Banking and Finance Law Daily Wrap Up, CONSUMER FINANCIAL PROTECTION BUREAU—CFPB revises Rules of Practice for adjudication proceedings, (Feb. 18, 2022)

Banking and Finance Law Daily Wrap Up

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The Bureau has issued amendments to the Rules of Practice for Adjudication Proceedings for comment, with several changes that the agency hopes will improve the administrative review process.

The Consumer Financial Protection Bureau has issued a procedural rule to update 12 CFR Part 1081, Rules of Practice for Adjudication Proceedings. The notice will be published in the *Federal Register* on Feb. 22, 2022. The Bureau has authority to conduct administrative proceedings under the Section 1053(e) of the Consumer Financial Protection Act of 2010 (CFPA). The Bureau noted that in developing the proposed rule, it considered the rule's benefits, costs, and impacts in accordance with section 1022(b)(2)(A) of the CFPA. Comments are requested from stakeholders by April 8, 2022.

Key Highlights. The Bureau believes that the amendments will provide greater procedural flexibility, which should ultimately contribute to more effective and efficient proceedings. Additionally, one of the aims of the new rules is to provide the parties in administrative review with earlier access to relevant information., such as by expanding the use of the parties' discovery depositions. It also contains various amendments regarding timing and deadlines, the content of answers, the scheduling conference, bifurcation of proceedings, the process for deciding dispositive motions, and requirements for issue exhaustion, as well as other technical changes. The Bureau has made changes to the language of the Rules of Practice so that it is gender inclusive.

One of the ways the Bureau hopes to simplify and clarify the previous rule is with respect to how deadlines are computed. The proposed rule will state and compute all deadlines in the same way. The Bureau is also simplifying the provision regarding the granting of motions for time extensions to indicate that the granting of such motions is generally disfavored, however, it will retain the list of factors to be considered.

The Bureau also hopes to address bifurcation of cases, so that this tool may be used more in adjudication proceedings. Additionally, the Bureau is following the lead of the Securities and Exchange Commission, and amending the rules to permit discovery depositions in addition to using depositions when witness are unable to testify or attend a hearing. The Bureau is also following the Federal Trade Commission by adding a procedure for rulings based on dispositive motions. The new rules will also include a provision to address issue exhaustion, and specifies when a party must raise an issue order for it to be preserved should the issue later be considered in court.

RegulatoryActivity: CFPB

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