



## The CFPB Should Establish Procedures to Give Legal Certainty to Product Innovators\*

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The Dodd-Frank Act gives the Bureau of Consumer Financial Protection (Bureau) broad powers over consumer financial products and services. Not surprisingly, the scope of this authority can generate questions about the legality of newly emerging products and services. The Bureau should adopt procedures to help market innovators resolve these questions, and ensure that consumers have continued access to product and service innovations.

The Bureau was given broad powers to protect the consumers of financial products and services. Those powers include the authority to write rules and orders to carry out the “purposes and objectives” granted to the Bureau in the Dodd-Frank Act. Yet, many of those concepts are not defined in the Act.

The purpose statement in the Act provides that the Bureau is to ensure that all consumers have access to markets for consumer financial products and services and that those markets are “fair, transparent and competitive.” The objectives statement provides that the Bureau is to exercise its authority under federal consumer financial law to ensure that consumers have “timely” and “understandable” information to make “reasonable” decisions about financial transactions; are protected from “unfair, deceptive, or abusive” acts and practices and from “discrimination;” and that markets operate “transparently” and “efficiently” to facilitate access and innovation.

The ambiguity surrounding the meaning of these concepts can inhibit the development of new products and services. Absent some guidance by the Bureau, innovators may not be sure if a new product or service is “fair,” “trans-

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parent,” or “competitive,” or whether the information provided in connection with the product may be deemed to be “deceptive” or not “understandable.”

To address this problem, the Bureau should develop procedures that enable product and service innovators to get some legal guidance before new products and services are put on the market. Other federal agencies with broad powers, such as the Securities and Exchange Commission and the Consumer Products Safety Commission, have adopted such procedures (i.e., no-action letters and interpretive letters) to address similar situations. The Bureau has the statutory authority to do likewise. Product innovation can be beneficial to consumers, especially as technology changes and advances.

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