



Consumer Financial Protection Bureau

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The Dodd-Frank Act established the Bureau of Consumer Financial Protection (CFPB) as an independent body within the Federal Reserve.

- CFPB assumed responsibility for most consumer protection laws, but not the Community Reinvestment Act (CRA) or Bank Secrecy Act (BSA).
 - The transfer of enforcement, reporting and regulatory authority occurred on July 21, 2011.
- CFPB has very broad authority to curb practices it considers unfair, deceptive, or “abusive.”
 - “Abusive” can be very broadly defined, creating an environment conducive to increased litigation and regulatory second-guessing.
 - State attorneys general are authorized to enforce CFPB rules.
- CFPB has authority to supervise, examine and take enforcement action with respect to:
 - Depository institutions with more than \$10 billion in assets.
 - Non-bank mortgage industry participants, student lenders, debt collectors and other non-bank financial service providers.
 - Prudential regulators retain primary exam and enforcement authority for banks under \$10 billion, but CFPB regulations apply to banks of all sizes, effectively setting the standards against which their regulators will examine them. In addition, the CFPB can include its regulators on a “sampling” basis and is authorized to provide input and recommendations to prudential regulators, and require reports and other examination documents.
- **On October 11, 2016, the D.C. Circuit Court of Appeals held that the CFPB’s leadership structure -- a single powerful director who cannot be removed at will by the president -- is unconstitutional. The court adopted a limited remedy; it severed the “removal for cause” provision from the statute, and gave the president the power to remove the director at will and to supervise and direct his activities. ABA will continue to monitor this case as it moves through the courts.**
 - The industry has long supported proposals to strengthen accountability at the CFPB by creating a board or commission structure and subject the agency to the appropriations process, which would address the agency director's unchecked authority to impose new rules that could alter the financial choices available to consumers. A commission would broaden the perspective on any rulemaking and enforcement activity at the Bureau, and the appropriations process would increase congressional oversight. Together they would provide necessary and appropriate public accountability to the exercise of the CFPB’s authority.
 - Congressional oversight would allow the very consumers who the Bureau was designed to protect to hold it accountable through their

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elected officials. It would also help ensure the CFPB incorporates smaller community bank perspectives into the rulemaking process, as required by the Dodd-Frank Act.

In 2015, the CFPB began publishing consumer complaint narratives.

- Publishing unsubstantiated allegations is different than publishing facts. It sends misleading information to consumers who expect the government to publish accurate and reliable data upon which they can make their own informed decisions. In addition, it tarnishes the reputation of individual companies without substantiation.
- While the banking industry continues to be committed to working directly with customers to resolve misunderstandings and complaints, public disclosure of unverified consumer complaint narratives doesn't advance that goal and may threaten consumer privacy. We're disappointed that the Bureau has chosen to become an official purveyor of unsubstantiated and potentially false information instead of fostering informed and responsible consumer choice.