

Consumer Financial Protection Bureau

Pt. 1074

§1073.206 and in accordance with 31 U.S.C. 3717 and 31 CFR parts 900 through 904.

§ 1073.310 Refunds.

(a) Where the Bureau is the creditor agency, it shall promptly refund any amount deducted under the authority of 5 U.S.C. 5514 when the debt is waived or otherwise found not to be owing to the United States (unless expressly prohibited by statute or regulation), or when an administrative or judicial order directs the Bureau to refund amounts deducted from the employee's current pay.

(b) Unless required by law or contract, such refunds shall not bear interest.

§ 1073.311 Non-waiver of rights by payment.

An employee's involuntary payment of all or any portion of a debt being collected under 5 U.S.C. 5514 shall not be construed as a waiver of any rights which the employee may have under 5 U.S.C. 5514 or any other provision of contract or law, unless there are statutory or contractual provisions to the contrary.

§ 1073.312 Exception to procedures.

(a) The procedures set forth in this subpart shall not apply to the following:

(1) Any adjustment to pay arising out of an employee's election of coverage or a change in coverage under a Federal benefits program requiring periodic deductions from pay, if the amount to be recovered was accumulated over four pay periods or less;

(2) A routine intra-agency adjustment of pay that is made to correct an overpayment attributable to clerical or administrative errors or delays in processing pay documents, if the overpayment occurred within the four pay periods preceding the adjustment and, at the time of such adjustment, or as soon thereafter as practical, the individual is provided written notice of the nature and amount of the adjustment and a point of contact for contesting such adjustment; or

(3) Any adjustment to collect a debt amounting to \$50 or less, if, at the time of such adjustment, or as soon there-

after as practical, the individual is provided written notice of the nature and amount of the adjustment and a point of contact for contesting such adjustment.

(b) In the event of a negative adjustment to pay, as described in subsection (a)(1), the Bureau will provide a clear and concise statement in the employee's earnings statement advising the employee of the previous overpayment at the time the adjustment is made.

Subpart D—Administrative Wage Garnishment

§ 1073.401 Administrative wage garnishment.

The Director may collect debts from a debtor's wages by means of administrative wage garnishment in accordance with the requirements of 31 U.S.C. 3720D under the procedures established in 31 CFR 285.11.

Subpart E—Tax Refund Offset

§ 1073.501 Tax refund offset.

The provisions of 26 U.S.C. 6402(d) and 31 U.S.C. 3720A authorize the Secretary of the Treasury to offset a debt owed to the United States Government from the tax refund due a taxpayer. The Director may administer tax refund offsets in accordance with the requirements of 31 U.S.C. 3720A under the procedures established in 31 CFR 285.2.

PART 1074—RULEMAKING AND GUIDANCE

Subpart A—Procedure for Issuance of Bureau Rules

Sec.

1074.1 Date of issuance of Bureau rules.

Subpart B—Use of Supervisory Guidance

1074.2 Purpose.

1074.3 Implementation of the Statement Clarifying the Role of Supervisory Guidance.

APPENDIX A TO PART 1074—STATEMENT CLARIFYING THE ROLE OF SUPERVISORY GUIDANCE

AUTHORITY: 12 U.S.C. 5492(a)(1), 5512(b).

SOURCE: 77 FR 76354, Dec. 28, 2012, unless otherwise noted.

Subpart A—Procedure for Issuance of Bureau Rules

§ 1074.1 Date of issuance of Bureau rules.

A final Bureau of Consumer Financial Protection (Bureau) rule is deemed issued upon the earlier of the following:

- (a) When the final rule is posted on the Bureau's Web site; or
- (b) When the final rule is published in the FEDERAL REGISTER.

Subpart B—Use of Supervisory Guidance

SOURCE: 86 FR 9268, Feb. 12, 2021, unless otherwise noted.

§ 1074.2 Purpose.

The Bureau issues regulations and guidance as part of its supervisory function. This subpart reiterates the distinctions between regulations and guidance, as stated in the Statement Clarifying the Role of Supervisory Guidance (appendix A to this part) (Statement), and provides that the Statement is binding on the Bureau.

§ 1074.3 Implementation of the Statement Clarifying the Role of Supervisory Guidance.

The Statement describes the official policy of the Bureau with respect to the use of supervisory guidance in the supervisory process. The Statement is binding on the Bureau.

APPENDIX A TO PART 1074—STATEMENT CLARIFYING THE ROLE OF SUPERVISORY GUIDANCE

STATEMENT CLARIFYING THE ROLE OF SUPERVISORY GUIDANCE

The Bureau is issuing this statement to explain the role of supervisory guidance and to describe the Bureau's approach to supervisory guidance.

Difference Between Supervisory Guidance and Laws or Regulations

Supervisory agencies like the Bureau issue various types of supervisory guidance, including interagency statements, advisories, bulletins, policy statements, questions and answers, or frequently asked questions, to their respective supervised institutions. A law or regulation has the force and effect of

law.¹ Unlike a law or regulation, supervisory guidance does not have the force and effect of law, and the Bureau does not take enforcement actions based on supervisory guidance. Rather, supervisory guidance outlines the Bureau's supervisory expectations or priorities and articulates the Bureau's general views regarding appropriate practices for a given subject area. Supervisory guidance often provides examples of practices that the Bureau generally considers consistent with applicable laws and regulations, including those designed to protect consumers. Supervised institutions at times request supervisory guidance, and such guidance is important to provide insight to industry, as well as supervisory staff, in a transparent way that helps to ensure consistency in the supervisory approach.

Ongoing Efforts To Clarify the Role of Supervisory Guidance

The Bureau is clarifying the following policies and practices related to supervisory guidance:

- The Bureau intends to limit the use of numerical thresholds or other “bright-lines” in describing expectations in supervisory guidance. Where numerical thresholds are used, the Bureau intends to clarify that the thresholds are exemplary only and not suggestive of requirements. The Bureau will continue to use numerical thresholds to tailor, and otherwise make clear, the applicability of supervisory guidance or programs to supervised institutions, and as required by statute.
- Examiners will not criticize (through the issuance of matters requiring attention, matters requiring immediate attention, matters requiring board attention, documents of resolution, and supervisory recommendations) a supervised financial institution for, and the Bureau will not issue an enforcement action on the basis of, a “violation” of or “non-compliance” with supervisory guidance. In some situations, examiners may reference (including in writing) supervisory guidance to provide examples of appropriate consumer protection and risk management practices and other actions for addressing compliance with laws or regulations.
- Supervisory criticisms should continue to be specific as to practices, operations or other matters that could cause consumer harm or could cause violations of laws, regulations, final agency orders, or other legally enforceable conditions.
- The Bureau may decide to seek public comment on supervisory guidance. Seeking public comment on supervisory guidance does not mean that the guidance is intended to be a regulation or have the force and effect of law. The comment process helps the Bureau to improve its understanding of an issue, to gather information on institutions' risk management practices, or to seek ways

Consumer Financial Protection Bureau

§ 1075.101

to achieve a supervisory objective most effectively and with the least burden on institutions.

- The Bureau will aim to reduce the issuance of multiple supervisory guidance documents on the same topic and will generally limit such multiple issuances going forward.

- The Bureau will continue efforts to make the role of supervisory guidance clear in communications to examiners and to supervised financial institutions and encourages supervised institutions with questions about this statement or any applicable supervisory guidance to discuss the questions with their appropriate agency contact.

[86 FR 9268, Feb. 12, 2021]

PART 1075—CONSUMER FINANCIAL CIVIL PENALTY FUND RULE

Sec.

1075.100 Scope and purpose.

1075.101 Definitions.

1075.102 Fund administrator.

1075.103 Eligible victims.

1075.104 Payments to victims.

1075.105 Allocating funds from the Civil Penalty Fund—in general.

1075.106 Allocating funds to classes of victims.

1075.107 Allocating funds to consumer education and financial literacy programs.

1075.108 Distributing payments to victims.

1075.109 When payments to victims are impracticable.

1075.110 Reporting requirements.

AUTHORITY: 12 U.S.C. 5512(b)(1), 5497(d).

SOURCE: 78 FR 26501, May 7, 2013, unless otherwise noted.

§ 1075.100 Scope and purpose.

Section 1017(d)(1) of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, Public Law 111–203, 124 Stat. 1978 (12 U.S.C. 5497(d)) (Dodd-Frank Act) establishes the “Consumer Financial Civil Penalty Fund.” This part describes the conditions under which victims will be eligible for payments from the Consumer Financial Civil Penalty Fund and the amounts of the payments they may receive. This part also establishes procedures and guidelines for allocating funds from the Consumer Financial Civil Penalty Fund to classes of victims and distributing such funds to individual victims, and for allocating funds to consumer education and financial literacy pro-

grams. This part also establishes reporting requirements.

§ 1075.101 Definitions.

For the purposes of this part, the following definitions apply:

Bureau means the Bureau of Consumer Financial Protection.

Bureau enforcement action means any judicial or administrative action or proceeding in which the Bureau has obtained relief with respect to a violation.

Chief Financial Officer means the Chief Financial Officer of the Bureau or any Bureau employee to whom that officer has delegated authority to act under this part. In the absence of a Chief Financial Officer of the Bureau, the Director shall designate an alternative official of the Bureau to perform the functions of the Chief Financial Officer under this part.

Civil Penalty Fund means the Consumer Financial Civil Penalty Fund established by 12 U.S.C. 5497(d).

Civil Penalty Fund Governance Board means the body, comprised of senior Bureau officials, established by the Director of the Bureau to advise on matters relating to the Civil Penalty Fund.

Class of victims means a group of similarly situated victims who suffered harm from the same or similar violations for which the Bureau obtained relief in a Bureau enforcement action.

Defendant means a party in a Bureau enforcement action that is found or alleged to have committed a violation.

Final order means a consent order or settlement issued by a court or by the Bureau, or an appealable order issued by a court or by the Bureau as to which the time for filing an appeal has expired and no appeals are pending. For purposes of this definition, “appeals” include petitions for reconsideration, review, rehearing, and certiorari.

Person means an individual, partnership, company, corporation, association (incorporated or unincorporated), trust, estate, cooperative organization, or other entity.

Redress means any amounts—including but not limited to restitution, refunds, and damages—that a final order requires a defendant:

(1) To distribute, credit, or otherwise pay to those harmed by a violation; or