

The Consumer Financial Protection Bureau (CFPB), Recent Developments: May 12, 2014 – May 16, 2014

VA Issues Interim Final Rule Defining Qualified Mortgages

On May 9th, the Department of Veterans Affairs (VA) issued an interim final rule as required by the Dodd-Frank Act to define which types of VA loans qualify as **qualified mortgages** (QM) for purposes of the CFPB's new Ability-to-Repay Rule.¹ The Ability-to-Repay Rule generally requires creditors to make a reasonable, good faith determination of a consumer's ability to repay a mortgage loan and establishes certain limitations from liability under this requirement for QMs that meet specific requirements. The interim final rule issued by the VA specifies which VA-guaranteed loans are QMs and enjoy either safe harbor protection or a rebuttable presumption that the borrower has an ability-to-repay. In general, all VA loans will enjoy safe harbor QM loan status, except for a subset of VA streamlined refinancings. The interim final rule is effective May 9, 2014.

CFPB Responds to DOJ/FDIC Enforcement Action against Sallie Mae

On May 13th, Holly Petraeus, the CFPB's Assistant Director for the Office of Servicemember Affairs, issued a statement regarding the U.S. Department of Justice's and the Federal Deposit Insurance Corporation's consent orders with Sallie Mae, the nation's largest student loan servicer.² According to the consent orders, Sallie Mae was alleged to be violating the Servicemembers Civil Relief Act (SCRA) and also engaging in general student loan servicing misconduct. The SCRA caps the interest rate on pre-existing student loans at six percent while servicemembers are on active duty and specifies the manner in which servicemembers are to inform their lenders when they exercise this right. Sallie Mae was allegedly not providing servicemembers with clear and accurate information about these SCRA protections and their loan repayment options in general. Under the consent order, Sallie Mae will pay \$96.6 million in restitution and penalties.

In her statement responding to the consent order, Assistant Director Petraeus said the following: "Today's action should serve as warning not just to the student loan servicing industry, but to all institutions that provide or service loans to the military. Federal agencies will be vigilant about holding all financial institutions accountable for providing the protections that our servicemembers have earned through their selfless service to our nation."

¹ See the interim final rule [here](#).

² See the full statement [here](#).

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.

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