

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,<sup>2</sup> 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 title<sup>1</sup> 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.)

**Editorial Notes**

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1955, known as the Consumer Financial Protection Act of 2010, which enacted this subchapter and enacted, amended, and repealed numerous other sections and notes in the Code.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.

**Statutory Notes and Related Subsidiaries**

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.

<sup>2</sup> So in original. The comma probably should not appear.

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), 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 regu-

lation 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.

**(C) Separate authority**

The issuance of a stay under this section does not affect the authority of the Council to set aside a regulation.

**(5) Dismissal due to inaction**

A petition under this section shall be deemed dismissed if the Council has not issued a decision to set aside a regulation, or provision thereof, within the period for timely action under paragraph (4)(B).

**(6) Publication of decision**

Any decision under this subsection to issue a stay of, or set aside, a regulation or provision thereof shall be published by the Council in the Federal Register as soon as practicable after the decision is made, with an explanation of the reasons for the decision.

**(7) Rulemaking procedures inapplicable**

The notice and comment procedures under section 553 of title 5 shall not apply to any decision under this section of the Council to issue a stay of, or set aside, a regulation.

**(8) Judicial review of decisions by the Council**

A decision by the Council to set aside a regulation prescribed by the Bureau, or provision thereof, shall be subject to review under chapter 7 of title 5.

**(d) Application of other law**

Nothing in this section shall be construed as altering, limiting, or restricting the application of any other provision of law, except as otherwise specifically provided in this section, including chapter 5 and chapter 7 of title 5, to a regulation which is the subject of a petition filed under this section.

**(e) Savings clause**

Nothing in this section shall be construed as limiting or restricting the Bureau from engag-

ing in a rulemaking in accordance with applicable law.

**(f) Implementing rules**

The Council shall prescribe procedural rules to implement this section.

(Pub. L. 111-203, title X, §1023, July 21, 2010, 124 Stat. 1985.)

**Statutory Notes and Related Subsidiaries**

**EFFECTIVE DATE**

Section effective on the designated transfer date, see section 1029A of Pub. L. 111-203, set out as a note under section 5511 of this title.

**§ 5514. Supervision of nondepository covered persons**

**(a) Scope of coverage**

**(1) Applicability**

Notwithstanding any other provision of this title,<sup>1</sup> and except as provided in paragraph (3), this section shall apply to any covered person who—

(A) offers or provides origination, brokerage, or servicing of loans secured by real estate for use by consumers primarily for personal, family, or household purposes, or loan modification or foreclosure relief services in connection with such loans;

(B) is a larger participant of a market for other consumer financial products or services, as defined by rule in accordance with paragraph (2);

(C) the Bureau has reasonable cause to determine, by order, after notice to the covered person and a reasonable opportunity for such covered person to respond, based on complaints collected through the system under section 5493(b)(3) of this title or information from other sources, that such covered person 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;

(D) offers or provides to a consumer any private education loan, as defined in section 1650 of title 15, notwithstanding section 5517(a)(2)(A) of this title and subject to section 5517(a)(2)(C) of this title; or

(E) offers or provides to a consumer a payday loan.

**(2) Rulemaking to define covered persons subject to this section**

The Bureau shall consult with the Federal Trade Commission prior to issuing a rule, in accordance with paragraph (1)(B), to define covered persons subject to this section. The Bureau shall issue its initial rule not later than 1 year after the designated transfer date.

**(3) Rules of construction**

**(A) Certain persons excluded**

This section shall not apply to persons described in section 5515(a) or 5516(a) of this title.

**(B) Activity levels**

For purposes of computing activity levels under paragraph (1) or rules issued there-

under, activities of affiliated companies (other than insured depository institutions or insured credit unions) shall be aggregated.

**(b) Supervision**

**(1) In general**

The Bureau shall require reports and conduct examinations on a periodic basis of persons described in subsection (a)(1) for purposes of—

(A) assessing compliance with the requirements of Federal consumer financial law;

(B) obtaining information about the activities and compliance systems or procedures of such person; and

(C) detecting and assessing risks to consumers and to markets for consumer financial products and services.

**(2) Risk-based supervision program**

The Bureau shall exercise its authority under paragraph (1) in a manner designed to ensure that such exercise, with respect to persons described in subsection (a)(1), is based on the assessment by the Bureau of the risks posed to consumers in the relevant product markets and geographic markets, and taking into consideration, as applicable—

(A) the asset size of the covered person;

(B) the volume of transactions involving consumer financial products or services in which the covered person engages;

(C) the risks to consumers created by the provision of such consumer financial products or services;

(D) the extent to which such institutions are subject to oversight by State authorities for consumer protection; and

(E) any other factors that the Bureau determines to be relevant to a class of covered persons.

**(3) Coordination**

To minimize regulatory burden, the Bureau shall coordinate its supervisory activities with the supervisory activities conducted by prudential regulators, the State bank regulatory authorities, and the State agencies that licence, supervise, or examine the offering of consumer financial products or services, including establishing their respective schedules for examining persons described in subsection (a)(1) and requirements regarding reports to be submitted by such persons. The sharing of information with such regulators, authorities, and agencies shall not be construed as waiving, destroying, or otherwise affecting any privilege or confidentiality such person may claim with respect to such information under Federal or State law as to any person or entity other than such Bureau, agency, supervisor, or authority.

**(4) Use of existing reports**

The Bureau shall, to the fullest extent possible, use—

(A) reports pertaining to persons described in subsection (a)(1) that have been provided or required to have been provided to a Federal or State agency; and

(B) information that has been reported publicly.

<sup>1</sup> See References in Text note below.