

## Bur. of Consumer Financial Protection

## § 1082.1

and-desist order shall remain effective and enforceable until:

(1) The effective date of a final order issued upon the conclusion of the adjudication proceeding;

(2) With respect to a temporary cease-and-desist order issued pursuant to §1081.501(b) only, the Bureau determines by examination or otherwise that the books and records are accurate and reflect the financial condition of the respondent, and the Director or his or her designee issues an order terminating, limiting, or suspending the temporary cease-and-desist order.

### PART 1082—STATE OFFICIAL NOTIFICATION RULES

AUTHORITY: 12 U.S.C. 5481 *et seq.*

SOURCE: 77 FR 39116, June 29, 2012, unless otherwise noted.

#### § 1082.1 Procedures for notifying the Bureau of Consumer Financial Protection when a State Official takes an action to enforce title X of the Dodd-Frank Wall Street Reform and Consumer Financial Protection Act of 2010.

(a) *Notice requirement.* (1) Pursuant to 12 U.S.C. 5552(b) and except as provided in paragraph (b) of this section, every State attorney general and State regulator (State Official) shall provide the notice described in paragraph (c) of this section to the Office of Enforcement of the Bureau of Consumer Financial Protection (the Bureau), the office of the Bureau responsible for enforcement of Federal consumer financial law pursuant to title X of the Dodd-Frank Wall Street Reform and Consumer Financial Protection Act of 2010, as amended, Public Law 111-203 (July 21, 2010), codified at 12 U.S.C. 5481 *et seq.* (the Dodd-Frank Act), and the Office of the Executive Secretary of the Bureau at least ten calendar days prior to initiating any action against any covered person. For purposes of this section, an action requiring notification is any adjudicative proceeding before a court or an administrative or regulatory body to determine whether a violation of any provision of title X of the Dodd-Frank Act or any regulation prescribed thereunder has occurred. Initiating an action under this

section would include but not be limited to the filing of a complaint, motion for relief, or other document which initiates an action or a proceeding.

(2) Notice shall be provided to the Office of Enforcement and the Office of the Executive Secretary, or their successor offices, via electronic mail to *Enforcement@cfpb.gov* and *ExecSec@cfpb.gov*. In the event of technical problems preventing the delivery of notice, the Office of Enforcement or its successor entity should be contacted.

(3) On the same date that notice is provided to the Office of Enforcement and the Office of the Executive Secretary pursuant to paragraph (a)(1) of this section, a copy of the notice shall be sent to the relevant prudential regulator, if any, or the designee thereof, by mail or electronic mail.

(4) Notice shall be deemed to have been provided as of the date of transmitting or mailing the materials described in paragraph (c) of this section.

(5) The Office of Enforcement, or its successor entity, in consultation with a State Official, may provide, for good cause shown, an alternative deadline for the notice described in paragraph (a)(1) of this section.

(b) *Emergency actions.* (1) Pursuant to 12 U.S.C. 5552(b), in the event that a State Official initiates or intends to initiate an action and, in order to protect the public interest or prevent irreparable and imminent harm, is unable to provide timely notice as described in paragraph (a) of this section, the State Official shall provide the notice described in paragraph (c) of this section as soon as is practicable and not later than 48 hours after initiation of the action.

(2) Notice shall be provided in accordance with the procedures set forth in paragraphs (a)(2) through (4) of this section.

(3) The Office of Enforcement, or its successor entity, in consultation with a State Official, may provide, for good cause shown, an alternative deadline for the notice described in paragraph (b)(1) of this section.

(c) *Contents of notice.* (1) Pursuant to 12 U.S.C. 5552(b), the notice required

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under paragraphs (a) and (b) of this section shall include a written description of the anticipated action, including:

- (i) The court or body in which the action is to be initiated;
- (ii) The identity of the parties to the action;
- (iii) The nature of the action to be initiated;
- (iv) The anticipated date of initiating the action;
- (v) The alleged facts underlying the action;
- (vi) A contact name, electronic mail address, and phone number of an individual involved with the matter in the office of the State Official with whom the Bureau may consult;
- (vii) A determination as to whether there may be a need to coordinate the prosecution of the action so as not to interfere with any action, including any rulemaking, undertaken by the Bureau, a prudential regulator, or another Federal agency; and
- (viii) A statement by the State Official setting forth any limitations on the disclosure of the substance or fact of the notice to any person or entity outside of the recipient agency.

(2) The notice required under paragraphs (a) and (b) of this section shall further include a complete and unredacted copy of any complaint, motion for relief, or similar document that is the subject of the notice, in its form as of the date the notice is provided. To the extent the complaint, motion for relief, or similar document contains the information described in paragraph (c)(1) of this section, provision of the complaint, motion for relief, or similar document shall be deemed sufficient notice of that information.

(3) In the event that notice is provided after the initiation of an action, the written description shall also include the following, in addition to the information described in paragraph (c)(1) of this section:

- (i) A brief description of any proceeding that occurred as a result of the initiation of the action, including any orders issued by a court or other body;
- (ii) Any case number, matter number, or designation assigned to the action; and

(iii) Information on scheduled court or other administrative or regulatory proceedings.

(4) In the event that notice is provided after the initiation of an action, in addition to the requirements set forth in paragraph (c)(3) of this section, the notice shall further include a complete, unredacted copy of any document filed by any party in relation to the action and any orders issued by the court or other body.

(5) If the State Official, after providing the notice described in paragraphs (c)(1) and (c)(2) of this section, intends to file a complaint, motion for relief, or similar document that is materially different from the document included with the notice, the State Official shall provide a copy of that document prior to filing, in accordance with the method described in paragraph (a)(2) of this section.

(d) *Bureau response.* In any action described in paragraphs (a) and (b) of this section, the Bureau may:

- (1) Intervene in the action as a party;
- (2) Upon intervening,
  - (i) Remove the action to the appropriate United States district court, if the action was not originally brought there; and
  - (ii) Be heard on all matters arising in the action;
- (3) Appeal any order or judgment, to the same extent as any other party in the proceeding may; and
- (4) Otherwise participate in the action as appropriate.

(e) *Confidentiality and privilege.* (1) The information described in paragraph (c) of this section, including the complaint, motion for relief, or other document, as well as the fact that notice has been provided, shall be subject to any limitations on disclosure imposed by the State Official pursuant to paragraph (c)(1)(viii) of this section; provided, however, that the recipient may disclose such information:

- (i) As required by law;
- (ii) When the information is or becomes publicly available;
- (iii) With the consent of the State Official; or

(iv) To another State or Federal government entity when necessary to protect the public interest, after consultation with the State Official who provided the notice.

(2) Provision of notice by a State Official and disclosure of information pursuant to paragraph (e)(1) of this section shall not be deemed a waiver of any applicable privilege.

(f) *No private right of action or defense.* The requirements set forth in this section are not intended to, do not, and may not be relied upon to create any right, benefit, or defense, substantive or procedural, enforceable at law by a party against the United States or any State enforcing the provisions of the Dodd-Frank Act or any regulation prescribed thereunder.

**PART 1083—CIVIL PENALTY ADJUSTMENTS**

AUTHORITY: 12 U.S.C. 2609(d); 12 U.S.C. 5113(d)(2); 12 U.S.C. 5565(c); 15 U.S.C. 1639e(k); 15 U.S.C. 1717a(a); 28 U.S.C. 2461 note.

**§ 1083.1 Adjustments of civil penalty amounts.**

(a) The maximum amount of each civil penalty within the jurisdiction of the Bureau of Consumer Financial Protection to impose is adjusted in accordance with the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996 and further amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (28 U.S.C. 2461 note), as follows:

TABLE 1 TO PARAGRAPH (a)

U.S. Code citation	Civil penalty description	Adjusted maximum civil penalty amount
12 U.S.C. 5565(c)(2)(A)	Tier 1 penalty	\$5,781
12 U.S.C. 5565(c)(2)(B)	Tier 2 penalty	28,906
12 U.S.C. 5565(c)(2)(C)	Tier 3 penalty	1,156,242
15 U.S.C. 1717a(a)(2)	Per violation	2,014
15 U.S.C. 1717a(a)(2)	Annual cap	2,013,399
12 U.S.C. 2609(d)(1)	Per failure	94
12 U.S.C. 2609(d)(1)	Annual cap	189,427
12 U.S.C. 2609(d)(2)(A)	Per failure, where intentional	190
12 U.S.C. 5113(d)(2)	Per violation	29,192
15 U.S.C. 1639e(k)(1)	First violation	11,563
15 U.S.C. 1639e(k)(2)	Subsequent violations	23,125

(b) The adjustments in paragraph (a) of this section shall apply to civil penalties assessed after January 31, 2019, whose associated violations occurred on or after November 2, 2015.

[84 FR 520, Jan. 31, 2019]

**PART 1090—DEFINING LARGER PARTICIPANTS OF CERTAIN CONSUMER FINANCIAL PRODUCT AND SERVICE MARKETS**

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- 1090.108 Automobile financing market.

AUTHORITY: 12 U.S.C. 5514(a)(1)(B); 12 U.S.C. 5514(a)(2); 12 U.S.C. 5514(b)(7)(A); and 12 U.S.C. 5512(b)(1).

SOURCE: 77 FR 42898, July 20, 2012, unless otherwise noted.

**Subpart A—General**

**§ 1090.100 Scope and purpose.**

This part defines those nonbank covered persons that qualify as larger participants of certain markets for consumer financial products or services