HUDSON
COOK

CFPB Races to the Courthouse on the Eve of Presidential Transition

January 19, 2017 |

The CFPB filed two major lawsuits in the final days of the Obama administration, in what could signal an attempt to take action before its leadership is jeopardized by the incoming administration.

The CFPB filed a lawsuit on January 18th against Navient Corporation, the country's largest student loan servicer, and Pioneer Credit Recovery, Inc., a debt collector that collects on federal student loans. The gravamen of the complaint against Navient was that Navient failed to provide borrowers with sufficient information to allow them to take advantage of the federal government's income-driven repayment plans for federal student loans. Specifically, the CFPB alleged that Navient steered borrowers to less affordable repayment plans and failed to disclose crucial deadlines to take advantage of more affordable repayment plans. The CFPB claimed that these practices "systematically deterred numerous borrowers from obtaining access to some or all of the benefits and protections associated with" the federal government's loan repayment plans, and were unfair, deceptive, and abusive acts or practices.

The CFPB also claimed that Pioneer (among other things): (1) misled borrowers about the effect of the federal government's rehabilitation programs on the borrower's credit report, in violation of the Fair Debt Collection Practices Act, and (2) did not have in place reasonable policies and procedures addressing the accuracy of information that it furnishes to consumer reporting agencies, in violation of Regulation V.

The CFPB filed a second lawsuit on January 19th, the eve of the presidential inauguration, against TCF National Bank. The CFPB acted alone, not joining with any of the prudential banking regulators as it typically does in bank actions. The complaint alleged that TCF misled borrowers into opting into an overdraft account feature. Specifically, the complaint alleged that TCF incentivized its employees to aggressively sell the opt-in product without making full disclosure of the fees associated with the product. The CFPB claimed that these practices were abusive and deceptive, and violated Regulation E.

Filing major lawsuits on the eve of a presidential election suggests that the CFPB anticipates a change in leadership and in priorities under the new administration. These eleventh-hour actions are now before federal courts --before the president-elect has the opportunity to appoint new leadership for the agency.

This alert is brought to you by Hudson Cook's Government Investigations, Examinations, and Enforcement Practice Group. For questions, please contact Lucy Morris, lmorris@hudco.com, 202.327.9710.

HUDSON
COOK

Hudson Cook, LLP is a national law firm representing the financial services industry in compliance, privacy, litigation, regulatory and enforcement matters.

7037 Ridge Road, Suite 300, Hanover, Maryland 21076
410.684.3200

hudsoncook.com