

TITLE X: BUREAU OF CONSUMER FINANCIAL PROTECTION

- **Consumer Financial Protection Bureau:** Title X establishes the Consumer Financial Protection Bureau within, but not controlled by, the Federal Reserve with authority to regulate the offering and provision of consumer financial products and services.
- **Leadership:** The CFPB is headed by a Director appointed by the President and confirmed by the Senate for a five year term.
- **Regulations:** Existing banking agency authorities to issue and enforce regulations, as well as authority to conduct examinations, are transferred to the new CFPB.
- **Funding:** The CFPB will also be funded by the Federal Reserve in an amount not to exceed a percentage of the Fed's earnings, and up to \$200 million in appropriations from 2010-2014.
- **Interchange Fees:** Restricts interchange fees on debit card transactions to "reasonable and proportional to costs" of payment processors or issuers, as determined by the Federal Reserve. Allows merchants to set a minimum limit for payment cards and offer discounts for using cash or certain cards. However, the Federal Reserve cannot regulate network fees or pre-paid debit cards.
- **Other Offices Established:** Establishes within the Bureau an Office of Fair Lending and Equal Opportunity, Office of Financial Literacy, Office of Financial Protection for Older Americans, and Office of Service Member Affairs.
- **Consumer Advisory Board:** Director must create a Consumer Advisory Board of 6 members, intended to bring a broad spectrum of perspectives together to advise the Director, made up of members recommended by the Federal Reserve Bank Presidents. The members must include experts in civil rights.
- **Consistent Rulemaking:** The Bureau must coordinate with the SEC, CFTC, and Federal Agencies and State regulators to promote consistent regulatory treatment of consumer financial and investment products and services.
- **Transfer of Functions to the Bureau:** Establishes enforcement powers and provides for the transfer of functions and personnel relating to consumer financial protection from the Federal Reserve, OCC, OTC, FDIC, NCUA, HUD, and FTC to the Bureau.
- **Auto Dealer Exemption:** The CFPB has no authority over auto dealers (the FTC has authority over auto dealers).
- **Transfer Time Period:** Has 6-18 months to transfer, with provisions for a 6 month extension.

- **Preemption:** While the law references the Barnett Supreme Court case, it then goes on to state that state law must "prevent or significantly" interfere with the national bank's exercise of its powers.

General Powers of the Bureau:

- **Purpose:** Bureau is to implement and enforce Federal consumer financial laws to ensure that markets for consumer financial products and services are fair, transparent, and competitive.
- **Authority:** Bureau is authorized to administer, enforce, and implement Federal consumer financial law. The Bureau is required to monitor risks to consumers in the offering or provision of consumer financial products or services.
- **Oversight:** The Financial Oversight Council can set aside a final regulation promulgated by the Bureau if 2/3 of the Council believes the regulation would put the safety and soundness of the banking system or financial system at risk.
- **Supervision of Nondepository Covered Persons:**
 - The Bureau will have authority to supervise all participants in the consumer mortgage arena.
 - The Bureau will exercise authority by establishing a risk-based supervision program based on an assessment of the risks posed to consumers in certain product and geographic markets.
 - In doing so, the Bureau will consider: asset size of the nondepository covered person; volume of consumer financial products and service transactions engaged in; risks to consumers; and the extent to which the institution is subject to State oversight.
 - Other than over mortgage entities, Bureau's enforcement authority is exclusive.
- **Supervision of Very Large Banks, Savings Associations, and Credit Unions:**
 - Grants the Bureau primary examination and enforcement authority over all insured depository institutions and credit unions with more than \$10 billion in assets, including affiliates.
 - Creates one federal regulator with consolidated consumer protection authority.
 - Has authority to require reports and conduct examinations of the largest depository institutions to assess compliance with Federal consumer financial laws, to obtain information about activities and compliance systems, and to detect and assess risks to consumers and markets for consumer financial products and services.

- Conflicts between regulators are to be resolved by a governing panel consisting of a representative of the Board of Governors, the FDIC, the NCUA or OCC on a rotating basis and a representative from the Bureau and the prudential regulator.
- **Other Banks, Savings Associations, and Credit Unions:**
 - Insured depository institutions with \$10 billion in assets or less will continue to be examined for consumer compliance by its prudential regulator.
- **Exemption for Merchants and Retailers:** The Bureau does not have authority over commercial transactions for the sale of nonfinancial goods or services. Merchants and retailers are not to be within the jurisdiction of the Consumer Financial Protection Bureau.
- **Study on Mandatory Pre-Dispute Arbitration:** The Bureau must conduct a study and provide a report to Congress on the use of mandatory pre-dispute arbitration as they pertain to consumer financial products or services.

Specific Bureau Authorities:

- **Prevention of Unfair, Deceptive or Abusive Acts:** Bureau can prevent a covered person from engaging in or committing an unfair, deceptive or abusive act or practice in connection with a transaction with a consumer for a consumer financial product or service, or the offering thereof. Adds the term 'abusive.'
- **Fair Disclosures:** Bureau will have authority to ensure that information relevant to the purchase of such products or services is disclosed to the consumer in plain language in a manner that permits consumers to understand the costs, benefits, and risks associated with the product or service.
- **Safe Harbor for Model Forms:** A safe harbor is provided for covered persons that use model forms included with a rule issued under this section.
- **Availability of Consumer Financial Information:** Requires the Bureau to prescribe rules requiring a covered person to make available to consumers information concerning their purchase and possession of a consumer financial product or service, including costs, charges, and usage data upon consumers request, in an electronic form.