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defined in 12 U.S.C. 5519(f)(1)), the leasing and servicing of motor vehicles, or both.

[80 FR 37526, June 30, 2015]

PART 1091—PROCEDURAL RULE TO ESTABLISH SUPERVISORY AUTHORITY OVER CERTAIN NONBANK COVERED PERSONS BASED ON RISK DETERMINATION

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AUTHORITY: 12 U.S.C. 5512(b)(1), 5514(a)(1)(C), 5514(b)(7).

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Subpart A—General

§ 1091.100 Scope and purpose.

This part sets forth procedures to implement section 1024(a)(1)(C) of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, Public Law 111-203 (12 U.S.C. 5514(a)(1)(C)) (Dodd-Frank Act), and establishes

rules to facilitate the Bureau's supervisory authority over certain nonbank covered persons pursuant to section 1024(b)(7) of the Dodd-Frank Act (12 U.S.C. 5514(b)(7)).

§ 1091.101 Definitions.

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

Assistant Director means an Assistant Director for Supervision. If there is no Assistant Director, the Associate Director may designate an alternative Bureau employee to perform the functions of an Assistant Director under this part.

Associate Director means the Associate Director of the Bureau's Division of Supervision, Enforcement, and Fair Lending, or his or her designee. If there is no Associate Director, the Director may designate an alternative Bureau employee to perform the functions of the Associate Director under this part.

Bureau means the Bureau of Consumer Financial Protection.

Consumer means an individual or an agent, trustee, or representative acting on behalf of an individual.

Consumer financial product or service means any financial product or service, as defined in 12 U.S.C. 5481(15), that is described in one or more categories under:

(1) 12 U.S.C. 5481(15) and is offered or provided for use by consumers primarily for personal, family, or household purposes; or

(2) Clause (i), (iii), (ix), or (x) of 12 U.S.C. 5481(15)(A) and is delivered, offered, or provided in connection with a consumer financial product or service referred to in subparagraph (1) of this paragraph.

Decisional employee means any employee of the Bureau who has not engaged in:

(1) Assisting the initiating official in either determining whether to issue a Notice of Reasonable Cause, or presenting the initiating official's position in support of a Notice of Reasonable Cause, either in writing or in a supplemental oral response, to the Associate Director; or

(2) Assisting the Associate Director in the preparation of a recommended determination.

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Director means the Director of the Bureau or his or her designee. If there is no Director, the term shall mean a person authorized to perform the functions of the Director under this part, or his or her designee.

Executive Secretary means the Executive Secretary of the Bureau.

Initiating official means an Assistant Director or a Bureau employee designated to act as an “initiating official” by an Assistant Director. If there is not an Assistant Director, the Associate Director may designate a Bureau employee to perform the functions of an initiating official under this part.

Nonbank covered person means, except for persons described in 12 U.S.C. 5515(a) and 5516(a):

(1) Any person that engages in offering or providing a consumer financial product or service; and

(2) Any affiliate of a person described in subparagraph (1) of this paragraph if such affiliate acts as a service provider to such person.

Notice of Reasonable Cause and Notice mean a Notice issued under § 1091.102.

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

Respondent means a person who has been issued a Notice of Reasonable Cause under § 1091.102.

Response means the response to a Notice of Reasonable Cause filed by a respondent with the Associate Director under § 1091.105.

Subpart B—Determination and Voluntary Consent Procedures

§ 1091.102 Issuance of Notice of Reasonable Cause.

(a) An initiating official is authorized to issue a Notice of Reasonable Cause to a person stating that the Bureau may have reasonable cause to determine that the respondent is a nonbank covered person that is engaging, or has engaged, in conduct that poses risks to consumers with regard to the offering or provision of consumer financial products or services.

(b) A Notice of Reasonable Cause shall be based on:

(1) Complaints collected through the system under 12 U.S.C. 5493(b)(3); or

(2) Information from other sources.

(c) Except as provided in § 1091.111, a Notice of Reasonable Cause shall contain the information set forth in § 1091.103, and be served on respondent as described in § 1091.104.

§ 1091.103 Contents of Notice.

(a) A Notice of Reasonable Cause shall contain the following:

(1) A description of the basis for the assertion that the Bureau may have reasonable cause to determine that a respondent is a nonbank covered person that is engaging, or has engaged, in conduct that poses risks to consumers with regard to the offering or provision of consumer financial products or services, including a summary of the documents, records, or other items relied on by the initiating official to issue a Notice. Such summary will be consistent with the protection of sensitive information, including compliance with federal privacy law and whistleblower protections; and

(2) A statement informing a respondent that:

(i) A respondent may file with the Associate Director a written response to a Notice of Reasonable Cause no later than 30 days after the Notice is served on the respondent;

(ii) The written response shall include the elements addressed in § 1091.105(b);

(iii) A respondent may request in its written response to a Notice an opportunity to present an in-person or telephonic supplemental oral response to the Associate Director as set forth in § 1091.106;

(iv) A failure timely to file a response to a Notice shall constitute a waiver of a respondent's right to respond, and may result in a default determination by the Director, based on the Notice, that a respondent is a nonbank covered person that is engaging, or has engaged, in conduct that poses risks to consumers with regard to the offering or provision of consumer financial products or services and the issuance of a decision and order subjecting a respondent to the Bureau's supervisory authority pursuant to 12 U.S.C. 5514(a)(1)(C);

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(v) The Associate Director shall serve a respondent with a notice of the date and time of a supplemental oral response, if a respondent has requested the opportunity to present a supplemental oral response, within 14 days of the Associate Director's receipt of a timely-filed response;

(vi) If a respondent has not requested the opportunity to present a supplemental oral response, the Associate Director shall, not later than 45 days after receiving a timely-filed response, or not later than 45 days after the service of a Notice of Reasonable Cause when a respondent fails to file a timely response, provide a recommended determination to the Director including either a proposed decision and order subjecting a respondent to the Bureau's supervisory authority pursuant to 12 U.S.C. 5514(a)(1)(C), or a proposed notification that the Bureau has determined not to subject a respondent to the Bureau's supervisory authority at that time, pursuant to § 1091.108; and

(vii) In connection with a proceeding under this part, including a petition for termination under § 1091.113, all documents, records or other items submitted by a respondent to the Bureau, all documents prepared by, or on behalf of, or for the use of the Bureau, and any communications between the Bureau and a person, shall be deemed confidential supervisory information under 12 CFR 1070.2(i).

(b) A Notice shall be accompanied by a form of consent agreement by which a respondent may voluntarily consent to the Bureau's authority to supervise a respondent under 12 U.S.C. 5514. A completed and executed form of consent agreement under this paragraph:

(1) Shall not constitute an admission that a respondent is a nonbank covered person that is engaging, or has engaged, in conduct that poses risks to consumers with regard to the offering or provision of consumer financial products or services;

(2) Shall result in an order by the Director that a respondent is subject to the Bureau's supervisory authority under 12 U.S.C. 5514 for a period of two years from the date of such order; and

(3) Shall include a provision that a respondent entering into a consent

agreement waives any right to judicial review of such consent agreement.

(c) Nothing in this section shall be construed as requiring the Bureau to produce any documents or other information to a respondent other than as set forth in this section.

[78 FR 40375, July 3, 2013, as amended at 85 FR 75220, Nov. 24, 2020]

§ 1091.104 Service of Notice.

(a) A Notice of Reasonable Cause shall be served on a respondent as follows:

(1) *To individuals.* A Notice shall be served on a respondent that is a natural person by delivering a copy of the Notice to the individual or to an agent authorized by appointment or by law to receive such a Notice. Delivery, for purposes of this paragraph, means handing a copy of a Notice to the individual; or leaving a copy at the individual's office with a clerk or other person in charge thereof; or leaving a copy at the individual's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein; or sending a copy of a Notice addressed to the individual through the U.S. Postal Service by Registered Mail, Certified Mail or Express Mail delivery, or by third-party commercial carrier, for overnight delivery and obtaining a confirmation of receipt.

(2) *To corporations or entities.* Notice shall be served on a person other than an individual by delivering a copy of a Notice to an officer, managing or general agent, or any other agent authorized by appointment or law to receive such a Notice, by any method specified in paragraph (a)(1) of this section.

(3) *Upon persons registered with the Bureau.* In addition to any other method of service specified in paragraph (a)(1) or (2) of this section, Notice may be served on a person registered with the Bureau by sending a copy of a Notice addressed to the most recent business address shown on the person's registration form by U.S. Postal Service Certified, Registered, or Express Mail and obtaining a confirmation of receipt or attempted delivery.

(4) *Upon persons in a foreign country.* Notice may be served on a person in a

foreign country by any method specified in paragraph (a)(1) or (2) of this section, or by any other method reasonably calculated to give notice, provided that the method of service used is not prohibited by the law of the foreign country.

(5) *Record of service.* The Bureau shall maintain a record of service of a Notice on a respondent, identifying the party given Notice, the method of service, the date of service, the address to which service was made, and the person who made service. If service is made in person, the certificate of service shall state, if available, the name of the individual to whom a Notice was given. If service is made by U.S. Postal Service Registered Mail, Certified Mail, or Express Mail, the Bureau shall maintain the confirmation of receipt or attempted delivery.

(6) *Waiver of service.* In lieu of service as set forth in paragraph (a)(1) or (2) of this section, a person may be provided a copy of a Notice by First Class Mail or other reliable means if a written waiver of service is obtained from the person to be served. In the case of a respondent that is not a natural person, a written waiver may be provided by an officer, managing or general member, or partner authorized to represent the respondent.

(b) The initiating official shall promptly submit a copy of a Notice and a copy of the certificate of service to the Associate Director.

§ 1091.105 Response.

(a) *Timing.* Within 30 days of service of a Notice, a respondent shall file any response with the Associate Director according to the instructions set forth in a Notice.

(b) *Content of the response.* (1) The response shall set forth the basis for a respondent's contention that the respondent is not a nonbank covered person that is engaging, or has engaged, in conduct that poses risks to consumers with regard to the offering or provision of consumer financial products or services.

(2) The response shall include all documents, records, or other evidence a respondent wishes to use to support the arguments or assertions set forth in the response.

(3) Any request to present a supplemental oral response, including the respondent's preference for a telephonic or in-person supplemental oral response, must be included in the response. A respondent's failure to request to present a supplemental oral response shall constitute a waiver of the opportunity to present a supplemental oral response.

(4) A response shall include an affidavit or declaration, made by the individual respondent if a natural person, or, if a corporate or other entity that is not a natural person, by an officer, managing or general member, or partner authorized to represent the respondent, affirming that the response is true and accurate and does not contain any omissions that would cause the response to be materially misleading.

(5) Notwithstanding any other provisions of this paragraph, a respondent may respond to a Notice of Reasonable Cause by voluntarily consenting to the Bureau's authority to supervise the respondent under 12 U.S.C. 5514 by completing and executing the consent agreement form provided to the respondent with a Notice of Reasonable Cause in accordance with § 1091.103(b).

(c) *Default.* Failure of a respondent to file a response within the time period set forth in paragraph (a) of this section shall constitute a waiver of the respondent's right to respond, and shall, based on the Notice, authorize the Associate Director, without further notice to the respondent, to issue a proposed decision and order as provided in § 1091.108(c)(1) and the Director to issue a decision and order as provided in § 1091.109(a)(1).

(d) *Waiver.* A respondent shall be deemed to have waived the right, at any future stage of an Associate Director's or the Director's consideration of a matter, and in any petition for judicial review of an order issued pursuant to § 1091.109(a)(1), to rely on any argument, record, document, or other information that the respondent does not raise or include in its response.

(e) *No Discovery.* There shall be no discovery in connection with a response.

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§ 1091.106 Supplemental oral response.

(a) A respondent may request in a response under § 1091.105 the opportunity to present to the Associate Director a supplemental oral response in support of a respondent's assertion that the respondent is not a nonbank covered person that is engaging, or has engaged, in conduct that poses risks to consumers with regard to the offering or provision of consumer financial products or services.

(b) The conduct of a supplemental oral response shall be subject to the following procedures:

(1) A supplemental oral response shall be, at the respondent's preference, by telephone or in person at the Bureau's headquarters in Washington, DC. If a respondent requests in its written response a supplemental oral response but does not specify whether such response shall be conducted via telephone or in person, the supplemental oral response will be conducted by telephone unless otherwise directed by the Associate Director;

(2) The Associate Director may impose any limitations on the conduct of a supplemental oral response, including but not limited to establishing a time limit for the presentation of a supplemental oral response, and limiting the subjects to be addressed in a supplemental oral response;

(3) There shall be no discovery permitted or witnesses called in connection with a supplemental oral response;

(4) If a respondent is a corporate or other entity, and not a natural person, the respondent shall be represented in any supplemental oral response by:

(i) An officer, managing or general member, or partner authorized to represent the respondent; or

(ii) An attorney in good standing of the bar of the highest court of any State.

(5) If a respondent is a natural person, the respondent shall be represented in any supplemental oral response by:

(i) Himself or herself; or

(ii) An attorney in good standing of the bar of the highest court of any State.

(6) The Associate Director shall cause an audio recording of a supplemental oral response to be made by a court re-

porter. A respondent may purchase a copy or transcript of the recording at the respondent's own expense.

(c) The initiating official may participate in any supplemental oral response conducted under this section.

(d) The Associate Director shall serve on a respondent, within 14 days after the Associate Director receives the respondent's timely-filed response requesting a supplemental oral response, a notice setting forth the date, time, and general information relating to the conduct of a supplemental oral response. The date of a supplemental oral response shall be scheduled not less than ten days after the date the respondent is served with the notice of supplemental oral response.

(e) The notice of supplemental oral response shall be served on a respondent pursuant to § 1091.107.

(f) The Associate Director shall send a copy of the notice of supplemental oral response to the initiating official.

(g) A respondent's failure to participate in a supplemental oral response scheduled by the Associate Director shall constitute the respondent's waiver of the opportunity to present a supplemental oral response.

§ 1091.107 Manner of filing and serving papers.

Unless otherwise specified by the Associate Director or Director, a respondent shall file the response and any other paper with the Executive Secretary at the mailing or electronic address provided by the Bureau, and the Associate Director and Director shall serve any paper, other than a Notice as set forth in § 1091.104, on a respondent, by:

(a) Electronic transmission upon any condition specified by the Associate Director or Director; or

(b) Any of the following methods if a respondent demonstrates electronic filing is not practicable and the Associate Director or Director permits:

(1) Personal delivery;

(2) Delivery through a reliable commercial courier service or overnight delivery service; or

(3) Mailing the papers by U.S. Postal Service First Class, Registered, Certified, or Express Mail.

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§ 1091.108 Recommended determination.

(a) If a respondent did not voluntarily consent to the Bureau's supervision authority, and did not request the opportunity to present a supplemental oral response, not later than 45 days after receipt of a timely-filed response, or not later than 45 days after the service of a Notice of Reasonable Cause when a respondent fails to file a timely response, the Associate Director shall make a recommended determination whether there is reasonable cause for the Bureau to determine that the respondent is a nonbank covered person that is engaging, or has engaged, in conduct that poses risks to consumers with regard to the offering or provision of consumer financial products or services which should result in an order subjecting the respondent to the Bureau's authority under 12 U.S.C. 5514(a)(1)(C).

(b) If a respondent did request the opportunity to present a supplemental oral response, not later than 90 days after service of a Notice of Reasonable Cause, the Associate Director shall make a recommended determination whether there is reasonable cause for the Bureau to determine that the respondent is a nonbank covered person that is engaging, or has engaged, in conduct that poses risks to consumers with regard to the offering or provision of consumer financial products or services which should result in an order subjecting the respondent to the Bureau's authority under 12 U.S.C. 5514(a)(1)(C).

(c) Upon making the recommended determination described in paragraphs (a) or (b) of this section, the Associate Director shall submit to the Director either:

(1) A proposed decision and order that would subject a respondent to the Bureau's supervisory authority pursuant to 12 U.S.C. 5514(a)(1)(C) if adopted by the Director; or

(2) A proposed notification that a respondent should not be subjected to the Bureau's supervisory authority under 12 U.S.C. 5514(a)(1)(C) based on the proceedings. Such a notification shall have no precedential effect and shall not prevent the issuance of another Notice of Reasonable Cause pursuant to

either § 1091.102, or the procedures set forth in § 1091.111, at any time, or from issuance of a decision and order based on another Notice recommending that a respondent be subject to the Bureau's authority pursuant to either of those sections.

(d) Any proposed decision and order issued by the Associate Director pursuant to paragraph (c)(1) of this section shall set forth:

(1) A statement that the Associate Director has preliminarily determined based on reasonable cause that a respondent is a nonbank covered person that is engaging, or has engaged, in conduct that poses risks to consumers with regard to the offering or provision of consumer financial products or services;

(2) The basis for the Associate Director's determination; and

(3) A proposed order directing that, pursuant to this determination, as of a specified date a respondent shall be subject to the Bureau's supervisory authority under 12 U.S.C. 5514.

(e) The Associate Director shall include with the recommended determination submitted to the Director copies of the following:

(1) The Notice of Reasonable Cause;

(2) The record of service of a Notice of Reasonable Cause;

(3) A respondent's response and any documents, records, or other items filed with the written response;

(4) Any document, record, or other item considered by the Associate Director to be material in making a recommended determination; and

(5) An audio recording of a supplemental oral response, if a supplemental oral response was conducted, and/or a transcript if a transcript was prepared at a respondent's request or if requested by the Director.

(f) The requirement that the Associate Director provide to the Director the items described in paragraph (e) of this section shall confer no substantive rights on a respondent and any omission of an item may be cured by the Associate Director to the extent applicable.

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§ 1091.109 Determination by the Director.

(a) Not later than 45 days after receipt of the Associate Director's recommended determination, the Director shall, after considering the recommended determination and all documents, records, and other items submitted therewith by the Associate Director, make a determination either adopting without revision, modifying, or rejecting the Associate Director's recommended determination, and shall issue to respondent, with copies to the Associate Director and the initiating official:

(1) A decision and order subjecting the respondent to the Bureau's supervisory authority pursuant to 12 U.S.C. 5514(a)(1)(C); or

(2) A notification that the Director has determined that the respondent is not subject to the Bureau's supervisory authority under 12 U.S.C. 5514(a)(1)(C) as a result of the proceedings. Such notification shall have no precedential effect and shall not prevent the issuance of another Notice of Reasonable Cause pursuant to either § 1091.102, or the procedures set forth in § 1091.111, at any time, or the issuance of an order based on another Notice subjecting the respondent to the Bureau's authority pursuant to either of those sections.

(b) Any decision and order issued by the Director pursuant to paragraph (a)(1) of this section shall include:

(1) A statement that the Director adopts the Associate Director's proposed decision and order without revision as the Director's decision and order, or that the Director rejects or modifies the Associate Director's proposed determination for reasons set forth by the Director;

(2) A statement that the Director has determined that the Bureau has reasonable cause to determine that a respondent is a nonbank covered person that is engaging, or has engaged, in conduct that poses risks to consumers with regard to the offering or provision of consumer financial products or services;

(3) The basis for the Director's determination, which may be an adoption of the basis set forth in the Associate Director's proposed decision;

(4) An order directing that, pursuant to this determination, as of a specified date a respondent shall be subject to the Bureau's supervisory authority under 12 U.S.C. 5514 and informing a respondent that the respondent may petition for termination of the Bureau's supervisory authority no sooner than two years from the date of the order, and no more than annually thereafter; and

(5) A copy of the recommended determination issued by the Associate Director.

(c) Only decisional employees may advise and assist the Director in the consideration and disposition of a proceeding under this part.

(d) A decision and order issued pursuant to paragraph (a)(1) of this section shall constitute final agency action under 5 U.S.C. 704.

(e) Any item required to be served on a respondent under this section shall be served pursuant to § 1091.107.

§ 1091.110 Voluntary consent to Bureau's authority.

(a) Notwithstanding any other provision, pursuant to a consent agreement agreed to by the Bureau, a person may voluntarily consent to the Bureau's supervisory authority under 12 U.S.C. 5514, and such voluntary consent agreement shall not be subject to any right of judicial review.

(b) The consent agreement of any person, pursuant to paragraph (a) of this section, that specifies the duration of time that such person will be subject to the Bureau's authority under 12 U.S.C. 5514 shall not be eligible for a petition for termination of order pursuant to § 1091.113, and a consent agreement shall state that a respondent entering into a consent agreement waives any right to judicial review of such consent agreement.

§ 1091.111 Notice and response included in adjudication proceeding otherwise brought by the Bureau.

(a) Notwithstanding §§ 1091.102 through 1091.106, the Bureau may, in its discretion, provide the notice and opportunity to respond required by 12 U.S.C. 5514(a)(1)(C) in a notice of charges otherwise brought by the Bureau pursuant to 12 CFR 1081.200 and

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the adjudication proceedings pursuant to part 1081. Also, a person may agree to submit to the Bureau's supervisory authority under 12 U.S.C. 5514(a)(1)(C) as part of a consent order entered into in connection with an adjudication proceeding or civil action.

(b) If the Bureau chooses to proceed in the manner described in paragraph (a) of this section, it shall so indicate in the notice of charges, and any order of the Director resulting from the notice of charges shall constitute the order referred to in 12 U.S.C. 5514(a)(1)(C).

(c) If the Bureau proceeds pursuant to paragraph (a) of this section, the provisions of §§1091.101 through 1091.110, and 1091.113 through 1091.115 will be inapplicable to such proceeding.

§ 1091.112 No limitation on relief sought in civil action or administrative adjudication.

Nothing in this part shall be construed to limit the relief the Bureau may seek in any civil action or administrative adjudication, including but not limited to, seeking an order to have a person deemed subject to the Bureau's supervisory authority under 12 U.S.C. 5514, including for the reasons set forth in 12 U.S.C. 5514(a)(1)(C).

Subpart C—Post-Determination Procedures

§ 1091.113 Petition for termination of order.

(a) Any person subject to an order issued pursuant to §1091.109(a)(1) may, no sooner than two years after issuance of such an order and no more frequently than annually thereafter, petition the Director for termination of the order.

(b) A petition for termination submitted pursuant to paragraph (a) of this section shall set forth the reasons supporting termination of the order, including any actions taken by a respondent since issuance of the order to address the conduct that led to issuance of the order, and may include any supporting information or evidence that the petitioner believes is relevant to the Director's determination of the matter.

(c) A petition for termination shall be filed by the petitioner with the Executive Secretary at the mailing or electronic address provided by the Bureau.

(d) The Director shall, promptly upon receipt of a petition for termination, send a copy of the same to the initiating official.

(1) The initiating official may, within 30 days of his or her receipt of a copy of a petition for termination, file with the Director a response to the petition stating whether the initiating official recommends that the order be terminated, or modified, or that the petition for termination be denied and the basis for such recommendation.

(2) The initiating official shall serve a copy of the response to a petition for termination on the petitioner pursuant to §1091.107 at the time of filing it with the Director.

(e) Not later than 90 days after submission of a petition under paragraph (a) of this section, the Director shall issue a written decision either terminating or modifying the order, or denying the petition. If the Director modifies the order or denies the petition, the Director shall explain the basis for his or her decision with respect to the petition and send the written decision to the petitioner and the initiating official.

(1) The Director shall serve the written decision on a petition for termination of order on a respondent pursuant to §1091.107.

(2) The Director shall send a copy of the written decision on a petition for termination of order to the Associate Director and initiating official promptly upon issuing the written decision.

(3) The decision of the Director made pursuant to paragraph (e) of this section shall constitute final agency action under 5 U.S.C. 704.

Subpart D—Time Limits and Deadlines

§ 1091.114 Construction of time limits.

(a) *General rule.* In computing any period of time prescribed by this part, or by order of the Associate Director or Director, the date of the act or event that commences the designated period of time is not included. The last day so

computed is included unless it is a Saturday, Sunday, or Federal holiday as set forth in 5 U.S.C. 6103(a). When the last day is a Saturday, Sunday, or Federal holiday, the period runs until the end of the next day that is not a Saturday, Sunday, or Federal holiday. Intermediate Saturdays, Sundays, and Federal holidays are included in the computation of time, except when the time period within which an act is to be performed is ten days or less, not including any additional time allowed for in paragraph (c) of this section.

(b) *Filing or service of papers.* Filing and service are deemed to be effective:

(1) In the case of personal service or same day commercial courier delivery, upon actual receipt by the person served;

(2) In the case of overnight commercial delivery service, U.S. Postal Service Express Mail delivery, or First Class, Registered, or Certified Mail, upon deposit in or delivery to an appropriate point of collection; or

(3) In the case of electronic transmission, including email, upon transmission.

(c) *Calculation of time for service and filing of responsive papers.* Whenever a time limit is measured by a prescribed period from the service of any notice or paper, the applicable time limits are calculated as follows:

(1) If service is made by U.S. Postal Service First Class, Registered, or Certified Mail, add three calendar days to the prescribed period;

(2) If service is made by Express Mail or overnight delivery service, add one calendar day to the prescribed period; or

(3) If service is made by electronic transmission, add one calendar day to the prescribed period.

§ 1091.115 Change of time limits and confidentiality of proceedings.

(a) *Change of time limits.* Except as otherwise provided by law, the Associate Director until the issuance of a recommended determination, or the Director at any time thereafter, at their respective discretion, may extend the time limits prescribed by this part or by any notice or order issued pursuant to this part. Any request for an extension of a time limit by a respondent

must be for good cause shown, in writing, and filed with the Associate Director or Director, as appropriate. The mere filing of a written request for an extension does not alleviate a respondent of the obligation to meet an applicable time limit absent written confirmation that an extension has been granted.

(b) *No substantive rights.* Deadlines for action by the initiating official, Associate Director, or the Director established in this part confer no substantive rights on respondents.

(c) *Confidentiality*—(1) *General rule.* In connection with a proceeding under this part, including a petition for termination under § 1091.113, all documents, records or other items submitted by a respondent to the Bureau, all documents prepared by, or on behalf of, or for the use of the Bureau, and any communications between the Bureau and a person, shall be deemed confidential supervisory information under 12 CFR 1070.2(i)(1). However, this paragraph does not apply to the version of a document that is released on the Bureau's website under paragraph (c)(2).

(2) *Publication of final decisions and orders by the Director.* The Director will make a determination regarding whether a decision or order under § 1091.103(b)(2), § 1091.109(a), or § 1091.113(e) will be publicly released on the Bureau's website, in whole or in part. The respondent may file a submission regarding that issue, within ten days after service of the decision or order. The Director will not release information in a decision or order to the extent it would be exempt from disclosure under 5 U.S.C. 552(b)(4) or (b)(6) or the Director determines there is other good cause. The Director may also decide that the determination regarding public release will itself be released on the website, in whole or in part. Section 1091.109(c) is not applicable to determinations under this paragraph.

[78 FR 40375, July 3, 2013, as amended at 87 FR 25398, Apr. 29, 2022; 87 FR 70707, Nov. 21, 2022]

PARTS 1092–1099 [RESERVED]