Post-COVID compliance predictions

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The **Consumer Financial Protection Bureau** released a report in April evaluating the pandemic's effect on credit originations. After evaluating five million March credit records, including inquiries made by lenders in response to an application for credit, the CFPB found that, unsurprisingly, the pandemic's impact has been significant.

Auto loan inquiries dropped by 52% between the first and last weeks of March, the CFPB noted. The group of borrowers with credit scores below 500 experienced a 49% drop, and that of consumers with credit scores above 780 experienced a 67% drop. States in the Northeast and California, together with Michigan and Nevada, experienced the largest drops. Mississippi, Kansas, Oregon, Utah, and Idaho experienced more modest declines.

The CFPB speculated that a surge in unemployment and an increase in economic uncertainty has limited the demand for expenses like cars, which can be deferred, and that a drop in credit supply may have affected inquiries as lenders' perceptions of consumers' creditworthiness was impacted. Or, it is possible consumers held back on applying for credit because they expected to be turned down. Finally, the physical restrictions on movement and economic activity may have reduced the opportunity for sales.

The analysis further focused on credit inquiries because the available data did not reflect delinquencies or forbearances, which are lagging indicators. Hazarding a prediction on my part, it is probable that the next few months' originations may continue to be depressed. And when the servicing data becomes available, it will likely demonstrate that consumers have increased liquidity concerns. Regulators consequently may focus their attention on servicing and collection activities, which already are subject to new federal rules and short-term modifications to existing state rules.

The CARES Act and recently enacted state laws affect credit reporting, repossessions, and collection activity. Compliance is always important, of course, but pandemic-related allegations could result in pandemic-sized headlines. It is also possible that failure to follow those rules could be viewed as unfair or deceptive acts and practices (UDAP) or as unfair, deceptive, or abusive acts and practices (UDAAP). Additionally, when taking new measures to help consumers, it is important to ensure that the terms are clear and that the provisions are applicable and applied uniformly to similarly situated customers.

The CFPB's post-2008 mortgage servicing exams may provide context. The CFPB identified several unfair mortgage servicing acts and practices, including failure to honor loan modifications, failure to accurately assess borrower eligibility for loan modifications, and failure to apply payments promptly and accurately. Your compliance management system should be able to help you to avoid similar issues.

Finally, to the extent examination or enforcement activity addresses originations, the scope of review may include understanding any special offers or changes to processes intended to enhance profitability in challenging times. Marketing and consumer communications may be scrutinized. You may be able to avoid criticism if you scrutinize them first.

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Brian Fink