

# Banking and Finance Law Daily Wrap Up, TOP STORY—CFPB proposes no-action letter process for new products and services, (Oct. 10, 2014)

By Andrew A. Turner, J.D.

The Consumer Financial Protection Bureau is proposing a no-action letter process that would allow applicants to seek assurances that the CFPB staff does not intend to recommend enforcement action if a new financial product or service is offered. Under the [proposed policy](#), the no-action letter would not be an available tool unless the applicant shows the product holds the promise of substantial consumer benefit.

As part of the application process, the CFPB would require an applicant to thoroughly demonstrate the characteristics of the proposed product, how it will work, and what consumer risks are involved. An applicant will need to explain what regulatory uncertainty exists and how that uncertainty interferes with the development of the product. In addition, the applicant will need to demonstrate what consumer safeguards are in place and how consumer interests and safety will be monitored.

Bureau staff would, in its discretion, issue no-action letters (NALs) to specific applicants in instances involving innovative financial products or services where there is substantial uncertainty whether or how specific provisions of statutes or regulations would be applied (for example if, because of intervening technological developments, the application of statutes and regulations to a new project is novel and complicated). NALs may be conditioned on particular undertakings by the applicant with respect to product or service usage and data-sharing with the bureau.

The proposed no-action letter policy has five sections:

- information that should be included;
- types of responses that the staff may provide;
- factors the staff may consider;
- a description of the general content and limitations of NALS; and
- CFPB disclosure of entity data.

Issued NALs would be publicly disclosed and would not prevent any other regulator or person from asserting that the product violated legal requirements. The CFPB anticipates that NALs would be issued infrequently.

A CFPB [blog](#) announcement said that the proposed policy will be published in the *Federal Register* next week, with a 60 day period for public comment.