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August First Half Developments

Overview

The BCFP's practice of continually adopting final rules and then proposing amendments to those rules shortly thereafter continues without slacking. The latest area where the agency is providing substantial revisions to its rules is in the remittance area. The agency has promulgated no less than 4 final rules within the last year. This rule gives remittance senders some needed relief when they commit errors because their customers provide inaccurate information. More stress testing guidance is available for US banking organizations

Stress Testing Guidance for Banks Over \$10 Billion But less than \$50 Billion

On August 5, 2013, the agencies published their proposed supervisory guidance for stress tests applicable to all bank and savings-and-loan holding companies, national banks, state-member banks, state non-member banks, Federal savings associations, and state chartered savings associations with more than \$10 billion but less than \$50 billion in total consolidated assets. The guidance discusses supervisory expectations for DFA stress test practices and offers additional details about methodologies that should be employed by these companies. See the proposed guidance at:

<http://www.gpo.gov/fdsys/pkg/FR-2013-08-05/html/2013-18716.htm>

Credit Union Filings with NCUA to be Electronically

On August 2, 2013, the NCUA published its proposed rule that all federally insured credit unions file financial, statistical, and other reports and credit union profiles electronically using NCUA's information management system. See the proposed rule at:

<http://www.gpo.gov/fdsys/pkg/FR-2013-08-02/html/2013-18299.htm>

BCFP establishes Procedures for Tort Claims

On August 5, 2013, the BCFP published its final rule of procedures for filing, processing, and
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paying awards based on administrative claims under the Federal Tort Claims Act for money damages for loss of or injury to property, or for personal injury or death, caused by the negligent or wrongful act or omission of any employee of the Bureau while acting within the scope of the employee's office or employment. See the final rule at:

<http://www.gpo.gov/fdsys/pkg/FR-2013-08-05/html/2013-18844.htm>

Appraisals for Higher Priced Mortgages—Supplemental Proposal

On August 8, 2013, the agencies published their proposed rule to amend Regulation Z as it relates to obtaining appraisals for certain loans. The existing rule requires creditors to obtain an appraisal or appraisals meeting certain specified standards, provide applicants with a notification regarding the use of the appraisals, and give applicants a copy of the written appraisals used. The Agencies are proposing exemptions from the rules for: transactions secured by existing manufactured homes and not land; certain “streamlined” refinancings; and transactions of \$25,000 or less. See the proposed rule at:

<http://www.gpo.gov/fdsys/pkg/FR-2013-08-08/html/2013-17086.htm>

President Continues National Emergency on Export Control Regulations

On August 12, 2013, the President published notice of the continuation of the national emergency created by the expiration of the Export Administration Act of 1979. This emergency was first declared in 2001 and has continued since then. This emergency has been extended by one year. These rules relate to exports of certain goods and to the restrictions on US companies on observing international boycotts. The orders and regulations of the Secretary of Commerce are continued and will be enforced by the President while the emergency is in place. See the order at:

<http://www.gpo.gov/fdsys/pkg/FR-2013-08-12/html/2013-19699.htm>

Corrections to the Remittances Rules

On August 14, 2013, the BCFP published corrections to its Regulation E remittances rules. This is a correction to final rules that modified the original final rules. There were 3 prior “final” rule releases in this area. No one is perfect but there seems to be a pattern caused in part by the highly technical nature of the rules in question. On May 22, 2013, the Bureau published the 2013 Final Rule, which along with three other final rules (77 FR 6194 (February 7, 2012), 77 FR 40459 (July 10, 2012), and 77 FR 50244 (August 20, 2012)) implements the Electronic Fund Transfer Act's provisions regarding remittance transfers. This correction provides that in the event of an error that occurred because the sender provided incorrect or insufficient information, the provider may deduct from the total amount that the sender paid to the provider the fees actually imposed and taxes actually collected as part of the first unsuccessful remittance transfer attempt. See the final rule at:

<http://www.gpo.gov/fdsys/pkg/FR-2013-08-14/html/2013-19503.htm>

CFTC Risk Management Standards for Derivatives Clearing Organizations

On August 15, 2013, the CFTC published its final rule to implement enhanced risk management standards for larger derivatives clearing organizations. These rules include increased financial resources requirements, the prohibited use of assessments in calculating available default resources, and enhanced system safeguards for business continuity and disaster recovery. See the final rule at:

<http://www.gpo.gov/fdsys/pkg/FR-2013-08-15/html/2013-19791.htm>

This advisory is a service of Connell & Andersen LLP for our clients and friends. It is not a full recitation of all developments. The descriptions are summaries of complex and detailed laws and regulations and may be incomplete or misleading. We invite any of our readers to contact us to discuss any items contained herein for further elaboration.