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Meet Congresses Consumer Financial Protection Bureau: Enforcing consumer protection laws

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In 2010, Congress created the Consumer Financial Protection Bureau (CFPB) to serve as the nation's "cop on the beat" to protect consumers from harmful financial products. Officially opened for business on July 22, 2011, the CFPB is now responsible for enforcing most federal financial consumer protection laws.

CAI's members have a keen interest in the development of CFPB's rules and regulations that could affect community associations. As a new federal agency, the CFPB is still working to define its approach to protecting consumers from abusive financial products and helping to ensure consumers have the right information to choose the financial products and services that will best meet their needs. While the CFPB's authority extends from checking accounts to credit cards to payday loans, it also has significant authority over federal housing policy, mortgage lending standards and the home buying process.

CAI is following CFPB's actions on: the definition of qualified mortgage, the regulation of transfer fees, association assessments, the definition of real estate settlement fees, foreclosure prevention and mortgage servicing standards. As such, the CFPB has the potential to impact community associations and the companies that serve them.

Special Authorities

As noted, the CFPB has special authority over mortgage lending standards and real estate closings. The Dodd Frank Act gave the CFPB the responsibility of enforcing the federal Truth in Lending Act (TILA), a powerful consumer protection law. As the federal enforcer of TILA, the CFPB will establish and enforce mortgage lending standards that all lenders and housing market participants must follow.

Congress also transferred rulemaking and enforcement authority under the Real Estate Settlement Procedures Act from the Department of Housing and Urban Development to the CFPB. The bureau is in the process of updating real estate closing disclosures and real estate closing forms.

This combination of authorities means the CFPB sets the standards that govern almost every aspect of the mortgage lending and closing process.

CFPB is unique in that Congress granted the bureau the authority to expand firms under its supervision by regulation. Given the role of community associations in our nation's housing markets and the authority of associations to foreclose as a remedy to perfect a lien, it is reasonable to expect the CFPB to examine community associations at some point in its review of the housing market.

CFPB Initiatives

The CFPB has three ongoing initiatives that can affect how community associations function.

Ability-to-Repay

The first initiative is the CFPB's work on how association assessments factor into a borrower's

mortgage payment. Under the Dodd Frank Act, all lenders must verify a borrower can afford all payments associated with a mortgage loan, including association assessments. It is the CFPB's job to write the rules to govern this process, which could include requiring associations to forecast assessment increases and the likelihood of future special assessments.

Transfer Fees

The second initiative CAI is monitoring is the CFPB's review of transfer fees in community associations. While the bureau has not signaled that it intends to restrict mortgages in associations with a transfer fee, it is studying the use of transfer fees.

Mortgage Complaint Portal

An important new consumer protection developed by the CFPB is an easy-to-use website for homeowners to report mortgage fraud, abusive lending practices and housing discrimination. This will significantly improve consumer protection for homeowners and allow the CFPB to keep track of new mortgage products or any new market abuses. The website will also be a means for disgruntled residents to air complaints against associations. As the CFPB has announced its future rulemakings will be influenced by the nature of complaints it receives through this system, associations should be prepared to respond to CFPB inquiries and work cooperatively with the bureau in resolving legitimate consumer and homeowner complaints.

Because of its potential impact on community associations, CAI has added the CFPB to our Mortgage Matters program. CAI is working to protect homeowners in community associations and to ensure access to fair and affordable mortgage products for all current and potential community association residents. You can follow our work and share your thoughts at www.caimortgagematters.org.

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