

## Consumer Lending Update

JULY 2019

### CFPB EXTENDS COMMENT PERIOD FOR PROPOSED HMDA AMENDMENTS

As reported in the May 2019 BCG Newsletter, the CFPB issued an advance notice of proposed rulemaking (ANPR) asking for comments on Regulation C's data points, and on reporting business-purpose loans made to entities secured by a multifamily dwelling. The comment period for the ANPR was to end on July 8, 2019. However, in June 2019, the CFPB extended this comment period to October 15, 2019. 84 FR 31746.

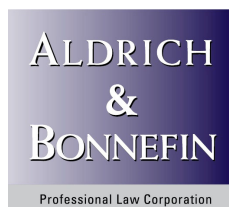
Also as reported in the May 2019 BCG Newsletter, the CFPB issued a proposed rule in May 2019 to revise the HMDA loan volume coverage thresholds. That proposal's comment period closed on June 12, 2019. In its June 27, 2019 press release, the CFPB announced that it will issue a Federal Register notice to reopen the comment period on certain points of that proposal. As of this Newsletter's publication, the CFPB had yet to do so.

### CFPB SETTLES WITH MORTGAGE SERVICER OVER TILA, RESPA AND CFPA VIOLATIONS

In May 2019, mortgage servicer BSI Financial Services (BSI) stipulated to TILA, RESPA and CFPA violations.

In the following ways, the CFPB found that BSI violated the Truth in Lending Act (TILA), the Real Estate Settlement Procedures Act (RESPA) and the Consumer Financial Protection Act of 2010 (CFPA):

- BSI's inability to recognize loss mitigation activity at the time servicing was transferred violated RESPA and its implementing Regulation X;
- BSI's failures to complete mortgage loan servicing transfers in a manner that would allow BSI to timely pay escrow disbursements violated the CFPA's prohibition on unfair, deceptive, or abusive acts or practices (UDAAP), as well as RESPA;
- BSI's failures to oversee service providers responsible for escrow disbursements and to correct those service providers' errors in response to consumer complaints violated RESPA;
- BSI's failures to enter loan data concerning interest rate adjustments on adjustable rate mortgages in its servicing system and to disclose interest rate changes on those loans to borrowers, and its practices in sending periodic statements to those borrowers purporting to charge interest amounts based on an unadjusted interest rate, violated both the CFPA's UDAAP prohibition, and TILA and its implementing Regulation Z; and



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- BSI's failure to maintain a document management system in a manner that would allow BSI's staff to provide accurate information to borrowers about their loans and available loss mitigation options violated RESPA.

In addition to correcting the violations, the CFPB ordered BSI to set aside \$36,500 for restitution and pay a \$200,000 civil money penalty.

## **CFPB PUBLISHES TRID CONSTRUCTION LOAN FAQs**

The Economic Growth, Regulatory Relief and Consumer Protection Act of 2018 (Regulatory Relief Act) Section 109(a) required the CFPB to provide guidance regarding the TRID rule's applicability to construction-to-permanent home loans. In May 2019, the CFPB did so by publishing two TRID-covered construction loan FAQs. The FAQs were: (i) are construction-only loans or construction-permanent loans covered by the TRID rule; and (ii) are there special disclosure provisions for construction-only or construction-permanent loans under the TRID rule?

The FAQs did not say anything new. In short, in its answer to the first question, the CFPB reminded lenders that if a construction-only loan or construction-permanent loan is a TRID-covered loan (a closed-end, consumer-purpose loan secured by real property or a cooperative unit, but not a reverse mortgage), it is subject to TRID. In the second question, the CFPB referred creditors to Regulation Z's long-standing guidance on construction loans in Section 1026.17(c)(6) and Appendix D, and the tolerance-resetting event limited to new construction.

Refer to Part Three, Section XXV. of BCG Standard Procedures Manual #18, *Truth in Lending Act & Regulation Z*, for a more detailed discussion of the TRID rule and TRID-covered construction loans.