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July First Half Developments

Overview

The BCFP continues the complicated and disorganized practice of continually adopting final rules and then proposing amendments to those rules shortly thereafter. The latest area where the agency is providing substantial revisions to its rules is in the mortgage area. Since new rules cost money and time to comply with this practice needs to be ended and rules are better off being adopted more slowly than continually revised on an every six-month basis.

Mortgage Rules under Various Consumer laws

On July 2, 2013, the BCFP published its proposed rule to amend the rules it published in January. These proposed amendments focus primarily on clarifying, revising, or amending provisions on loss mitigation procedures under Regulation X's servicing provisions, amounts counted as loan originator compensation to retailers of manufactured homes and their employees for purposes of applying points and fees thresholds under the Home Ownership and Equity Protection Act and the qualified mortgage rules in Regulation Z, exemptions available to creditors that operate predominantly in "rural or underserved" areas for various purposes under the mortgage regulations, application of the loan originator compensation rules to bank tellers and similar staff, and the prohibition on creditor-financed credit insurance. See the Bureau's proposed rule at:

<http://www.gpo.gov/fdsys/pkg/FR-2013-07-02/html/2013-15466.htm>

Consumer Protection Coverage over Certain Nonbank Entities

On July 3, 2013, the BCFP published its final rule to establish procedures to determine whether to supervise a nonbank provider of consumer financial products. Section 1024 of the Dodd-Frank Act authorizes the Bureau to supervise a nonbank covered person when the Bureau has reasonable cause to determine, by order, after notice to the person and a reasonable opportunity to respond, that such person is engaging, or has engaged, in conduct that poses risks to consumers with regard to the offering or provision of consumer financial products or services. See the final rule at:

<http://www.gpo.gov/fdsys/pkg/FR-2013-07-03/html/2013-15485.htm>

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Proposed: <http://www.gpo.gov/fdsys/pkg/FR-2012-05-25/html/2012-12718.htm>

General License under Zimbabwe Sanctions Program

On July 9, 2013, OFAC published its general license No. 1 to authorize all transactions involving Agricultural Development Bank of Zimbabwe and Infrastructure Development Bank of Zimbabwe, subject to certain limitations, including not dealing with persons whose property is blocked. See the License at:

<http://www.gpo.gov/fdsys/pkg/FR-2013-07-09/html/2013-16450.htm>

Loan Participations by Credit Unions

On July 9, 2013, the NCUA extended for thirty days the effective date of its final rule on loan participations until September 23, 2013. See the extension at:

<http://www.gpo.gov/fdsys/pkg/FR-2013-07-09/html/2013-16399.htm>

Debt Collection Activities by the BCFP

On July 11, 2013, the BCFP published a final rule to establish procedures on how the Bureau will collect debts owed to the US with respect to BCFP activities. In particular the rules provide protections to debtors when the agency seeks to collect debts via administrative offsets. See the final rule at:

<http://www.gpo.gov/fdsys/pkg/FR-2013-07-11/html/2013-16470.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.