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Consumer Financial Protection Bureau Opens for Business: The Implications for Debt Relief Service Providers and Housing Counseling Agencies

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Today, the Consumer Financial Protection Bureau (the “CFPB” or the “Bureau”) opens for business. One year ago, Congress passed and President Obama signed the Dodd-Frank Wall Street Reform and Consumer Protection Act (the “Dodd-Frank Act”), including the Consumer Financial Protection Act, which created the CFPB. Now the CFPB will be “a cop on the beat” to enforce consumer financial protection laws, declare individual acts or practices to be “unfair, deceptive, or abusive,” and regulate nonbank and bank providers of consumer financial products and services.

The CFPB’s authority is sweeping and its ability to enforce laws, develop regulations, and supervise entities will have a profound impact on those providing nonbank financial products and services, including debt relief service providers (e.g., for-profit and taxable nonprofit debt management plan providers, tax-exempt nonprofit credit counseling agencies, and debt settlement service providers) and housing counseling agencies approved by the U.S. Department of Housing and Urban Development (“HUD”).

The CFPB transition team has been at work hiring over 400 staff, organizing its bureaucracy, and coordinating with other federal agencies and non-governmental entities. At the same time, the CFPB has been rolling out initiatives in a number of areas related to credit cards and mortgages. These early efforts have already touched on debt relief services. For example, the CFPB has targeted “debt relief services” for potential inclusion in an initial rule to define the scope of its supervisory authority for larger participants in certain nonbank markets and, at the same time, signaled that housing counseling service providers may be subject to automatic supervision.

The CFPB also has initiated an effort to combine required mortgage disclosures into a single form, issued a report on credit scores, and has engaged stakeholders on a number of pending issues related to its regulatory focus. In addition, it has undertaken public outreach and education on consumer financial topics and the news of its own creation using all mediums at its disposal, including social networking sites such as YouTube and Twitter.

On the horizon at the CFPB and impacting debt relief service providers and housing counseling agencies will be potential rulemaking activity to define the scope of the Bureau’s enforcement authority, including whether it will follow the enforcement history of the Federal Trade Commission (the “FTC”) and how it may apply that precedent to *bona fide* nonprofit organizations that fall outside of the FTC’s jurisdiction, research and reports on reverse mortgages, a report on mandatory arbitration provisions in consumer agreements, how it will seek to regulate and supervise debt collectors, and how it will use its authority to regulate credit card providers and mortgage lenders.

Still unclear is precisely whether and how the CFPB will use its statutory authority to enforce the FTC’s Debt Relief Services Amendments to the Telemarketing Sales Rule to *bona fide* nonprofit credit counseling agencies, and how it will regulate other industries related to the life cycle of consumer credit and debt. Also still unclear is who will lead the CFPB as its first Director. President Obama has nominated former Ohio Attorney General Richard Cordray for the position. Cordray presently serves as the Assistant Director for Enforcement at the CFPB. The nomination is subject to Senate confirmation and a number of Republican Senators have stated that they will not approve a nomination without changes in the CFPB’s overall structure.

On top of all this, a number of new challenges and opportunities have been created as a result of the Dodd-Frank Act, including a new Office of Housing Counseling within HUD, new housing counseling opportunities, and overall reforms to the regulatory structure for financial services within the United States.

To help put all of this into context, below are links to several of our CFPB-related legal articles and PowerPoint presentations on credit counseling and debt services topics published over the past year.

To read any of these articles or PowerPoint presentations, please click on the title:

- [**CFPB Targets Debt Relief Services Market for Supervision**](#)
- [**The Dodd-Frank Act and Implications for Nonprofit Organizations**](#)
- [**FTC Issues Final Rules for Debt Relief Services: Landmark Changes for Service Providers, Advertisers and Marketers of Debt Relief Services**](#)
- [**The Dodd-Frank Act: What It Means for Credit and Housing Counseling Agencies and Other Debt Relief Service Providers**](#)

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