



June 29, 2012

Supervisory Authority Over Certain Nonbank Covered Persons Based on Risk Determination

Executive Summary

- The Consumer Financial Protection Bureau (CFPB) has released a proposed rule regarding procedures for the CFPB to supervise a nonbank that the agency believes is engaging, or has engaged, in conduct that poses risks to consumers with regard to consumer financial products or services. While these CFPB rules for nonbanks do not apply directly to credit unions, CUNA continues to monitor the potential effects from CFPB supervision of nonbank entities and the implementation of the Dodd-Frank Act.
- Specifically, under the proposed rule:
 - The CFPB will issue a “notice of reasonable cause” to notify a nonbank that it is being considered for supervision with a description of the basis for the agency’s assertions;
 - The nonbank will have a reasonable opportunity to respond to the CFPB, including an opportunity for a written and an oral response;
 - The nonbank could voluntarily consent to CFPB supervision;
 - Based on the information received, the CFPB Assistant Director for Nonbank Supervision will make a recommendation to the CFPB Director, who shall make a final determination; and
 - After two years, the nonbank could file a petition to apply for the termination of CFPB supervision authority (unless the nonbank has agreed to a longer supervision period). This petition must include a progress report of the nonbank’s progress to reduce risks to consumers with regard to consumer financial products or services.
- Comments on the proposal are due to the CFPB by July 24; **please submit your comments to CUNA by July 9, 2012**. Please e-mail your comments or questions to CUNA Regulatory Counsel Dennis Tsang at dtsang@cuna.com and CUNA SVP Deputy General Counsel Mary Dunn at mdunn@cuna.com; you may also call (800) 356-9655 ext. 6733.

- Under the Dodd-Frank Act, the CFPB has the authority to supervise any covered nonbank that it “has reasonable cause to determine, by order, after notice and a reasonable opportunity to respond” that such covered person “is engaging, or has engaged, in conduct that poses risks to consumers with regard to the offering or provision of consumer financial products or services.” In addition, the CFPB has separate authority to regulate mortgage originators, mortgage brokers, payday lenders, and private education lenders regardless of size. Further, the CFPB has separate authority to supervise any “larger participant of a market for other consumer financial products or services.”
- For further details, please visit the CFPB’s [request for comment](#) in the Federal Register.

Questions to Consider Regarding the Proposal

1. Does your credit union support the proposal regarding procedures for the CFPB to supervise a nonbank that the agency believes is engaging, or has engaged, in conduct that poses risks to consumers with regard to consumer financial products or service?

2. Are there any recommendations regarding how the CFPB should supervise these nonbank entities and the proposed definitions and procedures?

3. Does your credit union have any concerns with any potential effects on credit unions and the credit union system from this proposal? Any other comments on benefits, costs, and impacts from the proposal?

4. Any other comments or suggestions regarding the proposal?

Thank you very much for your time and comments.