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Quarterly Report

Mississippi Regulatory Compliance Group

November 2019 Vol. 30 No. 4

CFPB'S PROPOSED FAIR DEBT COLLECTION PRACTICES ACT RULES

The Fair Debt Collection Practices Act (the "FDCPA"), which was passed in 1977, was designed to eliminate abusive, deceptive, and unfair debt collection practices. The FDCPA was also designed to protect reputable debt collectors from unfair competition by encouraging state action to protect consumers from abuses in debt collection.

Prior to the passage of the Dodd-Frank Act in 2010, Congress had not delegated to any federal regulatory agency the authority to issue substantive rules to interpret the FDCPA. Dodd-Frank delegated that authority to the CFPB.

What Is Covered?

The FDCPA applies only to the collection of debt incurred by a consumer primarily for personal, family, or household purposes. It does not apply to the collection of corporate debt or to debt owed for business or agricultural purposes.

Who is Covered?

Under the FDCPA, a "debt collector" is defined as any person who regularly collects, or attempts to collect, consumer debts for another person or institution or uses some name other than its own when collecting its own consumer debts. That definition includes, for example, an institution that regularly collects debts for an unrelated institution. This includes reciprocal service arrangements where one institution solicits the help of another in collecting a defaulted debt from a customer who has moved.

Who is Not Covered?

An institution is not a debt collector under the FDCPA when it collects:

- Another's debts in isolated instances;
- Its own debts it originated under its own name;
- Debts it originated and then sold, but continues to service (for example, mortgage and student loans);
- Debts that were not in default when they were obtained;
- Debts that were obtained as security for a commercial credit transaction (for example, accounts receivable financing);
- Debts incidental to a bona fide fiduciary relationship or escrow arrangement (for example, a debt held in the institution's trust department or mortgage loan escrow for taxes and insurance); or

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- Debts regularly for other institutions to which it is related by common ownership or corporate control.

Debt collectors that are not covered also include:

- Officers or employees of an institution who collect debts owed to the institution in the institution's name; or
- Legal process servers.

Proposed Changes to the Rule

In May 2019, the CFPB announced a notice of proposed rulemaking to implement the FDCPA. The 538-page plan is the first major change to the FDCPA since the law was originally passed in 1977. The proposed changes are designed to modernize the law by addressing newer communication technologies that have developed since the FDCPA was first enacted, such as voicemails, text messages and emails.

The proposed rule would make the following updates to the FDCPA:

- **Establishes a clear, bright-line rule limiting call attempts and telephone conversations.** The proposed rule generally limits debt collectors to no more than seven attempts by telephone per week to reach a consumer about a specific debt. Once a telephone conversation between the debt collector and consumer takes place, the debt collector must wait at least a week before calling the consumer again.
- **Clarifies consumer protection requirements for certain consumer-facing debt collection disclosures.** The proposed rule requires debt collectors to send consumers a disclosure with certain information about the debt and related consumer protections. This information includes, for example, an itemization of the debt and plain-language information about how a consumer may respond to a collection attempt, including by disputing the debt. The proposed rule requires the disclosure to include a "tear-off" that consumers could send back to the debt collector to respond to the collection attempt.
- **Clarifies how debt collectors can communicate with consumers.** The proposed rule clarifies how debt collectors may lawfully use newer communication technologies, such as voicemails, emails and text messages, to communicate with consumers and protects consumers who do not wish to receive such communications by, among other things, allowing them to unsubscribe to future communications through these methods. The proposal also clarifies how collectors may provide required disclosures electronically. In addition, if consumers want to limit ways debt collectors contact them, for example at a specific telephone number, while they are at work, or during certain hours, the rule clarifies how consumers may easily do so.
- **Prohibits suits and threats of suit on time-barred debts.** The proposed rule prohibits a debt collector from suing or threatening to sue a consumer to collect a debt if the debt collector knows or should know that the statute of limitations has expired.
- **Requires communication before credit reporting.** The proposed rule prohibits a debt collector from furnishing information about a debt to a consumer reporting agency unless the debt collector has communicated about the debt to the consumer, such as by sending the consumer a letter.

Recommendations

In determining whether a bank is acting as a debt collector under the FDCPA, examiners will determine the following:

- Whether a bank is a “debt collector” under the criteria specified in the FDCPA;
- Whether a bank has established internal procedures and controls to assure compliance with the FDCPA;
- If a bank has acted or is acting as a debt collector under the FDCPA, whether a bank has:
  - Communicated with the consumer or third parties in any prohibited manner;
  - Furnished the written validation notice within the required time period and otherwise complied with applicable validation requirements;
  - Used any harassing, abusive, unfair or deceptive collection practice prohibited by the FDCPA;
  - Collected any amount not expressly authorized by the agreement creating the debt or by state law;
  - Applied all payments received as instructed and, where to instructional was given, applied payments only to undisputed debts; and
  - Filed suit in an authorized forum if the institution sued to collect the debt.

It is unlikely that any of the regulatory compliance group’s members are debt collectors specifically covered by the FDCPA. We recommend that all members familiarize themselves with the FDCPA and that they also have written policies and procedures in place to ensure that the bank will not act as a debt collector for any other institution or entity, nor will the bank seek to collect its own consumer debts by using a name other than its own. If the bank outsources its consumer debt collection efforts to third party debt collectors, the bank should assure that its third-party vendor complies with the FDCPA with respect to its collection efforts on behalf of the Bank. There is a possibility that the anti-harassment and other provisions regarding specific prohibited collection practices are extended to creditors in the future based on UDAAP. As long as your bank complies with this general policy, it will not be considered a debt collector under the FDCPA.

The final rule is expected to be released by the CFPB very soon, and we will provide a summary of any updates if the final rule deviates significantly from the proposed amendments.

<Doug Weissinger>

CFPB PAYDAY LOAN RULE STATUS

The CFPB’s rule on payday, vehicle title and high cost installment loans has been the subject of some discussion and some recent agency activity. The rule is thought not to be much of a concern by many banks since they generally don’t make covered loans. However, that may not be true for all, and we thought it would be worthwhile to take another look at things. In this article, we will take a look back at the history of the rule, give an update on its current status, and provide a little refresher on its coverage and requirements.

On October 5, 2017, the CFPB issued a final rule (the “Rule”) attempting to regulate payday loans, vehicle title loans and certain

high-cost installment loans. The Rule as currently written will require lenders originating short-term loans and longer-term balloon payment loans to evaluate whether each consumer has the ability to repay the loan along with current obligations and expenditures and provides an alternative loan for lenders who want to avoid the ability to repay determination (the "Underwriting Provisions"). The Rule also generally prohibits a lender from making more than two attempts to debit a consumer's account for payment of a Covered Loan (as defined below) if the first two attempts were unsuccessful, with some exceptions (the "Payment Provisions").

The Rule became effective on January 16, 2018 with many provisions having a mandatory compliance date of August 19, 2019. On February 6, 2019, the CFPB sought comment on whether it should rescind the Underwriting Provisions and whether it should delay the August 19, 2019 compliance date for specific provisions of the Rule. On June 6, 2019, the CFPB issued a final rule delaying the August 19, 2019 compliance date for 15 months until November 19, 2020 and proposed to rescind the Underwriting Provisions altogether. The Rule has also been the subject of litigation, and the Payment Provisions are currently stayed by order of a Texas federal district court, although the impact of the stay is not entirely clear.

Covered Loans and Exemptions

The following types of loans are covered by the Rule: (1) "short-term" consumer loans with a term of 45 days or less; (2) "longer-term" consumer balloon payment loans; and (3) "longer-term" consumer loans that exceed 45 days where the rate exceeds a 36% APR as defined under the Truth in Lending Act and where the lender obtained a leverage payment mechanism (collectively "covered loans"). The Rule defines "leveraged payment mechanism" to mean the right to initiate a transfer of money through any means from a consumer's account, as defined by the Electronic Funds Transfer Act. A leveraged payment mechanism does not include a single payment transfer initiated at a consumer's request but may include checks, drafts or similar payment instruments written by the consumer, electronic fund transfer authorizations (including debit card authorizations), remotely created checks, remotely created payment orders, and transfers by account-holding institutions. A lender may obtain a leveraged payment mechanism before, at the same time as, or after the consumer receives the entire amount of the loan proceeds. A leverage payment mechanism is created when the lender and the consumer agree that the lender may debit his or her account on a recurring basis at some future date or on a one-time or recurring basis if the consumer becomes delinquent or is in default.

The following are not covered loans for purpose of the Rule: purchase money loans (expressly limited to the cost of the goods and does not include refinances of a purchase money loan); real estate-secured credit, including home mortgages and credit secured by personal property used as a dwelling; credit cards; student loans, both federal and private; overdraft services and lines of credit; business-purpose loans; wage advance programs; and no-cost advances.

"Alternative loans" and "accommodation loans" are also conditionally exempt from coverage of the Rule. Alternative loans are fully-amortizing, closed-end loans with terms between one and six months made in principal amounts between $200-$1,000 and that are repayable in 2 or more payments that are substantially equal in amount and fall due in substantially equal intervals. Further

characteristics of an alternative loan include that the lender: does not impose any charge other than the rate and application fees permitted for federal credit unions under the regulations issued by the National Credit Union Administration (NCUA); has determined from its records that the loan would not result in the consumer being indebted on more than 3 outstanding loans from a lender within a period of 180 days; does not make more than one alternative loan at a time to a consumer; and maintains and complies with policies and procedures for documenting proof of recurring income.

Loans made by federal credit unions in compliance with conditions set forth by the NCUA for a Payday Alternative Loan are deemed to comply with the requirements listed above and are thus conditionally exempt from the Rule.

An "Accommodation loan" includes loans made by a lender who makes 2,500 or fewer covered short-term balloon-payment loans per year and derives no more than 10% of its receipts from such loans. This exclusion was intended to support community bank short-term loans that might be made, for example, to a depositor without substantial underwriting. The terms of the exemption, however, are not limited to bank loans.

Payment Provisions

The Payment Provisions of the Rule address the repayment of covered loans and generally prohibit any attempt to withdraw payment of a Covered Loan from a consumer's account following two sequential payment returns for insufficient funds without a new and specific authorization from the consumer. This practice has been deemed as abusive and unfair, with few exceptions. Once two attempted debits in a row are returned NSF, the lender must obtain a new express consent from the consumer to debit the payment. The Rule applies to all account access methods, including ACH and paper checks.

There are three types of disclosures that may have to be provided in relation to a lender's attempt to withdraw a payment for a Covered Loan: a first payment withdrawal notice, an unusual payment withdrawal notice, and a consumer rights notice. The first payment withdrawal notice is required to be provided in writing by the lender to the consumer prior to the first attempt to withdraw a payment for a Covered Loan. The unusual payment withdrawal notice is required when subsequent attempts deviate in amount, date or payment channel from the original attempt. The consumer rights notice must be provided if a lender has initiated two consecutive failed withdrawal attempts from a consumer's account. The Rule requires the notices to include specific information and provides model disclosure forms. A lender must provide written notice of a payment at least 3 business days, if provided electronically or at least 6 business days, if provided through the mail, before initiating the first payment withdrawal or a usual withdrawal for a Covered Loan from a consumer's checking, savings or prepaid account.

Underwriting Provisions

As currently written, the delayed Underwriting Provisions, if not rescinded or revised, will require lenders to verify that the consumer has the "ability to repay" before originating short-term loans and longer-term balloon-payment loans following the standards set out in the Rule that would include a requirement to verify net monthly income and monthly obligations including housing expenses and a requirement to estimate other basic living expenses. The failure to determine a consumer's ability to repay either a short-term loan or a longer-term

balloon-payment loan will be considered an unfair and abusive practice. A lender would also be prohibited from making a covered short-term loan to a consumer who has already obtained three covered short-term or longer-term balloon-payment type loans within 30 days of each other, for 30 days after the third loan is no longer outstanding.

The Rule does not yet address ability to repay requirements for longer-term (non-balloon) installment loans. The Rule also currently provides an alternative to the ability to repay analysis for covered "short-term" loans that would allow a lender to originate up to three sequential short-term loans starting out at no more than $500 and reducing by a third with each subsequent loan.

If implemented as written, a specialty credit reporting mechanism called "registered information systems," defined as "consumer reporting agencies that meet certain criteria and register with CFPB" will be created and put into place. Lenders would be required to furnish information to these "registered information systems" about certain Covered Loans and borrowers at time of origination, over the life of the loan, and when the loan is no longer outstanding. Additionally, lenders would be required to obtain consumer reports from "registered information systems" before extending certain Covered Loans to borrowers for use in making the ability to repay determination. To qualify as "registered information systems," credit reporting agencies must meet certain eligibility criteria and provide a reasonably comprehensive record of a consumer's recent and current borrowing history.

We will keep you posted on developments and provide an update on the Underwriting Provisions and any reconsideration of the Rule by the CFPB as more information becomes available.

<Memrie Fortenberry>

RANDOM THOUGHTS ON THE FAIR LENDING LANDSCAPE

Enforcement. Clearly, the pace of fair lending enforcement actions by the CFPB and DOJ has slowed. Between 2009 and 2016, the DOJ and CFPB obtained more than $1.8 billion in fair lending related settlements. By our count since 2017, the CFPB has brought one fair lending enforcement action and the DOJ has brought or settled 3 cases. Despite the apparent change in priorities by those two agencies, the prudential bank regulators continue to closely scrutinize banks in fair lending exams and continue to make referrals to the DOJ. We've seen examiners focus more heavily on some different areas like loan pricing in secondary market mortgage lending and third-party originations and also on redlining. Examiners continue to rely heavily, almost exclusively, on statistical analyses to show discrimination. Even where no evidence of discrimination is detected and the bank is found to be in compliance with the ECOA, banks are frequently receiving MRAs and MRIAs/MRBAs for inadequate fair lending risk assessments and internal reviews, insufficient ongoing fair lending monitoring, lending results in the bank's assessment area and REMA, and lack of an adequate outreach program in high minority neighborhoods.

No Specifics Yet on Business Loan Data Collection. Section 1071 of the Dodd-Frank Act amended ECOA to require financial institutions to collect and report information on credit applications made by women-owned, minority-owned, and small businesses. The data to be collected includes the number of the application and date the application was

received; the type and purpose of the loan applied for; the amount of credit applied for and amount approved; the type of action taken on each application and the date of 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 gave authority to the Bureau to require additional data. The Bureau issued a Request for Information in 2017 seeking 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 and cost of, and privacy issues related to, small business data collection. This item was shown on the Bureau's rule making agenda as being a "long-term action" until it was changed in the Spring 2019 agenda to "pre-rule activity." At that time, the Bureau said that it expected to resume activity on this project before the end of the year. In a related development, the California Reinvestment Coalition and others filed suit in May in California federal court asking the court to rule that the Bureau's failure to act violates the Administrative Procedures Act and to order the Bureau to issue rules promptly. That case is in the early stages. More recently, the Bureau just announced that it will hold a symposium on November 6 devoted to a discussion of small business lending and implementation of Section 1071. This will be the third symposium in a series conducted by the Bureau aimed at stimulating a dialogue on the financial services marketplace.

<u>The CFPB's HMDA Proposals</u>. Last May, the CFPB issued an advance notice of proposed rulemaking seeking information on the costs and benefits of reporting certain data points under HMDA and on Reg. C's coverage of business or commercial purpose loans secured by multi-family dwellings, indicating the Bureau may be reconsidering some reporting requirements. The data points under consideration are those that the 2015 HMDA rule added or revised to require additional information. Now that lenders have some experience in collecting and reporting that data, the Bureau believes lenders may have some more specific input on the operational challenges, costs and benefits involved. The comment period expired October 15, 2019. Among the comments received was one from a coalition of 13 state attorneys general who argued that the proposal would reduce transparency and undermine the ability of government officials to investigate unfair and discriminatory mortgage lending practices.

In addition, the Bureau issued in May a proposed rule to increase the HMDA reporting threshold so that lenders originating fewer than 50 closed-end loans or, alternatively, 100 closed-end loans, in either of the two prior years would not have to report that data as of January 1, 2020, and to extend the temporary 500 loan threshold for open-end HELOCs. Since then, the Bureau issued a final rule on October 10 extending the 500 loan HELOC threshold to January 1, 2022, and said it still intended to address the permanent coverage thresholds for both open-end lines of credit and closed-end loans. That final rulemaking also included some housekeeping changes to make permanent revisions to the body of Reg. C to incorporate the changes mandated by the Economic Growth, Regulatory Relief, and Consumer Protection Act that were the subject of the Bureau's interpretive and procedural rule from August of 2018.

<u>HUD's Proposed Rule on Disparate Impact Claims</u>. In August of this year, HUD issued a proposal to amend its interpretation of the Fair Housing Act's disparate impact standard. Under disparate impact, a home lending or

housing policy or practice that is neutral on its face can create liability for illegal discrimination if it has a discriminatory effect on a protected group, even without any discriminatory intent. Disparate impact theory had been debated and litigated in various cases in lower courts for almost 20 years, and HUD had many opportunities to define the standard during that time. However, it was not until 2013 when it appeared a case would likely reach the U.S. Supreme Court that HUD finalized a rule. That case was *Texas Department of Housing and Community Affairs v. Inclusive Communities Project, Inc.* which resulted in a 5-4 decision of the Supreme Court in 2015. In reaching is decision, the Court did not rely on HUD's interpretation but undertook its own analysis. The Court ruled first that two sections of the FHA dealing with housing and lending did, in fact, authorize disparate-impact claims. However, the Court also emphasized that a mere statistical disparity was not enough to prove illegal discrimination and held that a three-step process must be rigorously applied by the courts and government agencies to establish a valid claim.

The first step in the process is that the plaintiff must satisfy a "robust causality requirement" by showing that a specific policy caused the statistical disparity. Otherwise, defendants may be held liable for racial disparities they did not create. According to the Court, "[A] disparate-impact claim that relies on a statistical disparity must fail if the plaintiff cannot point to a defendant's policy or policies causing that disparity." A robust causality requirement is important in ensuring that defendants do not resort to the use of racial quotas.

The second step of the process involves shifting the burden of proof to the defendant to show a business justification for the policy or practice in question. The Court further explained that "[g]overnmental or private policies are not contrary to the disparate-impact requirement unless they are artificial, arbitrary, and unnecessary barriers." The Court stated that this is critical to ensure that defendants are not "prevented from achieving legitimate objectives."

Finally, under the third step, the burden of proof shifts back to the plaintiff. The Court emphasized that before rejecting a "business justification," a court "must determine that a plaintiff has shown that there is an available alternative practice that has less disparate impact and serves the entity's legitimate needs." The Court clarified that the plaintiff bears this burden of showing a less discriminatory alternative in the third step of the analysis, overruling some lower court decisions holding that the defendant had to prove there were no less discriminatory alternatives.

HUD proposes to amend its interpretation for the stated purpose of better reflecting the standard set forth in the *Inclusive Communities* decision. Some commenters argue that HUD's interpretation goes beyond the standard set by the Supreme Court. See if you agree. If finally adopted, the proposal would establish the parties' burden of proof in the following way. To allege a *prima facie* case, the plaintiff must first establish that a specific, identifiable policy or practice has a discriminatory effect by stating facts plausibly alleging each of the following elements: (1) the policy or practice is arbitrary, artificial, and unnecessary to achieve a valid interest or legitimate objective of the defendant; (2) there is a robust causal link between the policy or practice and the disparate impact on a protected class that shows that the policy or practice is the direct cause of the discriminatory effect; (3) the alleged disparity has an adverse effect on members of a

protected class; (4) the disparity is significant; and (5) there is a direct link between the disparate impact and the plaintiff's alleged injury. If the defendant rebuts the plaintiff's assertion that the policy or practice is arbitrary, artificial, and unnecessary by proving that the policy or practice serves a legitimate interest of the defendant, then the plaintiff must prove that a less discriminatory policy or practice exists that would serve the defendant's identified interest in an equally effective manner without creating additional, material burdens or costs on the defendant. The defendant can then attempt to rebut that by showing that the alternative policy or practice either would not serve the defendant's legitimate interest business or would actually impose material, additional burdens or costs on the defendant.

If adopted, the HUD proposal would clearly make it more difficult for plaintiffs and the government, including the CFPB and the DOJ, to establish a basis for a disparate impact claim and would give defendants potential additional defenses to a claim. Some would argue that disparate impact has been used by the government and others as a means of making broad policy changes based entirely on statistical differences, and while those statistical differences may be loosely correlated with a particular housing-related policy or practice, they are not necessarily caused by that practice. *Inclusive Communities* may be a good example. Remember that case involved allegations that a state agency caused continued segregated housing patterns by allocating too many low income housing tax credits to housing in predominately black inner-city areas and too few to predominantly white suburban neighborhoods. If HUD goes too far, though, there may be a real risk that the courts decline to apply its interpretation.

Concluding Thoughts. While indications are that fair lending enforcement is not a high priority with the current administration, that should not be a sign to put the brakes on fair lending compliance efforts. Examiners will continue to conduct exams, issue findings, and make referrals to the DOJ when they detect a suspected pattern or practice of discrimination. The fact that examiners are frequently requiring banks to take corrective action to improve fair lending risk management and monitoring may actually be a blessing rather than a burden if it helps us all be better prepared the next time fair lending returns to the top of the enforcement priority list.

Common sense regulatory relief is always welcome. Weighing the burden on industry with the expected benefits of the regulation should certainly be a part of the equation in considering HMDA reporting requirements, and HUD's interpretation of a disparate impact standard must be aligned with Supreme Court precedent. However, it is possible that HUD and the CFPB go too far. If they do, banks are at risk that the pendulum will swing back the other way even further when the next change in leadership occurs. Adjusting to constant change can sometimes be more a burden than complying with a difficult or complex regulation. Long term stability and consistency from the regulators would also be helpful.

<Cliff Harrison>

FINAL RULE AMENDING HMDA

Good news! The proposed rule to extend the current temporary threshold of 500 open-end lines of credit has passed – with the extension being until January 1, 2022. This means that for data collection in years 2020 and 2021,

financial institutions that originated fewer than 500 open-end lines of credit in either of the two preceding calendar years will not have to collect or report open-end lines of credit for HMDA purposes. Originally the threshold was to decrease from 500 open-end lines of credit to 100 open- end lines of credit originated in each of the two preceding calendar years, on January 1, 2020.

In addition, certain partial exemption requirements under EGRRCPA (Economic Growth, Regulatory Relief and Consumer Protection Act) have been further clarified.

- That insured depository institutions and insured credit unions covered by partial exemption have the option of reporting exempt data fields as long as they report all data fields that the data point comprises.
  In section 1003.3 optional data for partial exempt financial institutions is identified as data in sections 1003.4(a)(1)(i), (a)(9)(i), and (a)(12), (15) through (30, and (32) through (38). For example, current requirements for partial exemptions on property address are to report the state, county and census tract. If the financial institution decides to report the street address, it must also report the city name and zip code.
- That only loans and lines of credit that are otherwise reportable under HMDA count towards the thresholds for partial exemptions.
  This is self-explanatory – only HMDA reportable loans are included. So if the financial institution had unsecured lines of credit, those are not HMDA reportable and would not be included in the threshold numbers.
- Which data points that are covered by partial exemptions;
- Designates a non-universal loan identifier for partially exempt transactions for institutions that choose not to report a universal loan identifies.
  A non-universal loan number is a used to identify the covered loan or application. It may be the loan number itself, or other unique number. The key is being able to use that number to go to that loan if an examiner chooses it in their example. The number can be up to 22 characters, and include letters, numerals, or a combination of both; must be unique; and must not include any information that could be used to directly identify the applicant or borrower in the public LAR.
- The exception to partial exemptions for insured depository institutions do not apply to a financial institution with a less than satisfactory CRA exam history.
  The partial exemption then would not apply if the financial institution had received a rating of "needs to improve record of meeting community credit needs" during each of its two most recent CRA examinations, or a rating of "substantial noncompliance in meeting community credit needs" on its most recent CRA examination.

One final clarification. How do you determine whether a partial exemption applies after a merger or acquisition? The following scenarios are included in the final rule clarification.

i. Assume two institutions that are eligible for the partial exemption for closed-end mortgage loans merge and the surviving or newly form institution meets all of the requirements for the partial exemption. The partial exemption for closed-end mortgage loan applies for the calendar year of the merger.

ii. Assume two institution that are eligible for the partial exemption for closed-end mortgage loans merge and the surviving or newly formed institution does not meet the requirements for the partial exemption. Collection of optional data for closed-end mortgage loans is permitted but not required for the calendar year of the merger (even though the merger creates an institution that does not meet the requirements for the partial exemption for closed-end mortgage loans). When a branch office of an institution that is eligible for the partial exemption is acquired by another institution that is eligible for the partial exemption, and the acquisition results in an institution that is not eligible for the partial exemption, data collection for closed-end mortgage loans is permitted by not required for the calendar year of the acquisition.

iii. Assume an institution that is eligible for the partial exemption for closed-end mortgage loans merges with an institution that is ineligible for the partial exemption and the surviving or newly formed institution is ineligible for the partial exemption. For the calendar year of the merger, collection or optional data for closed-end mortgage lo9ans is required for covered loans and applications handled in the offices of the merged institution that was previously ineligible for the partial exemption. For the calendar year of the merger, collection of optional data for close-end mortgage loans is permitted but not required for covered loans and applications handled in the offices of the merged institution that was previously eligible for the partial exemption. When the institution that is ineligible for the partial exemption for the closed-end mortgage loans acquired a branch office of an institution that is eligible for the partial exemption, collection of optional data for closed-end mortgage loans is permitted but not required for covered loans and applications handled by the acquired branch office for the calendar year of the acquisition.

iv. Assume an institution that is eligible for the partial exemption for closed-end mortgage loans merger with an institution that is ineligible for the partial exemption and the surviving or newly formed institution is eligible for the partial exemption. For the calendar year of the merger, collection of optional data for closed-end mortgage loans is required for covered loans and applications handled in the offices of the previously ineligible institution that took place prior to the merger. After the merger date, collection of optional data for closed-end mortgage loans is permitted but not required for covered loans and applications handled in the offices of the institution that was previously ineligible for the partial exemption. When an institution remains eligible for the partial exemption for closed-end mortgage loans after acquiring a branch office of an institution that is ineligible for the partial exemption, collection of optional data for closed-end mortgage loans is required for transaction s of the acquired branch office that take place prior to the acquisition. Collection of optional data for closed-end mortgage loans by the acquired branch office is permitted by not required for transactions taking place in the remainder of the calendar year after the acquisition.

So there you have it. The final rule is effective January 1, 2020.

<Patsy Parkin>

MSRCG MEETING TO BE HELD ON NOVEMBER 19, 2019

The MSRCG will hold its Annual Meeting on November 19, 2019, at **Memphis Botanic Garden** in the Goldsmith Room located at 750 Cherry Road, Memphis, Tennessee. Registration will begin at 9:00 a.m. with the meeting to begin at 9:30 a.m. Directions to Memphis Botanic Garden can be found by going to their website (https://www.memphisbotanicgarden.com/) and clicking directions and parking at the bottom right corner of their home page.

Our November meeting will feature Magan Collins from the FDIC who will address compliance topics including UDAAP, recent regulatory changes and common violations including TRID. Wes Williams from the FDIC will speak on BSA, including some comments regarding CBD products. The Jackson meeting will also feature Pam Cornin-Simeon from the OCC on private flood insurance and Kevin Henry from the Federal Reserve who will address fair lending and other compliance issues. Unfortunately, the OCC and Fed had conflicts with the date of the Memphis meeting, but we will be sure to share their materials and brief the Memphis group on their presentations at the next meeting. The meetings will also include a discussion of the CFPB's proposed rule on the Fair Debt Collection Practices Act and the status of the Bureau's payday lending rule.

As always, the dress code for this occasion is casual, and lunch will be provided. We ask that you fax or e-mail your registration to Liz Crabtree no later than Tuesday, November 12, 2019, so that arrangements for lunch can be finalized. We look forward to seeing you there.

<Cliff Harrison>

MRCG MEETING TO BE HELD ON NOVEMBER 21, 2019

The MRCG will hold its Annual Meeting on November 21, 2019, at the Mississippi Sports Hall of Fame & Museum Conference Center, 1152 Lakeland Drive, Jackson, Mississippi. Registration will begin at 9:00 a.m. with the meeting to begin at 9:30 a.m.

Our November meeting will feature Antonio Davis from the FDIC who will address UDAAP, recent regulatory changes and common violations including TRID. Wes Williams from the FDIC will speak on BSA, including some comments regarding CBD products. The Jackson meeting will also feature Pam Cornin-Simeon from the OCC on private flood insurance and Kevin Henry from the Federal Reserve who will address fair lending and other compliance issues. The meetings will also include a discussion of the CFPB's proposed rule on the Fair Debt Collection Practices Act and the status of the Bureau's payday lending rule.

As always, the dress code for this occasion is casual, and lunch will be provided. We ask that you fax or e-mail your registration to Liz Crabtree no later than Thursday, November 14, 2019, so that arrangements for lunch can be finalized. We look forward to seeing you there.

<Cliff Harrison>

MRCG-MSRCG COMPLIANCE CALENDAR

07/01/2019 – Private flood insurance rule effective	02/25/2020 -MSRCG Quarterly Meeting
08/19/2019 – Mandatory compliance date for portions of CFPB Rule on Payday, Vehicle Title and High Cost Installment Loans	04/16/2020 - MRCG-MSRCG Joint Steering Committee Meeting
09/16/2019 – Comment period expires on CFPB ANPR request for comments on expiration of temporary GSE QM loan classification and need for revisions	05/21/2020 -MRCG Quarterly Meeting
09/18/2019 – Comment period expires on CFPB FDCPA Reg. F proposed amendments	05/26/2020 -MSRCG Quarterly Meeting
10/15/2019 – Comment period expires on CFPB ANPR request for comments on costs and benefits of collecting and reporting certain HMDA data points and reporting multi-family loans to business entities	07/01/2020 – Reg. CC inflation adjustments of availability dollar amounts effective
10/15/2019 – Comment period expires on CFPB proposed rule on HMDA closed-end and open-end coverage thresholds	07/16/2020 - MRCG-MSRCG Joint Steering Committee Meeting
11/19/2019 – MSRCG Annual Meeting	08/20/2020 -MRCG Quarterly Meeting
11/21/2019 – MRCG Annual Meeting	08/25/2020 -MSRCG Quarterly Meeting
11/24/2019 – Effective date for Sec. 106 of EGRRCPA re: job change relief for mortgage loan originators	09/17/2020 -MRCG-MSRCG Joint Steering Committee Meeting
01/01/2020 – Quarterly HMDA data reporting begins for data collected in 2020	11/17/2020 -MSRCG Annual Meeting
01/01/2020 – Extension of HMDA open-end coverage threshold of 500 loans effective until 01/01/2022	11/19/2020 – Mandatory compliance date for ability to repay underwriting requirements of CFPB rule on Payday, Vehicle Title and High Cost Installment Loans
01/16/2020 - MRCG-MSRCG Joint Steering Committee Meeting	11/19/2020 -MRCG Annual Meeting
02/20/2020 -MRCG Quarterly Meeting	01/10/2021 – Temporary GSE QM loan classification under Reg. Z scheduled to expire