

INTRODUCTION:

Title X, known as the Consumer Financial Protection Act of 2010, establishes the [Consumer Financial Protection Bureau](#) (CFPB or Bureau) as an independent agency within the Board of Governors of the [Federal Reserve System](#) (Federal Reserve). The CFPB regulates the offering and provision of consumer financial products and services under federal consumer financial laws.

PURPOSE:

CFPB ensures that the federal consumer financial laws are enforced consistently so that consumers may access markets for financial products, and so that these markets are fair, transparent, and competitive. See [12 U.S.C. § 5511](#) (Dodd-Frank Act § 1021). July 21, 2011 was the official date on which the function and authority was transferred from other federal regulatory agencies to the CFPB. See [id.](#) (Dodd-Frank § 1062).

PROVISIONS:

ORGANIZATION OF BUREAU

The [Bureau](#) is to be headed by a Director appointed by the President and confirmed by the Senate, and is to serve a five-year term. See [12 U.S.C. § 5491](#) (Dodd-Frank Act § 1011). The Director is required to establish three specific functional units within the Bureau focusing on research, community affairs, and collecting and tracking complaints. See [12 U.S.C. § 5493](#) (Dodd-Frank Act § 1013). Additionally, the Director is required to establish the following four offices: (1) the Office of Fair Lending and Equal Opportunity, charged with oversight and enforcement of federal laws intended to ensure access to credit; (2) the Office of Financial Education, charged with educating consumers on financial decisions; (3) the Office of Service Member Affairs, charged with developing and implementing initiatives for military service members and their families; and (4) the Office of Financial Protection for Older Americans, charged with facilitating the financial literacy of individuals older than 62 years of age. See [id.](#) (Dodd-Frank Act § 1013). Finally, the Director is required to establish a Consumer Advisory Board to advise and consult with the Bureau in the exercise of its functions. See [12 U.S.C. § 5494](#) (Dodd-Frank Act § 1014).

BUREAU POWERS & AUTHORITY

The Bureau has the authority to administer, enforce, and otherwise implement federal consumer financial laws, which includes the power to make rules, issue orders, and issue guidance. See [12 U.S.C. § 5511](#) (Dodd-Frank Act § 1021). The [Financial Stability Oversight Council](#) (FSOC) has the power to set aside any of the Bureau's regulations if the FSOC decides that the regulation would put the safety and soundness of the banking system, or the stability of the financial system of the United States, at risk. See [12 U.S.C. § 5513](#) (Dodd-Frank Act § 1023).

The Bureau is authorized to engage in investigations and request information from covered persons, issue subpoenas or civil investigative demands, conduct hearings and adjudication proceedings, and commence civil actions in federal court seeking any appropriate or equitable relief against any person that violates a federal consumer financial law. See [12 U.S.C. §§ 5562–65](#) (Dodd-Frank §§ 1052–55). The CFPB has exclusive authority to enforce federal consumer laws against nondepository covered persons. See [12 U.S.C. § 5514](#) (Dodd-Frank Act § 1024). Further, the Bureau has exclusive federal consumer law supervisory authority and primary enforcement authority over insured depository institutions or insured thrifts with assets totaling over \$10 billion. See [12 U.S.C. § 5515](#) (Dodd-Frank Act § 1025). The Bureau's authority over banks, thrifts, and credit unions with assets of \$10 billion or less is more limited. See [12 U.S.C. § 5516](#) (Dodd-Frank Act § 1026).

PRESERVATION OF STATE LAW

Title X also deals with the role of state law and state intervention in the operation of federally-chartered depository institutions. The statute is not meant to [preempt](#) state consumer financial protection laws, as long as the state laws do not conflict with federal laws or regulations. See [12 U.S.C. § 5551](#) (Dodd-Frank Act § 1041). State consumer protection laws that offer greater protection than federal law are not considered to be conflicting with federal laws. See [id.](#) Further, state Attorney Generals and state regulators can bring civil actions to enforce provisions of Title X. See [12 U.S.C. § 5552](#) (Dodd-Frank Act § 1042).

State consumer financial laws are preempted for national banks, federal thrifts, and their subsidiaries only if: (1) the application of the state law would have a discriminatory effect on the national bank or thrift; (2) the state law prevents or significantly interferes with the exercise of the national bank's or thrift's powers (codifying the [Supreme Court's](#) decision in [Barnett Bank v. Nelson, 517 U.S. 25 \(1996\)](#)); or (3) the state consumer law is preempted by another federal law other than this title. See [12 U.S.C. § 25b](#), [12 U.S.C. § 1465](#) (Dodd-Frank §§ 1044, 1046). In accordance with the Supreme Court decision in [Cuomo v. Clearing House Assn., LLC, 129 S. Ct. 2710 \(2009\)](#), the [Office of the Comptroller of the Currency's](#) visitorial authority over national banks and federal thrifts is not to limit or restrict the authority of any state from bringing an enforcement action against a national bank or federal thrift. See [12 U.S.C. § 25b](#) (Dodd-Frank Act § 1047). Finally, Title X does not preempt the applicability of state law to any subsidiary, affiliate, or agent of a national bank. See [id.](#) (Dodd-Frank Act § 1045).

TRANSFER OF FUNCTIONS

The consumer financial protection functions of the Federal Reserve, Office of the Comptroller of the Currency, Office of Thrift Supervision, [Federal Deposit Insurance Corporation](#), and [National Credit Union Administration](#) are transferred to the Bureau. See [12 U.S.C. § 5581](#) (Dodd-Frank Act § 1061). The consumer financial protection functions of the Department of Housing and Urban Development that arise under the Real Estate Settlement Procedures Act, Secure and Fair Enforcement for Mortgage Licensing Act of 2008, and the Interstate Land Sales Full Disclosure Act are also transferred to the Bureau. See [id.](#) The Federal Trade Commission retains its jurisdiction in implementing the Federal Trade Commission Act. See [id.](#)