Dodd-Frank § 1400(c)(3) is ambiguous as to whether its January 21, 2013 effective date applies to a statutory provision where implementing regulations are not required. The key question is whether section 1400(c)(3) that sets the January 21, 2013 effective date refers only to section 1400(c)(1) and (c)(2) and thus to statutory provisions requiring regulations, or whether it applies to any Dodd-Frank title XIV provision, even those not requiring regulations.

Dodd-Frank § 1400(c)(3) states “[a] section of this title for which regulations have not been issued on the date that is 18 months after the designated transfer date shall take effect on such date.” Is this referring only to sections where regulations are required but not issued, or does it also refer to sections where regulations are not required and not even anticipated? If section 1400(c)(3) is inapplicable to a statutory provision not requiring regulations, then that provision’s effective date would be the Dodd-Frank Act’s default date of July 22, 2010. If section 1400(c)(3) applies, then the effective date would be January 21, 2013, unless an agency on its own initiative issues implementing regulations for the provision with an effective date before January 21, 2013.

Take for example the increase in the cap for statutory damages for certain TILA violations from $1,000 to $2,000 as found in title XIV. There are no required implementing regulations and it is even unclear whether there could be implementing regulations for such a provision. Did the increase in statutory damages go into effect July 22, 2010, or will it not go into effect until January 21, 2013? Or even later, if the CFPB issues a regulation on the subject before January 21, 2013 with a later effective date?

Footnotes


Source: National Consumer Law Center, Truth in Lending [10th ed.], updated at www.nclc.org/library
Source URL: https://library.nclc.org/il/01030401