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REGULATION OF NON-DEPOSITORY COVERED PERSONS UNDER THE DODD-FRANK ACT

The jurisdiction and rulemaking authority of the Consumer Financial Protection Bureau under Title X of the Dodd-Frank Act specifically extends beyond depository institutions, and includes supervisory and enforcement powers over non-depository providers of consumer financial products and services. The authors discuss the scope of the CFPB's jurisdiction over non-depository institutions and key provisions of its newly issued Supervision and Examination Manual.

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Title X of the Dodd-Frank Act¹ reshaped the financial regulatory landscape by consolidating consumer financial protection authorities that had existed across seven different federal agencies into a new entity, the Consumer Financial Protection Bureau (the “CFPB” or the “Bureau”). The Bureau was established as an independent body to regulate the offering and provision of consumer financial products and services under the federal consumer financial laws, including Title X and its rules.² Among the authorities given to the Bureau to regulate such products and services are supervisory and enforcement powers over certain “non-depository” providers of financial products and services. This article

provides an overview of the CFPB’s authority to supervise and oversee entities that offer financial products and services that are not currently subject to a federal prudential regulator (generally referred to as “non-depository covered persons” or “non-depository financial institutions”).

BACKGROUND

Dodd-Frank generally enables the Bureau to carry out its consumer protection functions in two ways:³ The

¹ The Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub.L. No. 111-203, 124 Stat. 1376 (2010). Title X of the Act is primarily codified at 12 U.S.C. Section 5481 *et. seq.*

² *Id.* at § 1011, 124 Stat. 1964.

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³ The CFPB’s powers become effective at different times. While some of the Bureau’s authorities took effect when the Act was signed into law on July 21, 2010, most of the Bureau’s authorities were scheduled to go into effect on the “designated transfer date” determined by the Secretary, which was July 21, 2011. Designated Transfer Date, 75 Fed. Reg. 57,252 (Sept. 20, 2010).

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