Recent Developments: March 24, 2014 – March 28, 2014

CFPB Payday Loan Report and Hearing

On March 25th, the CFPB released its second report on payday loans (the Report) and also held a field hearing on that issue.[1] The CFPB's Office of Research prepared the Report based upon data it collected over a 12-month period from more than 12 million storefront payday loans. The Report is a continuation of research on payday loan products that the CFPB began last year when it issued its White Paper of Initial Data Findings on Payday Loans and Deposit Advance Products (the White Paper).[2] Findings in this new Report include the following:

- **Four out of five payday loans are rolled over or renewed.** Even in states that impose cooling-off periods between payday loans as a means of reducing the rates of loan renewals, renewal rates were nearly identical to states without such cooling-off periods.
- **Three out of five payday loans are made to borrowers whose fee expenses exceed the amount borrowed.**
- **One out of five new payday loans end up costing the borrower more than the amount borrowed.** For 22 percent of all initial payday loans, borrowers ended up renewing their loans six times or more.
- **Four out of five payday borrowers either default or renew a payday loan over the course of a year.** Only 15 percent of borrowers repaid all of their payday debts when due without re-borrowing within 14 days.
- **Four out of five payday borrowers who renew end up borrowing the same amount or more.**

We note that the Report, like the White Paper, does not define what constitutes a "payday loan," although the CFPB's Press Release announcing the Report described them as "generally $500 or less."

During the field hearing on payday loans held in conjunction with the release of the Report, CFPB Director Richard Cordray stated that "the business model of the payday industry depends on people becoming stuck in these loans for the long term, since almost half their business comes from people who are basically paying high-cost rent on the amount of their original loan."[3] He added that the CFPB is in "the late stages of its consideration about how [it] can formulate new rules to bring needed reforms to this market."

---

[1] See the report here.
[2] See the white paper here.
[3] See Director Cordray's prepared remarks here.

Regulators Issue Proposed Rule on Minimum Requirements for Appraisal Management Companies

On March 24th, the CFBP, along with the Office of the Comptroller of the Currency (OCC), Federal Reserve Board (FRB), Federal Deposit Insurance Corporation (FDIC), Federal Housing Finance Agency (FHFA) and National Credit Union Administration (NCUA), jointly issued a proposed rule that would implement minimum requirements for state registration and supervision of appraisal management companies (AMCs).[4] AMCs serve as intermediaries between appraisers and lenders and provide appraisal management services. Section 1473 of the Dodd-Frank Act added section 1124 to Title XI of the Financial Institution Reform, Recovery, and Enforcement Act of 1989 (FIRREA). As required by section 1124 of FIRREA, the minimum requirements in the proposed rule would apply to states that elect to establish agencies with powers to register and supervise AMCs.

Although states would not be compelled to establish an AMC registration and supervision program under the proposed rule, an AMC is barred by section 1124 from providing appraisal management services for federally related transactions in a state that has not established such a regulatory structure.

Under the proposed rule, a participating state would require that an AMC:

- Register in the state and be subject to its supervision;
- Use only state-certified or licensed appraisers for federally related transactions, such as real estate-related financial transactions overseen by a federal financial institution regulatory agency that require appraiser services;
- Require that appraisals comply with the Uniform Standards of Professional Appraisal Practice;
- Ensure selection of a competent and independent appraiser; and
- Establish and comply with processes and controls reasonably designed to ensure that appraisals comply with the appraisal independence standards established under the Truth in Lending Act.

Participating states would have 36 months after the proposed rule's effective date to implement the minimum requirements. Comments to the proposed rule are due 60 days following publication in the Federal Register.

The Consumer Financial Protection Bureau (CFPB), created by the Dodd-Frank Wall Street Reform and Consumer Protection Act, implements and enforces federal consumer financial law. Greenberg Traurig monitors the CFPB's activities, including the almost daily movement on multiple industry fronts that the CFPB makes as it redefines consumer finance law. An entirely new system has been and is being created for the consumer financial services industry. Once complete, the question will be, "How does our clients' business match up?" Our GT CFPB Team regularly observes and analyzes the actions of the CFPB in order to advise clients in best practices, risk management and compliance procedures.

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:

[4] See the joint proposed rule here.

- 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
- 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