The State of Consumer Finance Services in the Trump Presidency

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As of the writing of this article, President Donald Trump has been in office for two months. During his candidacy, he vowed to roll back Dodd-Frank and the financial services regulations he claims are hurting economic growth. While several proposals are now floating through Congress which look to alter core components of the Dodd-Frank law, the intended target by far is the elimination and/or restructuring of the Consumer Financial Protection Bureau (CFPB or bureau).

The Trump administration, however, has been noticeably mum on the future of the bureau, which during its tenure has been an extremely polarizing agency. Consumer advocates applaud its work and its mission to establish a fair and transparent financial marketplace that empowers and educates consumers regarding their financial decisions, while at the same time enforcing consumer financial protection laws against those companies and industries that pose risk and harm to consumers. Industry, however, sees the CFPB as an unchecked and rogue agency that fails to recognize core constitutional principles like the right to due process and instead relies almost exclusively on its vague or undefined enforcement authority to practice regulation by enforcement. This, industry says, has resulted in less credit options for those consumers the CFPB has been charged to protect.

Despite all the rhetoric from both sides, the only immediate action taken by the Trump administration has been through a series of executive orders and memoranda. On Jan. 20, the day Trump was inaugurated, a memorandum was issued titled, "Regulatory Freeze Pending Review," which imposed an immediate freeze on all federal regulatory actions that have not yet come into effect. On Jan. 30, an executive order was issued titled, "Reducing Regulation and Controlling Regulatory Costs," which required that for every new regulation, two must be revoked, further pressing the federal government to reduce the regulatory burden on U.S. businesses. Then on Feb. 24, Trump signed the executive order titled, "Enforcing the Regulatory Reform Agenda." Pursuant to this order, each agency must designate a regulatory reform officer charged with enforcing the new requirements and establish a regulatory reform task force that is responsible for identifying regulations that should be repealed, replaced or modified, and it further requires agencies to designate regulatory reform officers within 60 days and to generate the first report from each regulatory reform task force within 90 days.

The CFPB, however, is an independent agency like the Securities and Exchange Commission (SEC) and the Federal Trade Commission (FTC) and therefore is not required to comply with Trump's executive orders. In prior administrations, independent agencies have voluntarily adhered to mandates issued by the current administration. Whether the CFPB will do so here is entirely unclear. For the moment, the CFPB is here to stay and the regulatory environment which the bureau has created remains. For this reason, financial institutions that operate in the consumer financial services space, whether depository or nondepository, must consider the following:

• State Attorneys General May Fill the Vacuum.

A majority of state attorneys general (AGs) support the bureau and many have partnered over the years in enforcement actions involving everything from violations of fair lending to debt collection. Look to these state AGs to continue with the bureau's mission should the Bureau be weakened. These AGs have learned a lot from the CFPB over the past five years and they have stated publicly that they plan to significantly increase their presence and police the financial services industry even if the CFPB is weakened.

• The Public Has No Appetite for Bad Practices.

In the wake of Wells Fargo, aggressive marketing and practices will not win customers. One area where the CFPB saw a great deal of success was in educating the public about identifying the good players from the bad. This was evident in the mortgage industry. Furthermore, the CFPB recently issued a bulletin on monitoring incentive programs that really spoke to how financial institutions compensate their employees without harming consumers at the same time. Even if the CFPB is weakened, this is one area where enforcement actions will not be looked upon unfavorably. Remember that the Trump electorate is the same body of consumers that the CFPB has been charged to protect. Now is the time to review not only your compliance - management systems to ensure compliance with all state and federal consumer protection laws, but also to review your compensation programs. Institutions need to be asking themselves, are we achieving the right result?

• Consider Your New Competition.

The new administration has signaled its desire to open the lending channels and provide more "access to credit." This could mean more opportunities especially for small dollar lenders. However, traditional financial institutions are seeing greater competition from untraditional sources, with new products and services, driven by technology, coming into the marketplace daily. It is no secret that Google and Amazon are looking to provide banking services including lending. Look for a new generation of underwriting standards to be developed, with alterative data and algorithms replacing typical balance sheet assessments. Financial institutions will need to consider better ways to determine credit eligibility in order to retain customers.

The tug-of-war over the right balance of consumer protection and deregulation of the consumer financial services industry will be an ongoing battle. Nonetheless, financial institutions are best to stay the course of enhanced compliance in order to retain existing clients as well as to attract a new generation of customers. While the balance of regulatory power may shift from the federal level to the states, watchdogs over the consumer financial services industry are not going away. Competition will drive best practices and financial institutions should not abandon the policies and procedures they have implemented from the past several years. •

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