

## Client Alert

### Consumer Financial Protection Bureau Ramps Up Consumer Protection Oversight Under Biden Administration

February 9, 2021

The Consumer Financial Protection Bureau (CFPB) is not wasting any time getting to work to protect consumers. On January 28, 2021, the CFPB's Acting Director, Dave Uejio, announced that "the CFPB will take aggressive action to ensure that regulated companies follow the law and meet their obligations to assist consumers during the COVID-19 pandemic." To accomplish this goal, Mr. Uejio directed the CFPB's enforcement division to accelerate enforcement investigations related to COVID-19.

Consistent with this aggressive approach, Mr. Uejio also announced on February 4, 2021, that he (1) will look to the Division of Research, Markets, and Regulations (RMR) to research the impact of specific industry practices on consumers' budgets in order to identify policy interventions, (2) expects the CFPB to publish reports addressing racial equity and COVID-19, and (3) will be "assessing regulatory actions taken by the previous leadership and adjusting as necessary and appropriate those not in line with our consumer protection mission and mandate." Mr. Uejio also asked RMR to focus mortgage servicing rulemaking on averting a foreclosure crisis and to "[e]xplore options for preserving the status quo with respect to QM [Qualified Mortgages] and debt collection rules."

It appears debt-collection oversight will also be an important focus of the CFPB. Recent public filings by PayPal Holdings, Inc., indicate that the CFPB is looking at debt-collection activities by Venmo, which is owned by PayPal. In its Form 10-K for fiscal year that ended on December 31, 2020, PayPal disclosed: "On January 21, 2021, we received a Civil Investigative Demand (CID) from the Consumer Financial Protection Bureau (CFPB) related to Venmo's unauthorized funds transfers and collections processes, and related matters. The CID requests the production of documents and answers to written questions. We are cooperating with the CFPB in connection with this CID."

Mr. Uejio's January 28th announcement also made very clear that racial equity is a top priority for the CFPB and said it is "time for the CFPB to take bold and swift action on racial equity.... The country is in the middle of a long overdue conversation about race, and as we all know, practices and policies of the financial services industry have both caused and exacerbated racial inequality. I am going to elevate and expand existing investigations and exams and add new ones to ensure we have a healthy docket intended to address racial equity...." This makes "fair lending enforcement" one of the CFPB's top enforcement priorities going forward.

State agencies have identified this issue as well noting that the CFPB could be instrumental in addressing these issues. For example, according to New York Governor Cuomo on February 4, 2021, a New York Department of Financial Services (DFS) report found a lack of mortgage lending to homebuyers of color and in majority-minority neighborhoods in Buffalo. The report recommends that the state Community Reinvestment Act be applied to

nonbank mortgage lenders and that federal agencies, including the CFPB, should investigate whether fair lending practices are being violated. The CFPB is focused on making improvements in this area.

Given the CFPB's focus on protecting consumers from financial harm under the global pandemic and racial inequality, businesses and lenders should review their policies and practices in these areas to ensure they do not pique the interest of the CFPB.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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