



Legislative Update

December 2013

In the U.S. Congress

There was no significant activity in Congress since the November Legislative Update.

Federal Regulatory Activity

Student Loan Servicer Larger Participants Rule. In his [prepared remarks](#) on a Dec. 3 press call concerning the CFPB's announcement of its student loan service [Final Rule](#) defining larger market participants, CFPB Director Richard Cordray noted, "We have heard complaints from private student loan borrowers that their servicer is not held accountable for answering their questions and providing quality customer service. Borrowers have complained that they had trouble making prepayments or partial payments on their loans. They have also complained that when their loans were transferred between servicers, their paperwork was often lost and processing errors were made that resulted in late fees."

The CFPB's new rule, effective March 1, 2014, defines larger market participants in student loan servicing, in part, for purposes of identifying those companies subject to the CFPB's supervisory and examination processes. It's expected that the seven largest non-bank servicers will be initially added. Accuracy and integrity of information reported by student loan servicers to TransUnion and the other nationwide consumer reporting agencies is among the CFPB's concerns. In [footnote 113](#) of the Final Rule, the CFPB notes: "In 2011 approximately eight million consumer contacts with the three largest consumer reporting agencies resulted in approximately 32 to 38 million disputed items on consumers' credit files." [CFPB, Key Dimensions and Processes in the U.S. Credit Reporting System 4 \(2012\)](#), is available [here](#).

FTC Announces 2014 Privacy Seminars. On Dec. 2, the Federal Trade Commission (FTC) [announced](#) a series of seminars exploring the privacy implications of three emerging practices: 1) mobile device tracking by retailers and others, 2) alternative scoring technologies for determining access to products and offers, and 3) self-reported and maintained health care information. The description of the February 19 seminar on mobile device tracking is [here](#). The description of the March 19 session on alternative scoring products is [here](#). Information for the seminar on self-reported health care information is not yet available.

Financial Stability Oversight Council Reforms Proposed by the U.S. Chamber of Commerce. In a Dec. 2 [press release](#), the Chamber's Center for Capital Markets Competitiveness released a 14-point [Financial Stability Oversight Council Reform Agenda](#). The recommendations are intended to "strengthen evidence-based analysis, modify FSOC's structure to improve operational effectiveness, address unfilled responsibilities to promote regulatory efficiency, and reform the systemic risk designation process to ensure due process."

The [Financial Stability Oversight Council](#) provides this description on its website: "established under the Dodd-Frank Wall Street Reform and Consumer Protection Act, the Council provides, for the first time, comprehensive monitoring of the stability of our nation's financial system. The Council is charged

with identifying risks to the financial stability of the United States; promoting market discipline; and responding to emerging risks to the stability of the United States' financial system. The Council consists of 10 voting members and 5 nonvoting members and brings together the expertise of federal financial regulators, state regulators, and an independent insurance expert appointed by the President.”

CFPB’s 2014 Rulemaking Agenda. In a Dec. 3 [blog posting](#), the CFPB announced an update to its [2013 Rulemaking Agenda](#), noting how this reflects its current priorities and some plans for 2014.

These include:

- Mortgage loan originations, servicing, and disclosures upon application and before closing. Future disclosure changes in 2014 will be to those required under the Home Mortgage Disclosure Act, in order to monitor and assess fair lending practices.
- Other areas under active assessment for rulemaking are prepaid card products, debt collection, deposit advance products and bank overdraft programs.
- Streamlining and modernizing regulations inherited from other federal agencies.

In the States and Territories

Expanded Payday Lending Investigation in New York. On Dec. 3, the Administration of New York Governor Andrew Cuomo [announced](#) that it is expanding its investigation into illegal online payday lending and related consumer abuses. The New York Department of Financial Services (DFS) sent subpoenas to 16 online ‘lead generation’ firms suspected of deceptive or misleading marketing of illegal, online payday loans in New York. DFS suspects that these firms are placing consumers at risk of abuse by collecting and selling their personal information to illegal online payday lenders and other companies, including scam artists, in violation of New York State law. As part of its investigation, DFS has heard complaints from New York consumers against a number of these lead generation firms about false and misleading advertising (including celebrity endorsements), harassing phone calls, suspicious solicitations, privacy breaches, and other issues.

California Privacy Hearing Scheduled. On Dec. 12, the California Assembly Committees on Judiciary; Business, Professions and Consumer Protection; and the Select Committee on Privacy will hold a joint informational hearing entitled “Balancing Privacy and Opportunity in the Internet Age” which will feature discussions on the following topics: (1) the collection, sharing and tracking of personal data; (2) the cross section of privacy laws nationally and internationally; and (3) potential draft legislation on digital privacy for the 2014 legislative session.

The following entities have been invited to testify at the hearing: (1) the Internet Association; (2) the Santa Clara University School of Law; (3) the University of California, Berkeley Center for Law and Technology; (4) the California Attorney General's Office; and (5) the Future of Privacy Forum.

Wisconsin Minor Security Freeze Bill Moves Closer to Enactment. [AB 248](#), which sets forth a mechanism to provide a security freeze for minors and other protected consumers, passed the Wisconsin Senate on Nov. 12 and is now sitting with Governor Scott Walker’s office for executive action. The bill is expected to be signed into law soon and would become effective on January 14, 2014 or the day after publication, whichever is later.

Michigan Security Freeze Bill Set for Enactment. Although Michigan is the only state without a security freeze law, security freezes have been readily available for Michigan residents for a number of years because of voluntary initiatives introduced by Consumer Reporting Agencies. [SB 174](#), which would codify freezes for state residents and also make Michigan the fourth state with a freeze for minors, passed the House on Nov. 14 and was sent back to the House on Dec. for concurrence on a drafting error. We expect this to be addressed this week, and then be sent to Governor Rick Snyder by the end of the week for his signature. Effective date will be Jan. 1, 2014.

Misc. State Minor Security Freeze Laws Enacted in 2013 are Effective in January. As a reminder, two state minor security freeze bills that were enacted this past summer become effective Jan. 1, 2014: [Illinois HB 3380](#) and [Texas SB 60](#).

Utah Score Disclosure Bill Heard, Once Again. On Nov. 20, the Utah Business and Labor Interim Study Committee held a hearing on [HB 158](#) concerning consumer credit score disclosures. While it provided that CRAs provide credit reports and scores to any requesting entity, regardless of permissible purpose, and required that credit scores provided to third parties be shared with consumers, because no bill proponents or opponents testified on the bill, no action was taken and the bill is effectively dead for the year.

Puerto Rico Dispute Notification Bill Delayed. [Puerto Rico HB 1354](#), with an immediate effective date, would require that whenever "any information submitted by a provider of information to a credit reporting agency is disputed...the agency shall include in the credit report a notice which indicates the information...is being contested or disputed..." This notice or notification on the credit report will remain the same until the investigation is complete." However, the bill received no legislative action prior to the end of the 2013 legislative session and is now carried over to the 2014 session.

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