Feature Story

CFPB Rule Amends Regulation Z Ability-to-Pay Requirements Limiting Credit Access for Stay-at-Home Spouses

The Consumer Financial Protection Bureau published a final rule amending Regulation Z, which prohibited credit card issuers from opening new accounts or increasing credit limits for customers without considering the consumer’s independent ability to pay. The Dodd-Frank Act amended the Truth in Lending Act (TILA)—which underpins Regulation Z—to require credit card issuers to consider the independent ability to pay for a credit card account or increased credit limit of consumers under the age of 21. The Bureau exercised its discretion to expand the regulatory requirement to all consumers in the previous rulemaking, blocking some adults (such as stay-at-home spouses) from obtaining credit cards for lack of independent ability to pay. “The Bureau of Consumer Financial Protection (Bureau) is issuing this final rule to amend §1026.51 and the official interpretations to the regulation to address concerns that, in light of the statutory framework established by TILA sections 150 and 127(c)(8), current §1026.51(a) may be unduly limiting the ability of certain individuals 21 or older, including spouses or partners who do not work outside the home, to obtain credit.”

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Commodity traders could face regulation for role as lenders, Reuters
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Financial regulator votes to move forward with new Dodd-Frank rules on swaps, The Hill
Obama taps Rep. Watt for housing chief, The Hill
Obama calls FCC pick ‘the Bo Jackson of telecom’, The Hill
Former EPA chief under fire for new batch of ‘Richard Windsor’ emails, The Hill
Obama Names Rep. Watt as Fannie Mae Regulator, Bloomberg TV
Obama Names Former Lobbyist Wheeler U.S. FCC Chairman, Bloomberg

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FDA wrapping up safety review of chemical in antibacterial soap after 40 years of delays, Washington Post
Heritage study finds $70 billion in Obama regulatory costs, The Hill
Small Banks Seek Exemption in U.S. Collection of Fee Data, Bloomberg
Regulators Scrutinize Auto Lenders Over Add-Ons, Wall Street Journal
JPMorgan Caught in Swirl of Regulatory Woes, New York Times
Battle rages over ‘slaughtered in the USA’ labels for meat, The Hill
Financial regulators shuffle jobs, The Hill
Committee vote set for EPA nominee, The Hill
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SEC’s new chairman says money market fund reforms coming in the ‘near future’, Washington Post
Fed’s Tarullo wants big banks to hold more capital, Reuters
Report: Texas fertilizer plant tried to evade safety regulations, The Hill
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House will take up bill to rein in the SEC’s regulatory power, The Hill
SEC’s White on Regulation, Global Cooperation, Bloomberg TV
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FDA orders warning labels on tanning beds, The Hill
Housing regulator to tighten restrictions on government-backed home loans, The Hill
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Labor group’s report blames worker deaths on stalled safety regs, The Hill
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Center for Effective Government (Formerly OMB Watch)
• OMB Report: Standards and Safeguards HaveProduced Vast Benefits at Minimal Cost

Center for Progressive Reform
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Center for Public Integrity
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• Report: EPA rules to shut down more than 280 coal-fired units, Michael Bastasch

Federal Regulations Advisor
• Monday Morning Regulatory Review – 5/6/13, Leland Beck

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The George Washington University Regulatory Studies Center
• A Retrospective Review of Retrospective Review, Susan Dudley

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• Red Tape Rising: Regulation in Obama’s First Term, James Gattuso & Diane Katz
• INFOGRAPHIC: Obama’s Red Tape Rising, Kelsey Harris & Diane Katz
• New Red Tape Rising Report: Regulation in Obama’s First Term, James Gattuso

The Mercatus Center
• Public Interest Comment: Financial Market Utilities, Hester Peirce

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Department of Agriculture

APHIS Final Rule Requires Livestock Facilities to Maintain Certain Records for 5 Years
The Animal and Plant Health Inspection Service published a final rule amending existing rules “regarding the interstate movement of livestock to require approved livestock facilities and listed slaughtering and rendering establishments to maintain certain records for 5 years. Currently, approved livestock facilities are required to retain certain records for 2 years, and there are no record retention provisions that apply to listed slaughtering and rendering establishments. Requiring the retention of certain records for 5 years will allow us to trace the prior movements of diseased livestock further into the past than is currently possible, thus providing the opportunity to locate potentially infected or exposed livestock that might otherwise remain unidentified. We are also requiring the operators of slaughtering and rendering establishments to sign listing agreements to document their agreement to comply with the requirements of the regulations for listed slaughtering and rendering establishments. Such agreements are currently required for approved livestock facilities, but not for slaughtering and rendering facilities. This change will eliminate that inconsistency.”

Consumer Financial Protection Bureau

CFPB Establishes “Consumer Financial Civil Penalty Fund”, Seeks Comment
The Consumer Financial Protection Bureau published a proposed and final rule seeking comments on and establishing the Consumer Financial Civil Penalty Fund (Civil Penalty Fund), respectively. This fund is authorized by the Dodd-Frank Act, which requires the Bureau to “deposit any civil penalty it obtains against any person in any judicial or administrative action under Federal consumer financial laws. Under the Act, funds in the Civil Penalty Fund may be used for payments to the victims of activities for which civil penalties have been imposed under Federal consumer financial laws. In addition, to the extent that such victims cannot be located or such payments are otherwise not practicable, the Bureau may use funds in the Civil Penalty Fund for the purpose of consumer education and financial literacy programs. This rule implements the relevant statutory provisions by articulating the Bureau’s interpretation of what kinds of payments to victims are appropriate and by establishing procedures for allocating funds for such payments to victims and for consumer education and financial literacy programs.” Although the final rule—which was published coterm-inously with the proposed rule—establishes the Civil Penalty Fund, the separate proposed rule solicits comments from the public on the final rule already approved by the Bureau. Comments on the proposed rule are due on July 8th.

Department of Commerce

NOAA Proposes Rule Prohibiting Shark Finning
The National Oceanic and Atmospheric Administration published a proposed rule implementing the portions of the Magnuson-Stevens Shark Conservation Act (SCA) prohibiting “any person from removing any of the fins of a shark at sea, possessing shark fins on board a fishing vessel unless they are naturally attached to the corresponding carcass, transferring or receiving fins from one vessel to another at sea unless the fins are naturally attached to the corresponding carcass, landing shark fins unless they are naturally attached to the corresponding carcass, or landing shark carcasses without their fins naturally attached… Neither the [Shark Finning Prohibition Act] nor the SCA
suggest that Congress intended to amend the Magnuson-Stevens Act to prohibit the possession or sale of shark fins. Rather, Congress chose to prohibit discarding shark carcasses at sea, and required that fins be naturally attached to the carcass of the corresponding shark. The SCA therefore reflects a balance between addressing the wasteful practice of shark finning and preserving opportunities to land and sell sharks harvested consistent with the Magnuson-Stevens Act. Although state shark fin laws are also intended to conserve sharks, they may not unduly interfere with the conservation and management of federal fisheries.” Comments are due on June 17th.

Department of the Treasury
IRS Proposes Rule on Defining Health Insurance Premium Tax Credit
The Internal Revenue Service published a proposed rule setting the health insurance premium tax credits pursuant to the Patient Protection and Affordable Care Act. “These proposed regulations affect individuals who enroll in qualified health plans through Affordable Insurance Exchanges (Exchanges) and claim the premium tax credit, and Exchanges that make qualified health plans available to individuals and employers. These proposed regulations also provide guidance on determining whether health coverage under an eligible employer-sponsored plan provides minimum value and affect employers that offer health coverage and their employees.” Comments are due on July 2nd.

Environmental Protection Agency
EPA Denies EarthJustice Petition to Regulate Air Emissions from Coal Mines
The Environmental Protection Agency published a proposed rule providing notice to the public that EPA is denying a petition submitted by EarthJustice requesting that EPA add coal mines to the Clean Air Act (CAA) section 111 list of stationary source categories, and regulate air emissions from coal mines accordingly. “The agency denied the petition because the EPA must prioritize its actions in light of limited resources and ongoing budget uncertainties, and at this time, cannot commit to conducting the process to determine whether coal mines should be added to the list of categories under CAA 111(b)(1)(A).”

Federal Communications Commission
FCC Final Rule Addresses Framework Issues for Expanding Broadband Availability
The Federal Communications Commission published a final rule addressing the Commission’s model platform for implementation of the Connect America Fund, which expands broadband availability to Americans living in rural areas with no access to broadband services. “This order focuses on the platform components of the cost-to-serve module. As detailed below, and consistent with the approach previously taken by the Commission in adopting its prior forward-looking model for universal service support, we adopt a model platform that will allow the Bureau to estimate the full average monthly cost of operating and maintaining an efficient, modern network. Specifically, the model will begin by estimating all capital and operating expenses associated with a modern network. Those variously-timed expenditures will be converted to an average monthly cost, as described below. Because providers' support will be based on this average cost for five years, while many components of an actual network have much longer lives, using this average cost approach will not compensate providers for the full cost of a network within the five year Phase II timeframe. It will, however, estimate the cost of providing service in the way that best approximates the discipline of a competitive market.”

Department of Energy
DOE Proposes Amending Energy Efficiency Standards for Warm Air Furnaces
The Department of Energy published a proposed rule amending the energy conservation standards for commercial warm air furnaces. DOE is seeking comment from the public on “whether national standards more stringent than those that are currently in place would result in a significant amount of additional energy savings and whether such amended national standards would be technologically feasible and economically justified.” The current energy conservation standards for commercial warm air furnaces were last updated in 2012. Comments are due on June 3rd.
**Agencies**

**Department of Commerce**

**NOAA Seeks Comment on Five Year Research and Development Plan**

The National Oceanic and Atmospheric Administration published a notice announcing that NOAA is making its 113-page draft Five Year Research and Development plan available to the public for comments. “NOAA is the only federal agency with operational responsibility to protect and preserve ocean, coastal, and Great Lakes resources and to provide critical and accurate weather, climate, and ecological forecasts that support national safety and commerce. R&D at the Agency seek an understanding of global ecosystems to support informed decision making. R&D lead to improved understanding of the Earth system from global to local scales, improved ability to forecast weather, climate, and water resources, increased understanding of ecosystem health, and how all of these factors affect and are affected by people and communities. At NOAA, R&D are “use-inspired” – they not only increase our understanding of the world, but also produce applications that are useful and used.” Comments are due on June 3rd.

**Environmental Protection Agency**

**EPA Seeks Comment on IRIS Draft Non Cancer Toxicological Review of Methanol**

The Environmental Protection Agency published a notice announcing that EPA is making its draft toxicological review, Toxicological Review of Methanol (Non-Cancer): In Support of Summary Information on the Integrated Risk Information System (IRIS), available for public comment. “EPA's IRIS is a human health assessment program that evaluates quantitative and qualitative risk information on effects that may result from exposure to chemical substances found in the environment. Through the IRIS Program, EPA provides the highest quality science-based human health assessments to support the Agency's regulatory activities. The IRIS database contains information for more than 540 chemical substances that can be used to support the first two steps (hazard identification and dose-response evaluation) of the risk assessment process. When supported by available data, IRIS provides oral reference doses (RfDs) and inhalation reference concentrations (RfCs) for chronic noncancer health effects and cancer assessments. Combined with specific exposure information, government and private entities use IRIS to help characterize public health risks of chemical substances and thereby support risk management decisions designed to protect public health.” Comments are due on June 17th.

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