Bur. of Consumer Financial Protection

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Source: 78 FR 11503, Feb. 15, 2013, unless otherwise noted.

Subpart A—General Provisions and Definitions

§ 1070.1 Authority, purpose, and scope.


(2) This part establishes mechanisms for carrying out the CFPB’s statutory responsibilities under the statutes in paragraph (a)(1) of this section to the extent those responsibilities require the disclosure, production, or withholding of information. In this regard, the CFPB has determined that the CFPB, and its delegates, may disclose information of the CFPB, in accordance with the procedures set forth in this part, whenever it is necessary or appropriate to do so in the exercise of any of the CFPB’s authority. The CFPB has determined that all such disclosures, made in accordance with the rules and procedures specified in this part, are authorized by law.

(b) Purpose and scope. This part contains the CFPB’s rules relating to the disclosure of records and information generated by and obtained by the CFPB.

(1) Subpart A contains general provisions and definitions used in this part.


(3) Subpart C sets forth the procedures with respect to subpoenas, orders, or other requests for CFPB information in connection with legal proceedings.

(4) Subpart D provides for the protection of confidential information and procedures for sharing confidential information with supervised institutions, government Agencies, and others in certain circumstances.


[83 FR 46084, Sept. 12, 2018]

§ 1070.2 General definitions.

For purposes of this part:

(a) Business day means any day except Saturday, Sunday or a legal Federal holiday.

(b) CFPB means the Bureau of Consumer Financial Protection.
(c) Chief FOIA Officer means the Chief Operating Officer of the CFPB.

(d) Chief Operating Officer means the Chief Operating Officer of the CFPB, or any CFPB employee to whom the Chief Operating Officer has delegated authority to act under this part.

(e) Civil investigative demand material means any documentary material, written report, or answers to questions, tangible thing, or transcript of oral testimony received by the CFPB in any form or format pursuant to a civil investigative demand, as those terms are set forth in 12 U.S.C. 5562, or received by the CFPB voluntarily in lieu of a civil investigative demand.

(f) Confidential information means confidential consumer complaint information, confidential investigative information, and confidential supervisory information, as well as any other CFPB information that may be exempt from disclosure under the Freedom of Information Act pursuant to 5 U.S.C. 552(b). Confidential information does not include information contained in records that have been made publicly available by the CFPB or information that has otherwise been publicly disclosed by an employee with the authority to do so.

(g) Confidential consumer complaint information means information received or generated by the CFPB, pursuant to 12 U.S.C. 5493 and 5534, that comprises documents or information concerning financial institutions or consumer financial products and services and responses thereto, to the extent that such information is exempt from disclosure pursuant to 5 U.S.C. 552(b).

(h) Confidential investigative information means:

(1) Civil investigative demand material; and

(2) Any documentary material prepared by, on behalf of, received by, or for the use by the CFPB or any other Federal or State agency in the conduct of an investigation or enforcement action against a person, and any information derived from such documents.

(i) Confidential supervisory information means:

(1) Reports of examination, inspection, and visitation, non-public operating, condition, and compliance reports, and any information contained in, derived from, or related to such reports;

(ii) Any documents, including reports of examination, prepared by, or on behalf of, or for the use of the CFPB or any other Federal, State, or foreign government agency in the exercise of supervisory authority over a financial institution, and any information derived from such documents;

(iii) Any communications between the CFPB and a supervised financial institution or a Federal, State, or foreign government agency related to the CFPB’s supervision of the institution;

(iv) Any information provided to the CFPB by a financial institution to enable the CFPB to monitor for risks to consumers in the offering or provision of consumer financial products or services, or to assess whether an institution should be considered a covered person, as that term is defined by 12 U.S.C. 5481, or is subject to the CFPB’s supervisory authority; and/or

(v) Information that is exempt from disclosure pursuant to 5 U.S.C. 552(b)(8).

(2) Confidential supervisory information does not include documents prepared by a financial institution for its own business purposes and that the CFPB does not possess.

(j) Director means the Director of the CFPB or his or her designee, or a person authorized to perform the functions of the Director in accordance with law.

(k) Employee means all current employees or officials of the CFPB, including employees of contractors and any other individuals who have been appointed by, or are subject to the supervision, jurisdiction, or control of the Director, as well as the Director. The procedures established within this part also apply to former employees where specifically noted.

(l) Financial institution means any person involved in the offering or provision of a “financial product or service,” including a “covered person” or “service provider,” as those terms are defined by 12 U.S.C. 5481.

(m) General Counsel means the General Counsel of the CFPB or any CFPB employee to whom the General Counsel
§ 1070.5 Service of summonses and complaints.

(a) Only the General Counsel is authorized to receive and accept summonses or complaints sought to be served upon the CFPB or CFPB employees sued in their official capacity. Such documents should be served upon the General Counsel, Consumer Financial Protection Bureau, 1700 G Street NW, Washington, DC 20552. This authorization for receipt shall in no way affect the requirements of service elsewhere provided in applicable rules and regulations.

(b) If, notwithstanding paragraph (a) of this section, any summons or complaint described in that paragraph is delivered to an employee of the CFPB, the employee shall decline to accept the proffered service and may notify the person attempting to make service of the regulations set forth herein. If, notwithstanding this instruction, an employee accepts service of a document described in paragraph (a) of this section, the employee shall immediately notify and deliver a copy of the summons and complaint to the General Counsel.

(c) When a CFPB employee is sued in an individual capacity for an act or omission occurring in connection with duties performed on behalf of the CFPB (whether or not the officer or employee is also sued in an official capacity), the employee by law is to be served personally with process. See Fed. R. Civ. P. 4(l)(3). An employee sued in an individual capacity for an act or omission occurring in connection with duties performed on behalf of the CFPB shall immediately notify, and deliver a copy of the summons and complaint to, the General Counsel.

(d) The CFPB will only accept service of process for an employee sued in his or her official capacity. Documents for which the General Counsel accepts service in official capacity shall be marked “Service Accepted in Official
§ 1070.10 Capacity Only.” Acceptance of service shall not constitute an admission or waiver with respect to jurisdiction, propriety of service, improper venue, or any other defense in law or equity available under applicable laws or rules.

[83 FR 46084, Sept. 12, 2018]

Subpart B—Freedom of Information Act

§ 1070.10 General.

This subpart contains the regulations of the CFPB implementing the Freedom of Information Act (the FOIA), 5 U.S.C. 552, as amended. These regulations set forth procedures for requesting access to records maintained by the CFPB. These regulations should be read together with the FOIA, the 1987 Office of Management and Budget Guidelines for FOIA Fees, the CFPB’s Privacy Act regulations set forth in subpart E of this part, and the FOIA web page on the CFPB’s website, http://www.consumerfinance.gov, which provide additional information about this topic.

§ 1070.11 Information made available; discretionary disclosures.

(a) In general. The FOIA provides for public access to information and records developed or maintained by Federal agencies. Generally, the FOIA divides agency information into three major categories and provides methods by which each category of information is to be made available to the public. The three major categories of information are as follows:

(1) Information required to be published in the Federal Register (see §1070.12);

(2) Information required to be made available for public inspection in an electronic format or, in the alternative, to be published and offered for sale (see §1070.13); and

(3) Information required to be made available to any member of the public upon specific request (see §§1070.14 through 1070.22).

(b) Discretionary disclosures. Even though a FOIA exemption may apply to the information or records requested, the CFPB may, if not precluded by law, elect under the circumstances not to apply the exemption. The fact that the exemption is not applied by the CFPB in response to a particular request shall have no preclusive significance in processing other requests.

(c) Disclosures of records frequently requested. Subject to the application of the FOIA exemptions and exclusions (5 U.S.C. 552(b) and (c)), the CFPB shall make publicly available, as provided by §1070.13, all records regardless of form or format, which have been released previously to any person under 5 U.S.C. 552(a)(3) and §§1070.14 through 1070.22, and which the CFPB determines have become or are likely to become the subject of subsequent requests for substantially the same records. When the CFPB receives three (3) or more requests for substantially the same records, then the CFPB shall also make the released records publicly available.

§ 1070.12 Publication in the Federal Register.

(a) Requirement. The CFPB shall separately state, publish and maintain current in the Federal Register for the guidance of the public the following information:

(1) Descriptions of its central and field organization and the established place at which, the persons from whom, and the methods whereby, the public may obtain information, make submissions or requests, or obtain decisions;

(2) Statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;

(3) Rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

(4) Substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the CFPB; and