Thursday, July 7, 2022

On June 15, CFPB Deputy Director Zixta Martinez delivered a keynote address to the Consumer Federation of America’s 2022 Consumer Assembly. The Deputy Director focused on four key areas of consumer protection during her address:

**Payday Loans:** The CFPB released a research report in April focusing on payday loans and the state laws allowing payday lenders to operate. Only 16 states out of the 26 states that allow payday lenders to operate require/permit lenders to offer extended payment plans, according to the Deputy Director. The CFPB will “continue to assess payday loan and small dollar credit practices” more generally, she said.

**Rent-A-Banks:** The Deputy Director identified the evolution of the small dollar credit market as an area of interest for the CFPB. Small credit lenders may use relationships with banks to evade state interest caps and licensing laws by claiming that the bank is the lender in “rent-a-bank” schemes, according to the Deputy Director. The CFPB is “taking a close look” at these schemes.
Banking Fees: According to the Deputy Director, large banks penalize customers who can least afford them with complicated banking fees and overdraft practices that drive families deeper into debt. While smaller banks, credit unions, and startups rely on business models that do not utilize “exploitative penalties,” Martinez noted that it can be difficult for these companies to break into the business and for customers to switch accounts—the CFPB looks to promote “vigorous competition” in this area.

Medical Debt and Credit Reporting: Consumers with unpaid medical bills, in addition to their concerns about hospital and insurance bureaucracy, often worry about the impact of their medical debt on their credit. The CFPB is “looking at everything” to find solutions to the intersecting problem of medical debt and credit reporting, the Deputy Director said, including evaluating whether unpaid medical debt should be included on credit reports at all.

Putting It Into Practice: The Deputy Director’s remarks serve as an important indicator of the CFPB’s enforcement priorities. Of particular note is the suggestion that the Bureau may consider asserting claims against nonbank parties in “rent-a-bank” schemes. In addition, a shift in the content included in credit reports would have significant impacts on consumers and lenders alike.

Credit reporting agencies and users of credit reports have received significant attention from the CFPB in recent months (we previously discussed this trend in previous blog posts here, here, and here). Today, the CFPB issued an Advisory Opinion to ensure that companies that use and share credit reports and background reports have a permissible purpose under FCRA. The CFPB’s new advisory opinion makes clear that credit reporting companies and users of credit reports have specific obligations to protect the public’s data privacy. The advisory also reminds covered entities of potential criminal liability for certain misconduct.