

Client Alert

April 12, 2016

Lawmakers Request That the CFPB Consult With State Officials Before Proceeding With Its Proposed Rulemaking on Short-Term Lending

By **Obrea O. Poindexter, Joe Rodriguez, and Meredith M. Cipriano**

In an April 8, 2016 [letter to Richard Cordray](#), Director of the Consumer Financial Protection Bureau (“CFPB,” or “Bureau”), Representatives Randy Neugebauer (R-TX) and Mick Mulvaney (R-SC) requested that the Bureau convene a forum of state and tribal officials to discuss their perspectives and experiences with regulating short-term, small-dollar credit products, prior to issuance of any Bureau-proposed rule on the subject.

In the letter, Representatives Neugebauer and Mulvaney criticized the CFPB and Director Cordray for “refus[ing] to concede” that a Bureau rulemaking that sets a regulatory floor on this subject would preempt state law. Arguing that the Bureau has “ignore[d] the popular voice of states and sovereign Indian tribes that have carefully crafted laws to balance consumer protection and access to credit,” the Members of Congress requested that the Bureau host a forum to “ensure that the Bureau carefully considers the perspectives of these [state and tribal] officials as it relates to market trends, access to credit issues, and state regulatory models and experiences.”

The letter follows Director Cordray’s March 16, 2016, appearance before the House Financial Services Committee, during which Representatives Neugebauer and Mulvaney expressed concern that the [CFPB’s outline of proposals](#) to regulate short-term lending products failed to consider the existing state-based regulatory framework for products such as payday loans, vehicle title loans, installment loans, and certain lines of credit.

The Bureau’s March 2015 outline of proposals to regulate certain short-term lending products categorizes provisions for “short-term loans” and “longer-term loans” and considers two different approaches that a lender would be able to choose from: “debt trap prevention” and “debt trap protection.” In February 2016, Director Cordray made [remarks](#) suggesting that, despite feedback received from the industry, the CFPB is unlikely to significantly modify its March 2015 proposal.

A proposed rule is anticipated from the CFPB within the next few months. We will continue to monitor developments relating to the CFPB’s short-term lending proposal.

Contact:

Obrea O. Poindexter
(202) 887-8741
opoindexter@mofocom

Joe Rodriguez
(202) 778-1610
jrodriguez@mofocom

Client Alert

Financial Services Team

California

Michael J. Agolia	(415) 268-6057
Alexis A. Amezcua	(415) 268-6557
Elizabeth Balassone	(415) 268-7585
Roland E. Brandel	(415) 268-7093
Sarah Nicole Davis	(415) 268-7478
Henry M. Fields	(213) 892-5275
Joseph Gabai	(213) 892-5284
Angela E. Kleine	(415) 268-6214
Jim McCabe	(415) 268-7011
James R. McGuire	(415) 268-7013
Mark David McPherson	(212) 468-8263
Ben Patterson	(415) 268-6818
Sylvia Rivera	(213) 892-5734
Nicholas Alan Roethlisberger	(415) 268-7534
Grant C. Schrader	(415) 268-6635
William L. Stern	(415) 268-7637
Nancy R. Thomas	(213) 892-5561
Lauren Lynn Wroblewski	(415) 268-6458

New York

James M. Bergin	(212) 468-8033
Tiffani B. Figueroa	(212) 336-4360
David J. Fioccola	(212) 336-4069
Marc-Alain Galeazzi	(212) 336-4153
Adam J. Hunt	(212) 336-4341
Jessica Kaufman	(212) 336-4257
Mark P. Ladner	(212) 468-8035
Jiang Liu	(212) 468-8008
David H. Medlar	(212) 336-4302
Barbara R. Mendelson	(212) 468-8118
Michael B. Miller	(212) 468-8009
Judy Man Ni Mok	(212) 336-4073
Jeffrey K. Rosenberg	(212) 336-4130
Mark R. Sobin	(212) 336-4222
Joan P. Warrington	(212) 506-7307

Washington, D.C.

Leonard N. Chanin	(202) 887-8790
Rick Fischer	(202) 887-1566
Adam J. Fleisher	(202) 887-8781
Natalie A. Fleming Nolen	(202) 887-1551
Julian E. Hammar	(202) 887-1679
Ashley R. Hutto-Schultz	(202) 887-1683
Oliver I. Ireland	(202) 778-1614
Steven M. Kaufmann	(202) 887-8794
Donald C. Lampe	(202) 887-1524

Washington, D.C. (continued)

Jeremy R. Mandell	(202) 887-1505
Amanda J. Mollo	(202) 778-1609
Obrea O. Poindexter	(202) 887-8741
Ryan J. Richardson	(202) 887-8761
Joe Rodriguez	(202) 778-1610
Sean Ruff	(202) 887-1530
Trevor R. Salter	(202) 887-1527
Nathan D. Taylor	(202) 778-1644

Client Alert

About Morrison & Foerster:

We are Morrison & Foerster—a global firm of exceptional credentials. Our clients include some of the largest financial institutions, investment banks, Fortune 100, technology and life science companies. We've been included on *The American Lawyer's* A-List for 11 straight years, and *Fortune* named us one of the "100 Best Companies to Work For." Our lawyers are committed to achieving innovative and business-minded results for our clients, while preserving the differences that make us stronger. This is MoFo. Visit us at www.mofo.com.

Because of the generality of this update, the information provided herein may not be applicable in all situations and should not be acted upon without specific legal advice based on particular situations. Prior results do not guarantee a similar outcome.