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,[1] 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 thereunder, 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.

[1] See References in Text note below.

(5) Preservation of authority

Nothing in this title[1] may be construed as limiting the authority of the Director to require reports from persons described in subsection (a)(1), as permitted under paragraph (1), regarding information owned or under the control of such person, regardless of whether such information is maintained, stored, or processed by another person.

(6) Reports of tax law noncompliance

The Bureau shall provide the Commissioner of Internal Revenue with any report of examination or related information identifying possible tax law noncompliance.

(7) Registration, recordkeeping and other requirements for certain persons

(A) In general

The Bureau shall prescribe rules to facilitate supervision of persons described in subsection (a)(1) and assessment and detection of risks to consumers.

(B) Recordkeeping

The Bureau may require a person described in subsection (a)(1), to generate, provide, or retain records for the purposes of facilitating supervision of such persons and assessing and detecting risks to consumers.

(C) Requirements concerning obligations

The Bureau may prescribe rules regarding a person described in subsection (a)(1), to ensure that such persons are legitimate entities and are able to perform their obligations to consumers. Such requirements may include background checks for principals, officers, directors, or key personnel and bonding or other appropriate financial requirements.

(D) Consultation with State agencies

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

(c) Enforcement authority

(1) The Bureau to have enforcement authority

Except as provided in paragraph (3) and section 5581 of this title, with respect to any person described in subsection (a)(1), to the extent that Federal law authorizes the Bureau and another Federal agency to enforce Federal consumer financial law, the Bureau shall have exclusive authority to enforce that Federal consumer financial law.

(2) Referral

Any Federal agency authorized to enforce a Federal consumer financial law described in paragraph (1) may recommend in writing to the Bureau that the Bureau initiate an enforcement proceeding, as the Bureau is authorized by that Federal law or by this title.[1]

(3) Coordination with the Federal Trade Commission

(A) In general

The Bureau and the Federal Trade Commission shall negotiate an agreement for coordinating with respect to enforcement actions by each agency regarding the offering or provision of consumer financial products or services by any covered person that is described in subsection (a)(1), or service providers thereto. The agreement shall include procedures for notice to the other agency, where feasible, prior to initiating a civil action to enforce any Federal law regarding the offering or provision of consumer financial products or services.

(B) Civil actions

Whenever a civil action has been filed by, or on behalf of, the Bureau or the Federal Trade Commission for any violation of any provision of Federal law described in subparagraph (A), or any regulation prescribed under such provision of law—

(i) the other agency may not, during the pendency of that action, institute a civil action under such provision of law against any defendant named in the complaint in such pending action for any violation alleged in the complaint; and

(ii) the Bureau or the Federal Trade Commission may intervene as a party in any such action brought by the other agency, and, upon intervening—

(I) be heard on all matters arising in such enforcement action; and

(II) file petitions for appeal in such actions.

(C) Agreement terms

The terms of any agreement negotiated under subparagraph (A) may modify or supersede the provisions of subparagraph (B).

(D) Deadline

The agencies shall reach the agreement required under subparagraph (A) not later than 6 months after the designated transfer date.

(d) Exclusive rulemaking and examination authority

Notwithstanding any other provision of Federal law and except as provided in section 5581 of this title, to the extent that Federal law authorizes the Bureau and another Federal agency to issue regulations or guidance, conduct examinations, or require reports from a person described in subsection (a)(1) under such 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, issue guidance, conduct examinations, require reports, or issue exemptions with regard to a person described in subsection (a)(1), subject to those provisions of law.

(e) Service providers

A service provider to a person described in subsection (a)(1) shall be subject to the authority of the Bureau under this section, to the same extent as if such service provider were engaged in a service relationship with a bank, and the Bureau were an appropriate Federal banking agency under section 1867(c) of this title. In conducting any examination or requiring any report from a service provider subject to this subsection, the Bureau shall coordinate with the appropriate prudential regulator, as applicable.

(f) Preservation of Farm Credit Administration authority

No provision of this title[1] may be construed as modifying, limiting, or otherwise affecting the authority of the Farm Credit Administration.

(Pub. L. 111–203, title X, § 1024, July 21, 2010, 124 Stat. 1987; Pub. L. 113–173, § 2, Sept. 26, 2014, 128 Stat. 1899.)

Editorial Notes

REFERENCES IN TEXT

This title, where footnoted in subsecs. (a)(1), (b)(5), (c)(2), and (f), 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.

AMENDMENTS

2014—Subsec. (b)(3). Pub. L. 113–173 substituted ''regulators, the State bank regulatory authorities, and the State agencies that licence, supervise, or examine the offering of consumer financial products or services'' for ''regulators and the State bank regulatory authorities'' and inserted at end ''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.''

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.

§ 5515. Supervision of very large banks, savings associations, and credit unions

(a) Scope of coverage

This section shall apply to any covered person that is—

(1) an insured depository institution with total assets of more than $10,000,000,000 and any affiliate thereof; or

(2) an insured credit union with total assets of more than $10,000,000,000 and any affiliate thereof.

(b) Supervision

(1) In general

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

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

(B) obtaining information about the activities subject to such laws and the associated compliance systems or procedures of such persons; and

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

(2) Coordination

To minimize regulatory burden, the Bureau shall coordinate its supervisory activities with the supervisory activities conducted by prudential regulators and the State bank regulatory authorities, including consultation regarding their respective schedules for examining such persons described in subsection (a) and requirements regarding reports to be submitted by such persons.

(3) Use of existing reports

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

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

(B) information that has been reported publicly.

(4) Preservation of authority

Nothing in this title[1] may be construed as limiting the authority of the Director to require reports from a person described in subsection (a), as permitted under paragraph (1), regarding information owned or under the control of such person, regardless of whether such information is maintained, stored, or processed by another person.

(5) Reports of tax law noncompliance

The Bureau shall provide the Commissioner of Internal Revenue with any report of examination or related information identifying possible tax law noncompliance.

(c) Primary enforcement authority

(1) The Bureau to have primary enforcement authority

To the extent that the Bureau and another Federal agency are authorized to enforce a Federal consumer financial law, the Bureau shall have primary authority to enforce that Federal consumer financial law with respect to any person described in subsection (a).

(2) Referral

Any Federal agency, other than the Federal Trade Commission, that is authorized to enforce a Federal consumer financial law may recommend, in writing, to the Bureau that the Bureau initiate an enforcement proceeding with respect to a person described in subsection (a), as the Bureau is authorized to do by that Federal consumer financial law.

(3) Backup enforcement authority of other Federal agency

If the Bureau does not, before the end of the 120-day period beginning on the date on which the Bureau receives a recommendation under paragraph (2), initiate an enforcement proceeding, the other agency referred to in paragraph (2) may initiate an enforcement proceeding, including performing follow up supervisory and support functions incidental thereto, to assure compliance with such proceeding.

(d) Service providers

A service provider to a person described in subsection (a) shall be subject to the authority of the Bureau under this section, to the same extent as if the Bureau were an appropriate Fed-

[1] See References in Text note below.