

## Fall 2016 rulemaking agenda

By [Kelly Cochran](#) - DEC 02, 2016

An important part of the CFPB's statutory mandate from the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) is to make rules governing consumer finance markets more effective and to create new rules when warranted. Under the Regulatory Flexibility Act, federal agencies must publish regulatory agendas twice a year. As an independent regulatory agency, we have been voluntarily participating in the Unified Agenda, which is led by the Office of Management and Budget (OMB). OMB recently posted online our updated agenda submitted in early fall. Portions of that agenda will also be published in the *Federal Register*.

The Unified Agenda, which largely mirrors the items outlined in the past several editions, includes rulemaking actions in pre-rule, proposed rule, final rule, long-term, and completed stages. We completed the update in late summer and submitted it in early fall, at a time when the Bureau was receiving public comment on several proposals. We are now in the process of reviewing those comments and considering their impacts on both the substance of the rulemakings and potential timelines.

Here's a brief summary of various Bureau initiatives.

### Implementation and Supervisory Initiatives

#### *Know Before You Owe* mortgage disclosure rule

This summer the Bureau released a Notice of Proposed Rulemaking to make small clarifications and provide further regulatory guidance that will facilitate implementation of its *Know Before You Owe* mortgage rule combining several federal disclosures that consumers receive in connection with applying for and closing on a mortgage loan under the Truth in Lending Act and the Real Estate Settlement Procedures Act. The project to integrate and streamline the disclosures was mandated under the Dodd-Frank Act and took effect in October 2015. The rule is the cornerstone of the Bureau's broader "Know Before You Owe" mortgage initiative. The comment period for the Notice of Proposed Rulemaking ended on October 18, 2016. The Bureau is in the process of reviewing comments.

#### Other mortgage rules

The Bureau is continuing other efforts to implement critical consumer protections under the Dodd-Frank Act to guard against mortgage market practices that contributed to the nation's most significant financial crisis in several decades. Since 2013, the Bureau has issued regulations as directed by the Dodd-Frank Act to implement certain protections for mortgage originations and servicing, integrate various federal mortgage disclosures, and amend mortgage reporting requirements under the Home Mortgage Disclosure Act (HMDA). The Bureau is continuing its work to facilitate implementation of the new requirements, including follow-up rulemaking where warranted.

The Bureau is working particularly intensely on planning for implementation of its rule to implement Dodd-Frank Act amendments to HMDA. The Bureau has already released a small entity compliance guide in connection with the rule, which was finalized in October 2015. Though certain elements of the rule take effect in January 2017, most new data collection requirements take effect in January 2018. The Bureau is also working to streamline and modernize the HMDA data reporting processes in conjunction with implementation of the regulatory changes, and is conducting outreach with industry to prepare for both the regulatory and operational changes.

## Larger participants and non-depository lender registration

The Bureau is continuing rulemaking activities that will further establish the Bureau's nonbank supervisory authority by defining larger participants of certain markets for consumer financial products and services. Larger participants of such markets, as the Bureau defines by rule, are subject to the Bureau's supervisory authority. The Bureau expects that its next larger participant rulemaking will focus on the markets for consumer installment loans and vehicle title loans for purposes of supervision. The Bureau is also considering whether rules to require registration of these or other non-depository lenders would facilitate supervision, as has been suggested to the Bureau by both industry groups and consumer advocates.

## Developing Initiatives

### Arbitration

The Bureau issued a Notice of Proposed Rulemaking in May 2016 concerning the use of arbitration clauses in consumer financial agreements. The rulemaking follows on a report that the Bureau issued to Congress in March 2015 as required by the Dodd-Frank Act, as well as on preliminary results of arbitration research that were released by the Bureau in December 2013. The proposal was primarily focused on addressing concerns that arbitration clauses are being used to prevent groups of consumers from joining together to seek effective relief from wrongdoing by financial companies. The comment period for the Notice of Proposed Rulemaking ended on August 22, 2016. The Bureau is in the process of reviewing comments.

### Payday, auto title, and similar lending products

The Bureau also released a Notice of Proposed Rulemaking in June 2016 to address consumer harms from practices related to payday loans, vehicle title loans, and other similar credit products. The Bureau has been particularly concerned about practices that result in these products becoming debt traps for consumers. The Bureau convened a SBREFA panel in April 2015 along with the Office of Management and Budget and the Small Business Administration's Chief Counsel for Advocacy to meet with small lenders that may be affected by the rulemaking, and has gathered extensive feedback on the proposals from other stakeholders in the last year. This rulemaking builds on Bureau research, including a [white paper](#)  the Bureau published on these products in April 2013, a [data point](#)  providing additional research in March 2014, a [report](#)  about online lenders' debiting practices in April 2016, and ongoing analysis. The comment period for the Notice of Proposed Rulemaking ended on October 7, 2016, and for a related Request for Information on November 7, 2016. The Bureau is in the process of reviewing comments.

### Debt collection

The Bureau is engaged in developing proposed rules to regulate debt collection practices. The federal government for many years has received more consumer complaints about debt collectors than about any other single industry. The Fair Debt Collection Practices Act (FDCPA) prohibits debt collectors from engaging in unfair, deceptive, abusive, and other unlawful collection practices, but no federal agency was vested with authority to issue general implementing regulations prior to the creation of the CFPB. Building on the Bureau's November 2013, Advance Notice of Proposed Rulemaking, the Bureau released materials in July 2016 in advance of convening a panel under the Small Business Regulatory Enforcement Fairness Act (SBREFA) in conjunction with the Office of Management and Budget and the Small Business Administration's Chief Counsel for Advocacy. The purpose of the panel was to consult with small businesses that are considered "debt collectors" under the Fair Debt Collection Practices Act. The CFPB has also been analyzing the results of a survey to obtain information from consumers about their experiences with debt collection and plans to publish a report on the survey in coming months.

### Other projects

The Unified Agenda also notes that the Bureau has been engaged in research and other early work on other issues, such as checking overdraft and implementation of other Dodd-Frank Act provisions. On overdraft services, for example, the CFPB issued a [white paper](#) in June 2013 and a follow-up [report](#) in July 2014 summarizing findings from its analysis of overdraft practices based on supervisory data from several large banks. The Bureau is continuing to engage in additional research and has begun consumer testing initiatives relating to the opt-in process.

The Bureau is also in the very early stages of starting work to implement section 1071 of the Dodd-Frank Act, which amends the Equal Credit Opportunity Act to require financial institutions to report information concerning credit applications made by women-owned, minority-owned, and small businesses. The Bureau is focusing on outreach and research to develop its understanding of the players, products, and practices in the small business lending market and of the potential ways to implement section 1071.

## Long-Term Initiatives

The Bureau also publishes a portion of the Unified Agenda focusing on long-term actions to reflect potential initiatives beyond those identified above. It is available through a separate link [here](#). These include potential rulemakings to address consumer issues in the markets for student loan servicing and credit reporting. The Bureau has been monitoring both markets for trends and developments through its supervisory, enforcement, and research efforts.

### Topics:

- REGULATIONS
- ABOUT THE BUREAU

Due to technical issues, the commenting feature of our blog is temporarily unavailable. We're working to bring this functionality back, and look forward to hearing your feedback and comments about the CFPB's work soon.

---

## FURTHER READING

### Blog

#### [Consumers Count: Five years standing up for you](#)

JUL 14, 2016

#### [Our priorities to ensure a fair marketplace](#)

FEB 25, 2016

#### [Save the date: Join us for a Consumer Advisory Board meeting in Washington, D.C.](#)

FEB 10, 2016

### Newsroom

#### [Agencies Issue Final Rule on Method to Adjust Thresholds for Exempting Certain Consumer Credit and Lease Transactions and Announce 2017 Thresholds](#)

NOV 23, 2016