The CFPB's Enforcement Strategy Gleaned From Consumer Complaint Analytics

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On August 2, 2012, the Consumer Financial Protection Bureau (CFPB) issued its second Semi-Annual Report to Congress. The report provides an update on the CFPB's activities since its first report in January 2012 as required under the Dodd-Frank Wall Street Reform and Consumer Protection Act. Many of the agency's initiatives have been previously discussed, such as the implementation of statutory protections for consumers using financial products and services, and the launch of programs for supervising large banks and other financial companies. However, this report releases new analytics on consumer complaints related to certain financial products and services that provide valuable insight into the CFPB's likely enforcement strategy.

Between July 21, 2011 and June 20, 2012, the CFPB received approximately 55,300 consumer complaints. The largest category of complaints (43%) related to mortgages, of which transactions involving consumers' inability to pay (*i.e.*, loan modifications, collection, and foreclosure) were among the most common complaints. The report notes that consumer confusion persists around the process and requirements for obtaining loan modifications and refinancing, especially regarding document submission time frames, payment trial periods, allocations of payments, treatment of income in eligibility calculations, and credit bureau reporting during the evaluation period. These widespread consumer concerns were the likely impetus behind the CFPB's first enforcement action filed on July 18, 2012, against a law firm offering mortgage assistance relief services. According to the complaint, the firm engaged in an ongoing, unlawful mortgage relief scheme that falsely promised financially distressed homeowners a loan modification in exchange for an advance fee. This is likely the first of many enforcement actions involving loan modifications and foreclosure relief services.

Other possible enforcement targets are credit card companies and banking services engaging in unlawful financial practices. The agency reports that the second largest category of complaints (34%) related to credit cards, of which consumer billing disputes was the most common type of complaint (14%). Consumers are confused and frustrated by the process and limits to challenging inaccuracies on their monthly billing statements. The third largest category of complaints addressed bank account and service complaints (15%), of which the most common type of complaint related to the opening, closing, or managing of accounts. These complaints in particular addressed issues such as confusing marketing, denial, fees, statements, and joint accounts.

The CFPB's enforcement priorities are those violations of law that cause the greatest harm to consumers. It warns that investigations "currently underway span the full breadth of the Bureau's enforcement jurisdiction." However, companies implicated by consumer complaints are in large part reacting in a timely and sufficient manner. The report indicates that 90% of companies reported having closed 85% of the complaints submitted against them. Consequently, companies seeking to avoid becoming an enforcement target are advised to immediately address consumer complaints directed to them by the CFPB and to look for opportunities to mitigate consumer confusion in the processing and billing of financial products and services.