



CFPB Defines Larger Consumer Reporting Companies as Its First “Larger Participant”

Using the powers granted by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, the Consumer Financial Protection Bureau (CFPB) recently adopted a final rule that defines consumer reporting companies with \$7 million or more in annual receipts as “larger participants,” subjecting them to heightened supervision and annual reporting requirements.

Under its definition of “consumer reporting,” the CFPB expressed its intention to regulate entities engaged in “collecting, analyzing, maintaining, or providing consumer report information or other account information used or expected to be used in connection with any decision by another person regarding the offering or provision of any consumer financial product or service.” This means that, in addition to companies that collect credit data and create “consumer reports” under the Fair Credit Reporting Act (FCRA), “analyzers” of consumer report information will also be subject to the agency’s scrutiny, despite arguments that these analytical services present a low risk of harm to consumers.

The new rule provides that larger participants in the consumer reporting industry will be subject to CFPB supervision not only for their consumer reporting activities, but for all the consumer financial products they offer:

[I]f any entity is subject to the Bureau’s supervisory authority, the Bureau may examine the entire entity for compliance with all federal consumer financial law, assess enterprise-wide compliance systems and procedures, and assess and detect risks to consumers or to markets for consumer financial

products and services posed by any activity of the entity, not just the activities that initially rendered the entity subject to Bureau supervision.

In addition, once a company has been designated a “larger participant,” the rule requires that it remain subject to the CFPB’s increased supervision for at least two years, even if its annual receipts subsequently fall below the \$7 million threshold.

The new rule will take effect on September 30, 2012. In the meantime, the CFPB continues to work on an additional new rule for identifying “larger participants” in the debt collection industry, which was originally included alongside credit reporting in the proposed rule but was subsequently delayed for further evaluation. Anticipating a notice period of approximately 45 days before the debt collection rule would become effective, the CFPB will likely begin examining larger debt collectors toward the end of this year or in early 2013.

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