CFPB Observer:
Recent Developments from Feb. 9-13, 2015

CFPB Issues Report on Reverse Mortgages

On Feb. 9, the CFPB issued a report on consumer complaints regarding reverse mortgages. A reverse mortgage, which is only available to people above a certain age, is a particular type of home mortgage loan that permits older homeowners to access the equity in their homes. Repayment of the loan is deferred until they pass away or sell the property. The reverse mortgage market is small—about 1 percent of the traditional mortgage market according to CFPB statistics. The CFPB's report is based on 1,200 reverse mortgage complaints that it received during the period Dec. 1, 2011, to Dec. 31, 2014. Reverse mortgage complaints comprise only 1 percent of all mortgage complaints received by the CFPB.

According to the report, the complaints show that some borrowers are confused by the terms of their reverse mortgage. For example, borrowers complained about the inability to add new obligors to the loan because reverse mortgages prohibit spouses, heirs, and dependents from assuming the loan obligation. Consumers also complained that servicers do not present a clear process for settling the debt owed after the borrower passes away. Generally, when the borrower passes away, the heirs may repay the loan balance, pay 95 percent of the property's assessed value, or sell the property.

In conjunction with issuing the report, the CFPB also issued a consumer advisory that provides advice on how to handle reverse mortgages.

CFPB Enforcement Action Against Mortgage Lender for Deceptive Advertising and Kickbacks

On Feb. 10, the CFPB entered a consent order with a non-bank mortgage lender for alleged deceptive advertising and kickbacks. The mortgage lender's primary business is originating refinance mortgage loans that are guaranteed by the Veterans Administration. The lender uses direct mail campaigns as its chief form of advertising. As part of these advertising campaigns, the CFPB alleges that the lender entered into a marketing agreement with a veterans' organization whereby the lender would pay "lead generation fees" to the veterans' organization, and in return, the veterans' organization would declare the lender its "exclusive lender." This financial relationship was not disclosed and the CFPB alleged that the failure to disclose this relationship constituted a deceptive act or practice in violation of the CFPB's prohibition against unfair, deceptive, or abusive acts or practices. In addition, the CFPB alleged that the payments made by the lender were illegal referral fees made in violation of Section 8 of the Real Estate Settlement Procedures Act. In addition to ceasing the allegedly illegal practices, the consent order requires the mortgage lender to pay a $2 million civil money penalty.

CFPB Enforcement Actions Against Several Mortgage Lenders for Misleading Advertisements

On Feb. 12, the CFPB entered consent orders with two different mortgage lenders and announced a civil suit against a third for engaging in misleading advertising practices. The CFPB alleged that the mortgage lenders falsely implied that their mortgage products had U.S. government approval in violation of the 2011 Mortgage Acts and Practices Advertising Rule. The Rule generally prohibits misleading claims in mortgage advertising, including the implication of a government affiliation. Among other things, the CFPB alleges that the mortgage lenders used mailings that imitated U.S. government notices. These actions are the result of a joint review conducted by the CFPB and the Federal Trade Commission of about 800 randomly selected mortgage-related ads, including ads for mortgage loans, refinancing, and reverse mortgages. The consent orders direct the two lenders to cease the deceptive practices and subjects them to civil monetary fines of $225,000 and $85,000, respectively.

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:

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