

Wiley Consumer Protection Download (March 1, 2021)

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Welcome to Wiley's update on recent developments and what's next in consumer protection at the Consumer Financial Protection Bureau (CFPB) and Federal Trade Commission (FTC). In this newsletter, we analyze recent regulatory announcements, recap key enforcement actions, and preview upcoming deadlines and events. We also include links to our articles, blogs, and webinars with more analysis in these areas. We understand that keeping on top of the rapidly evolving regulatory landscape is more important than ever for businesses seeking to offer new and ground-breaking technologies. Please reach out if there are other topics you'd like to see us cover or for any additional information.

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Regulatory Announcements

CFPB Expected to Delay General QM Rule Mandatory Compliance

Date. On **February 23**, the Consumer Financial Protection Bureau (CFPB) announced that it expects to propose a rule to delay the General Qualified Mortgage (QM) Final Rule's July 1, 2021 mandatory compliance date. The Final Rule amends the General QM

Authors

Duane C. Pozza
Partner
202.719.4533
dpozza@wiley.law
Stephen J. Conley
Associate
202.719.4572
sconley@wiley.law

Practice Areas

Cyber and Privacy Investigations, Incidents
& Enforcement
FTC and Consumer Protection

loan definition in Regulation Z, including by removing the definition's limit of a 43% DTI ratio (total monthly debt to total monthly income) and replacing it with price-based thresholds. The Acting CFPB Director Dave Uejio stated that an extension of the compliance date "would allow lenders more time in which they could make QM loans based on a debt-to-income ratio or whether the loans are eligible for sale to Fannie Mae or Freddie Mac, and not just a pricing cut off." The CFPB is also considering whether to revise the Seasoned QM Final Rule through rulemaking. Under that rule, a covered transaction would receive a safe harbor from ability-to-pay liability at the end of a period of at least 36 months if the loan satisfied certain conditions, including product restrictions, points-and-fees limits, underwriting requirements, and performance requirements.

Significant Enforcement Actions

FTC Names Additional Defendant in Real Estate Investment Training Scheme. On **February 25**, the Federal Trade Commission (FTC) announced that it named two additional defendants in its case against the operators of the Zurixx real estate investment training scheme. The FTC's second amended complaint, which was filed in the U.S. District Court for the District of Utah, named CAC Investment Ventures, LLC (CAC) as a defendant in the case against Zurixx. The FTC's initial complaint against Zurixx, which was filed in October 2019, alleges that Zurixx used deceptive assurances of big profits in live sales events and telemarketing in order to coax consumers into spending thousands of dollars on its products.

CFPB and Three State Attorneys General Sue Company Over Alleged Immigrant Services Scam. On **February 22**, the CFPB, in collaboration with the state attorneys general of Virginia, Massachusetts, and New York, filed a complaint against Libre by Nexus, Inc. (Libre) in the U.S. District Court for the Western District of Virginia for an alleged "predatory immigrant-services scam" which obligates purported victims to pay long-term binding fees. Libre provides bonds for immigrants in detention, but requires immigrants to pay upfront fees equivalent to 25% to 30% of the bond plus \$420 per month to lease GPS tracking monitors until the case is resolved. CFPB argues that immigrants end up paying more in non-refundable Libre fees than they would have paid for a refundable U.S. Immigration and Customs Enforcement bond. The CFPB's complaint alleges that Libre particularly preys on non-English speakers, forcing them to sign contracts without understanding the terms, in violation of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act). The agency is seeking an injunction and civil money penalties, among other relief.

Upcoming Comment Deadlines and Events

FTC to Participate in National Consumer Protection Week. The FTC will participate in National Consumer Protection Week (NCPW) from **February 28** to **March 6**. NCPW is a coordinated agency campaign focused on keeping consumers informed while providing free resources that detail their rights in the marketplace. Virtual event topics will include avoiding COVID-19 scams, fraudsters posing as government agencies, and cyber fraud. The NCPW schedule can be found [here](#).

FTC to Hold Virtual Workshop on Digital “Dark Patterns”. The FTC will hold a virtual workshop on **April 29** to evaluate digital “dark patterns,” which is a term used to describe a range of potentially deceptive user interface designs on websites and applications. The event, titled Bringing Dark Patterns to Light: An FTC Workshop, will examine the ways in which user interfaces can have the intentional or unintentional effect of obscuring, subverting, or impairing consumer autonomy or decision-making. The workshop will examine how dark patterns differ from sales tactics used by brick-and-mortar stores; whether some groups of consumers are unfairly targeted; and whether there are additional rules or standards needed to protect consumers. Moreover, the FTC is seeking research, discussion topic recommendations, and panelist requests ahead of the workshop, which may be submitted here by **March 15**. The FTC will also be posting a request for comments on dark patterns, which will be due **June 29**.

FTC Seeks Research Presentations for PrivacyCon 2021. The FTC issued a call for research presentations on a wide array of privacy and security issues as part of its sixth PrivacyCon, which will be held on **July 27**. The FTC is seeking research on issues such as the evolution of privacy and security risks; privacy and security issues related to working from home; the costs and benefits of privacy and security; the effectiveness of consumer privacy and security disclosures; algorithmic bias and fairness in algorithms; and privacy-enhancing technologies for consumers. Research presentations are due April 9, 2021, and more information about submitting presentations can be found here.

[More Analysis from Wiley](#)

Wiley Achieves Perfect Score on Human Rights Campaign’s 2021 ‘Best Places to Work for LGBTQ Equality’ List

Wiley Among First Organizations to Join FCBA’s New Diversity Pipeline Program

Duane Pozza Weighs In on Whether FTC Priorities Will Change Under Biden Administration

Five Issues a Biden-Era FTC is Likely to Prioritize

Acting Chairwoman Slaughter Forecasts FTC’s Privacy Agenda

Privacy in Focus: Virginia Poised to Enact Comprehensive Privacy Legislation

Privacy in Focus: Ransomware: The Expanding Threat to Your Data and Steps that In-House Counsel Can Take Now

Privacy in Focus: Facial Recognition Tech and Biometrics Under Scrutiny at FTC

Privacy in Focus: With Health Apps on the Rise, Consumer Privacy Remains a Central Priority

Supreme Court Argument Analysis: AMG Capital Management v. FTC

California Privacy Rights Act – What Does It Mean For You?

DoD Cyber: A Conversation with Melissa Vice, COO for DoD's Vulnerability Disclosure Program

Tech Risk Assessments: Cloud Services Under the Microscope?

Key Cyber Takeaways from the Senate Hearing on Biden's Nominee for DHS Secretary

Key Tech Takeaways from Hearing on Biden's Nominee for Commerce Secretary

FTC 6(b) Orders Start a Broad Investigation of Privacy Practices and Technology Use by Nine Tech Companies

TCPA Update: FCC Imposes New Call Limits and Opt-Out Requirements

FCC Clarifies That Government Contractors Must Obtain Prior Express Consent Under the TCPA

New IoT Cybersecurity Drafts From NIST Will Impact the Ecosystem

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Download Disclaimer: Information is current as of March 1, 2021. This document is for informational purposes only and does not intend to be a comprehensive review of all proceedings and deadlines. Deadlines and dates are subject to change. Please contact us with any questions.