



# FEDERAL REGISTER

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Vol. 84

Monday,

No. 121

June 24, 2019

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Part XXII

Bureau of Consumer Financial Protection

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Unified Agenda

**BUREAU OF CONSUMER FINANCIAL PROTECTION****12 CFR Ch. X****Semiannual Regulatory Agenda**

**AGENCY:** Bureau of Consumer Financial Protection.

**ACTION:** Semiannual regulatory agenda.

**SUMMARY:** The Bureau of Consumer Financial Protection (Bureau) is publishing this agenda as part of the Spring 2019 Unified Agenda of Federal Regulatory and Deregulatory Actions. The Bureau reasonably anticipates having the regulatory matters identified below under consideration during the period from May 1, 2019 to April 30, 2020. The next agenda will be published in fall 2019 and will update this agenda through fall 2020. Publication of this agenda is in accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

**DATES:** This information is current as of March 6, 2019.

**ADDRESSES:** Bureau of Consumer Financial Protection, 1700 G Street NW, Washington, DC 20552.

**FOR FURTHER INFORMATION CONTACT:** A staff contact is included for each regulatory item listed herein. If you require this document in an alternative electronic format, please contact [CFPB\\_Accessibility@cfpb.gov](mailto:CFPB_Accessibility@cfpb.gov).

**SUPPLEMENTARY INFORMATION:** The Bureau is publishing its Spring 2019 Agenda as part of the Spring 2019 Unified Agenda of Federal Regulatory and Deregulatory Actions, which is coordinated by the Office of Management and Budget under Executive Order 12866. The agenda lists the regulatory matters that the Bureau reasonably anticipates having under consideration during the period from May 1, 2019 to April 30, 2020, as described further below.<sup>1</sup> The Bureau's participation in the Unified Agenda is voluntary. The complete Unified Agenda is available to the public at the following website: <http://www.reginfo.gov>.

Pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376 (Dodd-Frank Act), the Bureau has rulemaking, supervisory, enforcement, and other authorities relating to

consumer financial products and services. These authorities include the authority to issue regulations under more than a dozen Federal consumer financial laws, which transferred to the Bureau from seven Federal agencies on July 21, 2011. The Bureau's general purpose, as specified in section 1021 of the Dodd-Frank Act, is to implement and enforce Federal consumer financial law consistently for the purpose of ensuring that all consumers have access to markets for consumer financial products and services and that markets for consumer financial products and services are fair, transparent, and competitive.

The Bureau is working on various initiatives to address issues in markets for consumer financial products and services that are not reflected in this notice because the Unified Agenda is limited to rulemaking activities. Section 1021 of the Dodd-Frank Act specifies the objectives of the Bureau, including ensuring that, with respect to consumer financial products and services, consumers are provided with timely and understandable information to make responsible decisions about financial transactions; consumers are protected from unfair, deceptive, or abusive acts and practices and from discrimination; outdated, unnecessary, or unduly burdensome regulations are regularly identified and addressed in order to reduce unwarranted regulatory burdens; that Federal consumer financial law is enforced consistently, without regard to the status of a person as a depository institution, in order to promote fair competition; and markets for consumer financial products and services operate transparently and efficiently to facilitate access and innovation.

A new permanent director of the Bureau took office in December 2018. The Director has embarked on a listening tour to engage with Bureau stakeholders, employees, and outside experts, building on feedback submitted through more than 88,000 public comments in response to the Bureau's 2018 "Call for Evidence" initiative. The Bureau expects to communicate further information about future planning and priorities after the conclusion of the listening tour. In the meantime, this Spring 2019 Agenda reflects ongoing rulemaking activities, including initiatives to implement statutory requirements and to address the potential sunset of statutory and regulatory provisions.

**Implementing Statutory Directives**

The Bureau is engaged in a number of rulemakings to implement directives mandated in the Economic Growth,

Regulatory Relief, and Consumer Protection Act of 2018 (EGRRCPA), Public Law 115–174, 132 Stat. 1297, the Dodd-Frank Act, and other statutes. As part of these rulemakings, the Bureau is working to achieve the consumer protection objectives of the statutes while minimizing regulatory burden on financial services providers, including facilitating industry compliance with rules.

For example, the Bureau has recently published an Advance Notice of Proposed Rulemaking to seek public comment relating to implementation of section 307 of EGRRCPA, which amends the Truth in Lending Act (TILA) to mandate that the Bureau prescribe certain regulations relating to "Property Assessed Clean Energy" (PACE) financing. As defined by EGRRCPA section 307, PACE financing results in a tax assessment on a consumer's real property and covers the costs of home improvements. The required regulations must carry out the purposes of TILA's ability-to-repay (ATR) requirements, currently in place for residential mortgage loans, with respect to PACE financing, and apply TILA's general civil liability provision for violations of the ATR requirements the Bureau will prescribe for PACE financing. The regulations must "account for the unique nature" of PACE financing.

Later in the spring, the Bureau is preparing to issue a Notice of Proposed Rulemaking to follow up on an interpretive and procedural rule that it issued in August 2018 to provide clarification regarding EGRRCPA amendments to the Home Mortgage Disclosure Act (HMDA), which requires financial institutions to report certain mortgage information to Federal financial regulators and the public. The scope of HMDA reporting was expanded by the Dodd-Frank Act and by the Bureau via rule in 2015. The EGRRCPA creates partial exemptions that allow certain insured depository institutions and insured credit unions not to report certain data points for certain transactions. Among other things, the August 2018 interpretive and procedural rule provided clarification as to which loans and lines of credit count toward the EGRRCPA partial exemption thresholds and which data points are covered by the partial exemptions. The new proposal will seek to incorporate the August interpretations and procedures into Regulation C and to implement further the EGRRCPA amendments to HMDA, as well as to advance the Bureau's reconsideration of the 2015 HMDA rule as discussed further below.

<sup>1</sup> The listing does not include certain routine, frequent, or administrative matters. Further, the fields "Unfunded Mandates," "E.O. 13771 Designation," and "Federalism Implications" are not required for independent regulatory agencies, including the Bureau, and, accordingly, the Bureau has indicated responses of "no" or "Independent Agency" for such fields.

The Bureau has been engaged in a range of other activities to support implementation of EGRRCPA. For example, the Bureau updated its small entity compliance guides and other compliance aids to reflect EGRRCPA's statutory changes. The Bureau also has issued written guidance as encouraged by section 109 of the Act to facilitate compliance with certain regulations governing mortgage disclosures.<sup>2</sup> In addition, the Bureau anticipates engaging in rulemaking to align superseded regulations with EGRRCPA provisions that do not require rulemaking to take effect and as needed to facilitate compliance.

Consistent with undertaking rulemaking to implement the EGRRCPA, the Bureau intends to recommence work later this year to develop rules to implement section 1071 of the Dodd-Frank Act. Section 1071 amended the Equal Credit Opportunity Act (ECOA) to require financial institutions to collect, report, and make public certain information concerning credit applications made by women-owned, minority-owned, and small businesses. The Bureau delayed rulemaking to implement this provision pending implementation of the Dodd-Frank Act amendments to HMDA and started work on the project after the HMDA rules were issued in 2015. The Bureau decided to pause work on section 1071 in 2018 in light of resource constraints and the priority accorded to various HMDA initiatives. The Bureau expects that it will be able to resume pre-rulemaking activities on the section 1071 project within this next year.

### Continuation of Other Rulemakings

The Bureau is continuing certain other rulemakings described in its Fall 2018 Agenda to ensure that markets for consumer financial products and services operate transparently and efficiently and to address potential unwarranted regulatory burdens.

For example, the Bureau issued two proposals in February 2019 relating to reconsideration of a 2017 rule titled Payday, Vehicle Title, and Certain High-Cost Installment Loans. The main proposal would rescind portions of the 2017 rule that mandated underwriting requirements for certain short-term and balloon-payment loans. The second proposal would postpone the compliance date for those same provisions for fifteen months to allow the Bureau adequate opportunity to

review comments on its main rulemaking and to make any changes to those provisions before affected entities bear additional costs and experience related market effects associated with implementing and complying with those provisions. The proposed postponement would also account for potential implementation challenges that had not been anticipated at the time of the 2017 rule. The Bureau expects to issue a final rule concerning the compliance date in summer 2019 and a final determination on reconsideration thereafter.

In addition, prior to the enactment of the EGRRCPA, the Bureau in August 2017, had temporarily increased the threshold for collecting and reporting HMDA data with respect to open-end lines of credit from 100 loans to 500 loans so that the Bureau could assess whether to make a permanent adjustment to the 100 open-end line of credit threshold. In December 2017, the Bureau announced that it intended to open a rulemaking to reconsider its 2015 HMDA rule more generally. The Bureau plans to issue a Notice of Proposed Rulemaking in spring 2019 to address both the open-end threshold and the 2015 HMDA rule's 25-loan threshold for closed-end loans, as well as implementation of the EGRRCPA's changes to HMDA as described above. The Bureau also plans to issue in 2019 an Advance Notice of Proposed Rulemaking concerning certain data points that are reported under the 2015 HMDA rule. The Bureau expects at a later date to issue a Notice of Proposed Rulemaking concerning the public disclosure of HMDA data in light of consumer privacy interests.<sup>3</sup>

<sup>3</sup> The 2010 Dodd-Frank Act amendments to HMDA direct the Bureau to develop regulations that modify or require modification of the public HMDA data for the purpose of protecting consumer privacy interests. The Bureau's 2015 HMDA rule adopted a balancing test to determine whether and how HMDA data should be modified prior to its disclosure to the public in order to protect applicant and borrower privacy while also fulfilling HMDA's public disclosure purpose. The Bureau in 2018 issued final policy guidance applying the test to current data fields and announced its intention to conduct a notice-and-comment rulemaking to seek further input on the public release going forward. Commencing a notice-and-comment rulemaking will also enable the Bureau to adopt a more definitive approach to disclosing HMDA data to the public in future years after considering new information concerning the privacy risks and benefits of disclosure of the HMDA data. Given that the Bureau plans to issue an Advance Notice of Proposed Rulemaking on data points, the Bureau recognizes any potential modification of the data points may require the Bureau to update its application of the balancing test to the affected data. Thus, the Bureau has decided to engage in rulemaking activity so that data field coverage and privacy issues can be considered and resolved in coordination.

Finally, the Bureau expects to issue a Notice of Proposed Rulemaking by spring 2019 addressing such issues as communication practices and consumer disclosures in the debt collection market. This proposal builds on research and pre-rulemaking activities regarding the debt collection market, which remains a top source of complaints to the Bureau. The Bureau has also received encouragement from industry and consumer groups to engage in rulemaking to address how to apply the 40-year old Fair Debt Collection Practices Act (FDCPA) to modern collection practices. The Bureau released an outline of proposals under consideration in July 2016 concerning practices by companies that are debt collectors under the FDCPA. This outline was released in advance of convening a panel in August 2016, under the Small Business Regulatory Enforcement Fairness Act in conjunction with the Office of Management and Budget and the Small Business Administration's Chief Counsel for Advocacy to consult with representatives of small businesses that might be affected by the rulemaking.

### New Projects and Further Planning

After completing an assessment in October 2018, of its rules to implement Dodd-Frank Act requirements for international remittance transfers,<sup>4</sup> the Bureau is now considering appropriate steps, which may include rulemaking, to gather information related to the expiration of a statutorily-established exception in the Remittance Rule that permits insured banks and insured credit unions to estimate certain required disclosures and other potential remittance transfer issues. In its consideration of appropriate next steps, the Bureau is also taking account of stakeholder feedback that it received both during and after the assessment process, particularly with respect to the application of the rule to smaller providers.

The Bureau also recently completed an assessment of rules implementing Dodd-Frank Act provisions that require mortgage lenders to determine consumers' ability to repay loans and define certain "qualified mortgages" that are presumed to comply with the statutory requirements.<sup>5</sup> The Bureau is

<sup>4</sup> "Remittance rule assessment report", available at <https://www.consumerfinance.gov/data-research/research-reports/remittance-rule-assessment-report/>.

<sup>5</sup> "2013 Ability-to-Repay and Qualified Mortgage Assessment Report", available at <https://www.consumerfinance.gov/data-research/research-reports/2013-ability-repay-and-qualified-mortgage-assessment-report/>.

<sup>2</sup> See, e.g., "TILA-RESPA Integrated Disclosure FAQs", available at <https://www.consumerfinance.gov/policy-compliance/guidance/tila-respa-disclosure-rule/tila-respa-integrated-disclosure-faqs/>.

now focusing its attention on a regulatory provision that extends qualified mortgage status to loans that are eligible to be purchased or guaranteed by either Fannie Mae or Freddie Mac (which are often called the government sponsored entities or GSEs) while they operate under Federal conservatorship or receivership. The “GSE patch” provision is set to expire in January 2021, meaning that loans originated after that date would not be eligible for qualified mortgage status under its criteria. After further policy analysis on this issue, the Bureau will determine whether rulemaking or follow up activity is appropriate concerning the patch or other aspects of the ATR/QM rules.

As noted above, Bureau leadership is considering further prioritization and planning of the Bureau’s rulemaking activities, both with regard to substantive projects and modifications to the processes that the Bureau uses to develop and review regulations. The Bureau is drawing on a wide range of sources in this process, including evaluation of projects and process improvements that have been listed or

described in previous Bureau agendas, ideas gathered by an internal task force on burden reduction, suggestions submitted during the 2018 Call for Evidence initiative, and feedback the Bureau has received during its current listening tour. While this evaluation is underway, the Bureau has decided not to revise its current list of long-term projects other than the changes described above.

The Bureau is also actively reviewing existing regulations. For example, the Bureau will be conducting an assessment pursuant to section 1022(d) of the Dodd-Frank Act of its regulations to consolidate various mortgage origination disclosures under the Truth in Lending Act and Real Estate Settlement Procedures Act. The Bureau also expects to undertake reviews consistent with section 610 of the Regulatory Flexibility Act, of certain regulations which are believed to have a significant impact on a substantial number of small entities. The Bureau expects to publish its plan for conducting such review in the coming months.

Finally, as required by the Dodd-Frank Act, the Bureau is also continuing to monitor markets for consumer financial products and services to identify risks to consumers and the proper functioning of such markets. As discussed in a recent report by the Government Accountability Office, the Bureau’s Division of Research, Markets, and Regulations and specifically its Markets Offices continuously monitor market developments and risks to consumers. The Bureau also has created a number of cross-Bureau working groups focused around specific markets which advance the Bureau’s market monitoring work. Bureau leadership’s listening tour also is seeking stakeholder feedback on these issues.

The Bureau expects by no later than the Fall 2019 Agenda to issue a more comprehensive statement of priorities to reflect this market monitoring and the Bureau’s other activities discussed above.

**Diane Thompson,**

*Acting Assistant Director for Regulations,  
Bureau of Consumer Financial Protection.*

#### CONSUMER FINANCIAL PROTECTION BUREAU—PRERULE STAGE

| Sequence No. | Title                                      | Regulation Identifier No. |
|--------------|--|---------------------------|
| 256 .....    | Business Lending Data (Regulation B) ..... | 3170-AA09                 |

#### CONSUMER FINANCIAL PROTECTION BUREAU—PROPOSED RULE STAGE

| Sequence No. | Title                      | Regulation Identifier No. |
|--------------|----------------------------|---------------------------|
| 257 .....    | Debt Collection Rule ..... | 3170-AA41                 |

#### CONSUMER FINANCIAL PROTECTION BUREAU (CFPB)

Prerule Stage

##### 256. Business Lending Data (Regulation B)

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 15 U.S.C. 1691c–2  
*Abstract:* Section 1071 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) amends the Equal Credit Opportunity Act (ECOA) to require financial institutions to report information concerning credit applications made by women-owned, minority-owned, and small businesses. The amendments to ECOA made by the Dodd-Frank Act require that certain data be collected, maintained, and reported, including the number of the application and date the application was received; the type and

purpose of the loan or credit applied for; the amount of credit applied for and approved; the type of action taken with regard to each application and the date of such action; the census tract of the principal place of business; the gross annual revenue of the business; and the race, sex, and ethnicity of the principal owners of the business. The Dodd-Frank Act also provides authority for the Bureau to require any additional data that the Bureau determines would aid in fulfilling the purposes of this section. The Bureau issued a Request for Information in 2017 seeking public comment on, among other things, the types of credit products offered and the types of data currently collected by lenders in this market, and the potential complexity, cost of, and privacy issues related to, small business data collection. The information received will help the Bureau determine how to

implement the rule efficiently while minimizing burdens on lenders. The Bureau had moved this rulemaking to long-term action status in light of other responsibilities but is now in the process of reactivating it.

*Timetable:*

| Action                                      | Date     | FR Cite     |
|---|----------|-------------|
| Request for Information.                    | 05/15/17 | 82 FR 22318 |
| Request for Information Comment Period End. | 09/14/17 |             |
| Pre-rule Activity ...                       | 01/00/20 |             |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Elena Grigera Babinecz, Office of Regulations, Consumer Financial Protection Bureau, Phone: 202 435–7700.

RIN: 3170-AA09

**CONSUMER FINANCIAL PROTECTION BUREAU (CFPB)**

Proposed Rule Stage

**257. Debt Collection Rule***E.O. 13771 Designation:* Independent agency.*Legal Authority:* 15 U.S.C. 1692l(d)

*Abstract:* The Bureau has been engaged in research and pre-rulemaking activities regarding debt-collection practices. Debt collection continues to be a top source of complaints to the Bureau. The Bureau has also received encouragement from industry and consumer groups to engage in rulemaking to address how to apply the 40-year old Fair Debt Collection

Practices Act (FDCPA) to modern collection practices. The Bureau released an outline of proposals under consideration in July 2016, concerning practices by companies that are debt collectors under the FDCPA, in advance of convening a panel in August 2016, under the Small Business Regulatory Enforcement Fairness Act in conjunction with the Office of Management and Budget and the Small Business Administration's Chief Counsel for Advocacy to consult with representatives of small businesses that might be affected by the rulemaking. The Bureau expects to issue a Notice of Proposed Rulemaking addressing such issues as communication practices and consumer disclosures by spring 2019.

*Timetable:*

| Action                             | Date     | FR Cite     |
|------------------------------------|----------|-------------|
| ANPRM .....                        | 11/12/13 | 78 FR 67847 |
| ANPRM Comment Period Extended.     | 01/14/14 | 79 FR 2384  |
| ANPRM Comment Period End.          | 02/10/14 |             |
| ANPRM Comment Period Extended End. | 02/28/14 |             |
| Pre-Rule Activity                  | 07/28/16 |             |
| NPRM .....                         | 05/00/19 |             |

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Kristin McPartland, Office of Regulations, Consumer Financial Protection Bureau, *Phone:* 202 435-7700.

RIN: 3170-AA41

[FR Doc. 2019-11746 Filed 6-21-19; 8:45 am]

BILLING CODE 4810-AM-P