Banking and Finance Law Daily Wrap Up, PRUDENTIAL REGULATION—CFPB issues proposed rule rescinding 2022, 2023 amendments, (May 12, 2025)

Banking and Finance Law Daily Wrap Up

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By Joe Cox, J.D.

The proposed rule is accompanied by a request for comments through mid-June.

The Consumer Financial Protection Bureau has issued a proposed rule and request for comments. The proposal would rescind amendments made to the Rules of Practice for Adjudication Proceedings on February 22, 2022, and March 29, 2023. The CFPB expressed concern about these prior rule amendments under which a dispositive motion could be filed with the Director who had the option to either decide the motion or refer it on to the hearing officer. Comments on the proposal are due by June 12, 2025.

2022 Rules Amendments. The 2022 rules amendments were initially promoted as creating greater procedural flexibility, which would ultimately lead to more effective and efficient proceedings. The amendments sought to speed up access to relevant information, including allowing discovery depositions, and allowing more flexibility on scheduling conferences and deadlines, timing for dispositive motions and requirements for rulings of issue exhaustion. (See *Banking and Finance Law Daily*, Feb. 18, 2022).

2023 Rules Amendments. The 2023 rules amendments generally facilitated similar goals. Again, procedural flexibility was a significant talking point in the new rules. Included within the 2023 amendments were provisions allowing parties the flexibility to conduct depositions of potential witnesses. Additionally, proceedings could be divided into multiple stages, allowing issues to be quickly resolved or bifurcated. (See *Banking and Finance Law Daily*, Feb. 27, 2023).

The new proposal. In the new proposal, the CFPB expressed concern about the prior rule amendments which the proposal charges “transferred authority to decide dispositive motions from the hearing officer who is presiding over the proceeding… to the [CFPB] Director.” Specifically, the announcement notes that under the prior amendments, a dispositive motion could be filed with the Director who had the option to either decide the motion or refer it on to the hearing officer. “This approach is atypical in the Executive Branch, where the norm is for hearing officers to decide dispositive motions,” notes the rule announcement.

The CFPB also argues that many of the other changes made by the prior amendments were unnecessary. To wit, the announcement states that no administrative proceedings have been conducted under the 2022 and 2023 amendments and that only two administrative adjudication proceedings have been completed from start to finish since 2012.

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