

CFPB Observer: Recent Developments from May 11-15, 2015

CFPB Enforcement Action Against Mortgage Payment Processing Company

On May 11, the CFPB announced an enforcement action against a company that offers a payment processing service to mortgage borrowers. For a fee, the company will collect a borrower's monthly mortgage payment every two weeks and send the payment to the mortgage servicer in an effort to reduce the amount of interest the borrower pays. In its complaint, the CFPB alleges that the company misrepresents the potential interest savings of the biweekly mortgage payment program and also misleads consumers about the cost of the program. For example, the company allegedly advertised immediate savings that may actually take several years to be realized. The CFPB alleges that such conduct violates both the Telemarketing Sales Rule and the Consumer Financial Protection Act's prohibition against unfair, deceptive or abusive acts or practices. The CFPB is seeking an injunction, financial compensation for injured consumers, and a civil money penalty.

CFPB Issues Compliance Bulletin Regarding Public Housing Assistance

On May 11, the CFPB issued [CFPB Compliance Bulletin 2015-02](#) addressing creditors' compliance obligations with respect to applicants whose income includes vouchers from the Section 8 Housing Choice Voucher Homeownership Program. The Equal Credit Opportunity Act prohibits creditors from discriminating against applicants on a prohibited basis, such as because some or all of an applicant's income derives from a public assistance program. The Section 8 voucher program provides monthly financial assistance to low-income, first-time homebuyers. According to the CFPB, some financial institutions have improperly been excluding or refusing to consider income derived from the voucher program during the underwriting process.

CFPB Enforcement Actions Against National Wireless Carriers for Third-Party Charges

On May 12, the CFPB announced a settlement with a national wireless carrier that it sued last year and also announced a new enforcement action against another wireless carrier. Both actions allege that the wireless carriers billed their customers for unauthorized third-party charges. The CFPB is claiming jurisdiction over the wireless carriers, which are traditionally subject to the jurisdiction of the Federal Communications Commission, as "covered persons" under the Consumer Financial Protection Act on the basis that the wireless carriers both extended credit to and processed payments for consumers. According to the consent orders, the wireless carriers allegedly collected charges for various wireless products (e.g., premium text messages, apps, games, etc.) sold by third-party merchants. The wireless carriers allegedly contracted with a third-party "billing aggregator" that processed these payments. Many of these charges that were processed by the billing aggregator were not authorized by consumers, but the wireless carriers still placed these charges on consumers' wireless bills. Under the terms of the

proposed consent orders, the carriers will provide \$120 million in refunds to consumers and will also pay \$38 million in federal and state civil money penalties.

CFPB Announces Public Inquiry of Student Loan Servicing Practices

On May 14, the CFPB announced a public inquiry into student loan servicing practices. The CFPB issued a [request for information](#) to the general public. According to the press release, the CFPB is seeking from “information on the pain points in student loan servicing that make repayment a more difficult and stressful process.” Specifically, the inquiry seeks information regarding industry servicing practices that create repayment challenges or “hurdles” for delinquent borrowers, and the economic incentives that may affect the level of service provided by loan servicers. The CFPB is also asking for information regarding the potential application of consumer protections in other markets to the student loan servicing market. In conjunction with announcing the public inquiry, the CFPB also re-launched an updated version of its [“Repay Student Debt” online tool](#) to help student borrowers analyze their repayment options. The deadline for submitting comments is July 13, 2015. Although it is unclear what the CFPB will do with the information it collects in this public inquiry, this may prelude a student loan servicing rulemaking.

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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