

Consumer Financial Protection Bureau Reporter

CFPB WATCH – FERRARA & KARCHER

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COVID-19 results in cessation of data collection

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On March 26, 2020, the Consumer Financial Protection Bureau announced that it will postpone certain data collection activities from financial institutions to provide “flexibility” during the COVID-19 pandemic. The intention is to relax certain requirements which the CFPB anticipates will allow financial institutions to provide greater attention to the needs of consumers. According to a press release announcing the Bureau’s position, the “Bureau is postponing some data collections from industry on Bureau-related rules to allow companies to focus on responding to consumers in need and making changes to its supervisory activities to account for operational challenges at regulated entities.”

Supporting consumers

The Bureau noted that as consumers seek temporary relief from lenders, “the pandemic is impacting the operations of financial companies that are eager to help their customers during this unprecedented time.” The Bureau’s temporary actions are “targeted to support consumers by allowing financial companies to focus their resources on assisting consumers.”

CFPB Director Kathleen Kraninger stated, “The Bureau, along with our state and federal partners, have released prior guidance encouraging financial institutions to work constructively with borrowers and other customers affected by COVID-19 to meet their financial needs. We will continue to issue additional guidance and policies to facilitate the ongoing collaborative relationship between companies and their customers during this time.”

HMDA, TILA, and others

As a result of the cessation, the Bureau will not expect quarterly information reporting by certain mortgage lenders as required under the Home Mortgage Disclosure Act (HMDA) and implementing Regulation C. The Bureau noted that during this time, “entities should continue collecting and recording HMDA data in anticipation of making annual submissions.” The Bureau added that it will provide information on when and how institutions will be expected to commence what would have been new quarterly HMDA data submissions.

Editor's Note: The CFPB Watch provides Commentary and Analysis on developments relating to consumer financial protection issues involving the regulatory authority of the Consumer Financial Protection Bureau or related topics.

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In addition, the Bureau also will not expect the reporting of certain information related to credit card and prepaid accounts under the Truth in Lending Act, Regulation Z, and Regulation E. According to the Bureau, “this includes the annual submissions concerning agreements between credit card issuers and institutions of higher education; quarterly submission of consumer credit card agreements; collection of certain credit card price and availability information; and submission of prepaid account agreements and related information.”

The Bureau further noted that the following data collections also are being postponed:

- a survey of financial institutions that seeks information on the cost of compliance in connection with pending rulemaking on Section 1071 of the Dodd-Frank Act; and
- a survey of firms providing Property Assessed Clean Energy financing to consumers for the purposes of implementing Section 307 of the Economic Growth, Regulatory Relief, and Consumer Protection Act.

Relaxation of examination and enforcement

Some of this reporting is required by law, which the CFBP does not have direct authority to change or modify. Nevertheless, as further assurance, the Bureau notes, “To

the extent the submission of this information is required by law, the Bureau is issuing policy statements indicating that it does not intend to cite in an examination or initiate an enforcement action against any entity for failure to submit such information when required. The Bureau will notify entities at a later date of when and how to submit information under these requirements. Entities should maintain records sufficient to allow them to make delayed submissions pursuant to Bureau guidance.”

Reassurance in light of operational challenges

In addition to the foregoing relaxation of reporting requirements, the Bureau also announced that “as a result of operational challenges confronted by institutions due to the pandemic, the Bureau will work with affected financial institutions in scheduling examinations and other supervisory activities to minimize disruption and burden.” This was further amplified by including a notation that the Bureau will take into consideration the circumstances occasioned by the pandemic. “When conducting examinations and other supervisory activities and in determining whether to take enforcement action, the Bureau will consider the circumstances that entities may face as a result of the COVID-19 pandemic and will be sensitive to good-faith efforts demonstrably designed to assist consumers.”

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