

(§§1021–1029A), enacting this part] shall become effective on the designated transfer date, except that sections 1022, 1024, and 1025(e) [12 U.S.C. 5512, 5514, and 5515(e)] shall become effective on the date of enactment of this Act [July 21, 2010].”

[The term “designated transfer date” is defined in section 5481(9) of this title as the date established under section 5582 of this title.]

§ 5512. Rulemaking authority

(a) In general

The Bureau is authorized to exercise its authorities under Federal consumer financial law to administer, enforce, and otherwise implement the provisions of Federal consumer financial law.

(b) Rulemaking, orders, and guidance

(1) General authority

The Director may prescribe rules and issue orders and guidance, as may be necessary or appropriate to enable the Bureau to administer and carry out the purposes and objectives of the Federal consumer financial laws, and to prevent evasions thereof.

(2) Standards for rulemaking

In prescribing a rule under the Federal consumer financial laws—

(A) the Bureau shall consider—

(i) the potential benefits and costs to consumers and covered persons, including the potential reduction of access by consumers to consumer financial products or services resulting from such rule; and

(ii) the impact of proposed rules on covered persons, as described in section 5516 of this title, and the impact on consumers in rural areas;

(B) the Bureau shall consult with the appropriate prudential regulators or other Federal agencies prior to proposing a rule and during the comment process regarding consistency with prudential, market, or systemic objectives administered by such agencies; and

(C) if, during the consultation process described in subparagraph (B), a prudential regulator provides the Bureau with a written objection to the proposed rule of the Bureau or a portion thereof, the Bureau shall include in the adopting release a description of the objection and the basis for the Bureau decision, if any, regarding such objection, except that nothing in this clause shall be construed as altering or limiting the procedures under section 5513 of this title that may apply to any rule prescribed by the Bureau.

(3) Exemptions

(A) In general

The Bureau, by rule, may conditionally or unconditionally exempt any class of covered persons, service providers, or consumer financial products or services, from any provision of this title,¹ or from any rule issued under this title,¹ as the Bureau determines necessary or appropriate to carry out the

purposes and objectives of this title,¹ taking into consideration the factors in subparagraph (B).

(B) Factors

In issuing an exemption, as permitted under subparagraph (A), the Bureau shall, as appropriate, take into consideration—

(i) the total assets of the class of covered persons;

(ii) the volume of transactions involving consumer financial products or services in which the class of covered persons engages; and

(iii) existing provisions of law which are applicable to the consumer financial product or service and the extent to which such provisions provide consumers with adequate protections.

(4) Exclusive rulemaking authority

(A) In general

Notwithstanding any other provisions of Federal law and except as provided in section 5581(b)(5) of this title, to the extent that a provision of Federal consumer financial law authorizes the Bureau and another Federal agency to issue regulations under that provision of law for purposes of assuring compliance with Federal consumer financial law and any regulations thereunder, the Bureau shall have the exclusive authority to prescribe rules subject to those provisions of law.

(B) Deference

Notwithstanding any power granted to any Federal agency or to the Council under this title,¹ and subject to section 5581(b)(5)(E) of this title, the deference that a court affords to the Bureau with respect to a determination by the Bureau regarding the meaning or interpretation of any provision of a Federal consumer financial law shall be applied as if the Bureau were the only agency authorized to apply, enforce, interpret, or administer the provisions of such Federal consumer financial law.

(c) Monitoring

(1) In general

In order to support its rulemaking and other functions, the Bureau shall monitor for risks to consumers in the offering or provision of consumer financial products or services, including developments in markets for such products or services.

(2) Considerations

In allocating its resources to perform the monitoring required by this section, the Bureau may consider, among other factors—

(A) likely risks and costs to consumers associated with buying or using a type of consumer financial product or service;

(B) understanding by consumers of the risks of a type of consumer financial product or service;

(C) the legal protections applicable to the offering or provision of a consumer financial product or service, including the extent to which the law is likely to adequately protect consumers;

¹ See References in Text note below.

(D) rates of growth in the offering or provision of a consumer financial product or service;

(E) the extent, if any, to which the risks of a consumer financial product or service may disproportionately affect traditionally underserved consumers; or

(F) the types, number, and other pertinent characteristics of covered persons that offer or provide the consumer financial product or service.

(3) Significant findings

(A) In general

The Bureau shall publish not fewer than 1 report of significant findings of its monitoring required by this subsection in each calendar year, beginning with the first calendar year that begins at least 1 year after the designated transfer date.

(B) Confidential information

The Bureau may make public such information obtained by the Bureau under this section as is in the public interest, through aggregated reports or other appropriate formats designed to protect confidential information in accordance with paragraphs (4), (6), (8), and (9).

(4) Collection of information

(A) In general

In conducting any monitoring or assessment required by this section, the Bureau shall have the authority to gather information from time to time regarding the organization, business conduct, markets, and activities of covered persons and service providers.

(B) Methodology

In order to gather information described in subparagraph (A), the Bureau may—

(i) gather and compile information from a variety of sources, including examination reports concerning covered persons or service providers, consumer complaints, voluntary surveys and voluntary interviews of consumers, surveys and interviews with covered persons and service providers, and review of available databases; and

(ii) require covered persons and service providers participating in consumer financial services markets to file with the Bureau, under oath or otherwise, in such form and within such reasonable period of time as the Bureau may prescribe by rule or order, annual or special reports, or answers in writing to specific questions, furnishing information described in paragraph (4), as necessary for the Bureau to fulfill the monitoring, assessment, and reporting responsibilities imposed by Congress.

(C) Limitation

The Bureau may not use its authorities under this paragraph to obtain records from covered persons and service providers participating in consumer financial services markets for purposes of gathering or analyzing

the personally identifiable financial information of consumers.

(5) Limited information gathering

In order to assess whether a nondepository is a covered person, as defined in section 5481 of this title, the Bureau may require such nondepository to file with the Bureau, under oath or otherwise, in such form and within such reasonable period of time as the Bureau may prescribe by rule or order, annual or special reports, or answers in writing to specific questions.

(6) Confidentiality rules

(A) Rulemaking

The Bureau shall prescribe rules regarding the confidential treatment of information obtained from persons in connection with the exercise of its authorities under Federal consumer financial law.

(B) Access by the Bureau to reports of other regulators

(i) Examination and financial condition reports

Upon providing reasonable assurances of confidentiality, the Bureau shall have access to any report of examination or financial condition made by a prudential regulator or other Federal agency having jurisdiction over a covered person or service provider, and to all revisions made to any such report.

(ii) Provision of other reports to the Bureau

In addition to the reports described in clause (i), a prudential regulator or other Federal agency having jurisdiction over a covered person or service provider may, in its discretion, furnish to the Bureau any other report or other confidential supervisory information concerning any insured depository institution, credit union, or other entity examined by such agency under authority of any provision of Federal law.

(C) Access by other regulators to reports of the Bureau

(i) Examination reports

Upon providing reasonable assurances of confidentiality, a prudential regulator, a State regulator, or any other Federal agency having jurisdiction over a covered person or service provider shall have access to any report of examination made by the Bureau with respect to such person, and to all revisions made to any such report.

(ii) Provision of other reports to other regulators

In addition to the reports described in clause (i), the Bureau may, in its discretion, furnish to a prudential regulator or other agency having jurisdiction over a covered person or service provider any other report or other confidential supervisory information concerning such person examined by the Bureau under the authority of any other provision of Federal law.

(7) Registration**(A) In general**

The Bureau may prescribe rules regarding registration requirements applicable to a covered person, other than an insured depository institution, insured credit union, or related person.

(B) Registration information

Subject to rules prescribed by the Bureau, the Bureau may publicly disclose registration information to facilitate the ability of consumers to identify covered persons that are registered with the Bureau.

(C) Consultation with State agencies

In developing and implementing registration requirements under this paragraph, the Bureau shall consult with State agencies regarding requirements or systems (including coordinated or combined systems for registration), where appropriate.

(8) Privacy considerations

In collecting information from any person, publicly releasing information held by the Bureau, or requiring covered persons to publicly report information, the Bureau shall take steps to ensure that proprietary, personal, or confidential consumer information that is protected from public disclosure under section 552(b) or 552a of title 5 or any other provision of law, is not made public under this title.¹

(9) Consumer privacy**(A) In general**

The Bureau may not obtain from a covered person or service provider any personally identifiable financial information about a consumer from the financial records of the covered person or service provider, except—

(i) if the financial records are reasonably described in a request by the Bureau and the consumer provides written permission for the disclosure of such information by the covered person or service provider to the Bureau; or

(ii) as may be specifically permitted or required under other applicable provisions of law and in accordance with the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 et seq.).

(B) Treatment of covered person or service provider

With respect to the application of any provision of the Right to Financial Privacy Act of 1978,² to a disclosure by a covered person or service provider subject to this subsection, the covered person or service provider shall be treated as if it were a “financial institution”, as defined in section 1101 of that Act (12 U.S.C. 3401).

(d) Assessment of significant rules**(1) In general**

The Bureau shall conduct an assessment of each significant rule or order adopted by the Bureau under Federal consumer financial law. The assessment shall address, among other

relevant factors, the effectiveness of the rule or order in meeting the purposes and objectives of this title¹ and the specific goals stated by the Bureau. The assessment shall reflect available evidence and any data that the Bureau reasonably may collect.

(2) Reports

The Bureau shall publish a report of its assessment under this subsection not later than 5 years after the effective date of the subject rule or order.

(3) Public comment required

Before publishing a report of its assessment, the Bureau shall invite public comment on recommendations for modifying, expanding, or eliminating the newly adopted significant rule or order.

(Pub. L. 111-203, title X, §1022, July 21, 2010, 124 Stat. 1980.)

REFERENCES IN TEXT

This title, where footnoted in subsecs. (b)(3)(A), (4)(B), (c)(8), and (d)(1), is title X of Pub. L. 111-203, July 21, 2010, 124 Stat. 1955, known as the Consumer Financial Protection Act of 2010, which enacted this subchapter and enacted, amended, and repealed numerous other sections and notes in the Code. For complete classification of title X to the Code, see Short Title note set out under section 5301 of this title and Tables.

The Right to Financial Privacy Act of 1978, referred to in subsec. (c)(9)(A)(ii), (B), is title XI of Pub. L. 95-630, Nov. 10, 1978, 92 Stat. 3697, which is classified generally to chapter 35 (§3401 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3401 of this title and Tables.

EFFECTIVE DATE

Section effective July 21, 2010, see section 1029A of Pub. L. 111-203, set out as a note under section 5511 of this title.

DESIGNATION OF RURAL AREA

Pub. L. 114-94, div. G, title LXXXIX, §89002, Dec. 4, 2015, 129 Stat. 1799, provided that:

“(a) APPLICATION.—Not later than 90 days after the date of the enactment of this Act [Dec. 4, 2015], the Bureau of Consumer Financial Protection shall establish an application process under which a person who lives or does business in a State may, with respect to an area identified by the person in such State that has not been designated by the Bureau as a rural area for purposes of a Federal consumer financial law (as defined under section 1002 of the Consumer Financial Protection Act of 2010 [12 U.S.C. 5481]), apply for such area to be so designated.

“(b) EVALUATION CRITERIA.—When evaluating an application submitted under subsection (a), the Bureau shall take into consideration the following factors:

“(1) Criteria used by the Director of the Bureau of the Census for classifying geographical areas as rural or urban.

“(2) Criteria used by the Director of the Office of Management and Budget to designate counties as metropolitan or micropolitan or neither.

“(3) Criteria used by the Secretary of Agriculture to determine property eligibility for rural development programs.

“(4) The Department of Agriculture rural-urban commuting area codes.

“(5) A written opinion provided by the State’s bank supervisor, as defined under section 3(r) of the Federal Deposit Insurance Act (12 U.S.C. 1813(r)).

“(6) Population density.

“(c) RULE OF CONSTRUCTION.—If, at any time prior to the submission of an application under subsection (a),

² So in original. The comma probably should not appear.

the area subject to review has been designated as nonrural by any Federal agency described under subsection (b) using any of the criteria described under subsection (b), the Bureau shall not be required to consider such designation in its evaluation.

“(d) PUBLIC COMMENT PERIOD.—

“(1) IN GENERAL.—Not later than 60 days after receiving an application submitted under subsection (a), the Bureau shall—

“(A) publish such application in the Federal Register; and

“(B) make such application available for public comment for not fewer than 90 days.

“(2) LIMITATION ON ADDITIONAL APPLICATIONS.—Nothing in this section shall be construed to require the Bureau, during the public comment period with respect to an application submitted under subsection (a), to accept an additional application with respect to the area that is the subject of the initial application.

“(e) DECISION ON DESIGNATION.—Not later than 90 days after the end of the public comment period under subsection (d)(1) for an application, the Bureau shall—

“(1) grant or deny such application, in whole or in part; and

“(2) publish such grant or denial in the Federal Register, along with an explanation of what factors the Bureau relied on in making such determination.

“(f) SUBSEQUENT APPLICATIONS.—A decision by the Bureau under subsection (e) to deny an application for an area to be designated as a rural area shall not preclude the Bureau from accepting a subsequent application submitted under subsection (a) for such area to be so designated, so long as such subsequent application is made after the end of the 90-day period beginning on the date that the Bureau denies the application under subsection (e).

“(g) SUNSET.—This section shall cease to have any force or effect after the end of the 2-year period beginning on the date of the enactment of this Act.”

§ 5513. Review of Bureau regulations

(a) Review of Bureau regulations

On the petition of a member agency of the Council, the Council may set aside a final regulation prescribed by the Bureau, or any provision thereof, if the Council decides, in accordance with subsection (c), that the regulation or provision would put the safety and soundness of the United States banking system or the stability of the financial system of the United States at risk.

(b) Petition

(1) Procedure

An agency represented by a member of the Council may petition the Council, in writing, and in accordance with rules prescribed pursuant to subsection (f), to stay the effectiveness of, or set aside, a regulation if the member agency filing the petition—

(A) has in good faith attempted to work with the Bureau to resolve concerns regarding the effect of the rule on the safety and soundness of the United States banking system or the stability of the financial system of the United States; and

(B) files the petition with the Council not later than 10 days after the date on which the regulation has been published in the Federal Register.

(2) Publication

Any petition filed with the Council under this section shall be published in the Federal

Register and transmitted contemporaneously with filing to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.

(c) Stays and set asides

(1) Stay

(A) In general

Upon the request of any member agency, the Chairperson of the Council may stay the effectiveness of a regulation for the purpose of allowing appropriate consideration of the petition by the Council.

(B) Expiration

A stay issued under this paragraph shall expire on the earlier of—

(i) 90 days after the date of filing of the petition under subsection (b); or

(ii) the date on which the Council makes a decision under paragraph (3).

(2) No adverse inference

After the expiration of any stay imposed under this section, no inference shall be drawn regarding the validity or enforceability of a regulation which was the subject of the petition.

(3) Vote

(A) In general

The decision to issue a stay of, or set aside, any regulation under this section shall be made only with the affirmative vote in accordance with subparagraph (B) of $\frac{2}{3}$ of the members of the Council then serving.

(B) Authorization to vote

A member of the Council may vote to stay the effectiveness of, or set aside, a final regulation prescribed by the Bureau only if the agency or department represented by that member has—

(i) considered any relevant information provided by the agency submitting the petition and by the Bureau; and

(ii) made an official determination, at a public meeting where applicable, that the regulation which is the subject of the petition would put the safety and soundness of the United States banking system or the stability of the financial system of the United States at risk.

(4) Decisions to set aside

(A) Effect of decision

A decision by the Council to set aside a regulation prescribed by the Bureau, or provision thereof, shall render such regulation, or provision thereof, unenforceable.

(B) Timely action required

The Council may not issue a decision to set aside a regulation, or provision thereof, which is the subject of a petition under this section after the expiration of the later of—

(i) 45 days following the date of filing of the petition, unless a stay is issued under paragraph (1); or

(ii) the expiration of a stay issued by the Council under this section.