

(A) the act or practice causes or is likely to cause substantial injury to consumers which is not reasonably avoidable by consumers; and

(B) such substantial injury is not outweighed by countervailing benefits to consumers or to competition.

(2) Consideration of public policies

In determining whether an act or practice is unfair, the Bureau may consider established public policies as evidence to be considered with all other evidence. Such public policy considerations may not serve as a primary basis for such determination.

(d) Abusive

The Bureau shall have no authority under this section to declare an act or practice abusive in connection with the provision of a consumer financial product or service, unless the act or practice—

(1) materially interferes with the ability of a consumer to understand a term or condition of a consumer financial product or service; or

(2) takes unreasonable advantage of—

(A) a lack of understanding on the part of the consumer of the material risks, costs, or conditions of the product or service;

(B) the inability of the consumer to protect the interests of the consumer in selecting or using a consumer financial product or service; or

(C) the reasonable reliance by the consumer on a covered person to act in the interests of the consumer.

(e) Consultation

In prescribing rules under this section, the Bureau shall consult with the Federal banking agencies, or other Federal agencies, as appropriate, concerning the consistency of the proposed rule with prudential, market, or systemic objectives administered by such agencies.

(f) Consideration of seasonal income

The rules of the Bureau under this section shall provide, with respect to an extension of credit secured by residential real estate or a dwelling, if documented income of the borrower, including income from a small business, is a repayment source for an extension of credit secured by residential real estate or a dwelling, the creditor may consider the seasonality and irregularity of such income in the underwriting of and scheduling of payments for such credit.

(Pub. L. 111-203, title X, §1031, July 21, 2010, 124 Stat. 2005.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 111-203, title X, §1037, July 21, 2010, 124 Stat. 2011, provided that: “This subtitle [subtitle C (§§1031–1037), enacting this part] shall take effect on the designated transfer date.”

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

§ 5532. Disclosures

(a) In general

The Bureau may prescribe rules to ensure that the features of any consumer financial product

or service, both initially and over the term of the product or service, are fully, accurately, and effectively disclosed to consumers in a manner that permits consumers to understand the costs, benefits, and risks associated with the product or service, in light of the facts and circumstances.

(b) Model disclosures

(1) In general

Any final rule prescribed by the Bureau under this section requiring disclosures may include a model form that may be used at the option of the covered person for provision of the required disclosures.

(2) Format

A model form issued pursuant to paragraph (1) shall contain a clear and conspicuous disclosure that, at a minimum—

(A) uses plain language comprehensible to consumers;

(B) contains a clear format and design, such as an easily readable type font; and

(C) succinctly explains the information that must be communicated to the consumer.

(3) Consumer testing

Any model form issued pursuant to this subsection shall be validated through consumer testing.

(c) Basis for rulemaking

In prescribing rules under this section, the Bureau shall consider available evidence about consumer awareness, understanding of, and responses to disclosures or communications about the risks, costs, and benefits of consumer financial products or services.

(d) Safe harbor

Any covered person that uses a model form included with a rule issued under this section shall be deemed to be in compliance with the disclosure requirements of this section with respect to such model form.

(e) Trial disclosure programs

(1) In general

The Bureau may permit a covered person to conduct a trial program that is limited in time and scope, subject to specified standards and procedures, for the purpose of providing trial disclosures to consumers that are designed to improve upon any model form issued pursuant to subsection (b)(1), or any other model form issued to implement an enumerated statute, as applicable.

(2) Safe harbor

The standards and procedures issued by the Bureau shall be designed to encourage covered persons to conduct trial disclosure programs. For the purposes of administering this subsection, the Bureau may establish a limited period during which a covered person conducting a trial disclosure program shall be deemed to be in compliance with, or may be exempted from, a requirement of a rule or an enumerated consumer law.

(3) Public disclosure

The rules of the Bureau shall provide for public disclosure of trial disclosure programs,

which public disclosure may be limited, to the extent necessary to encourage covered persons to conduct effective trials.

(f) Combined mortgage loan disclosure

Not later than 1 year after the designated transfer date, the Bureau shall propose for public comment rules and model disclosures that combine the disclosures required under the Truth in Lending Act [15 U.S.C. 1601 et seq.] and sections 2603 and 2604 of this title, into a single, integrated disclosure for mortgage loan transactions covered by those laws, unless the Bureau determines that any proposal issued by the Board of Governors and the Secretary of Housing and Urban Development carries out the same purpose.

(Pub. L. 111-203, title X, § 1032, July 21, 2010, 124 Stat. 2006.)

Editorial Notes

REFERENCES IN TEXT

The Truth in Lending Act, referred to in subsec. (f), is title I of Pub. L. 90-321, May 29, 1968, 82 Stat. 146, which is classified generally to subchapter I (§1601 et seq.) of chapter 41 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 15 and Tables.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective on the designated transfer date, see section 1037 of Pub. L. 111-203, set out as a note under section 5531 of this title.

§ 5533. Consumer rights to access information

(a) In general

Subject to rules prescribed by the Bureau, a covered person shall make available to a consumer, upon request, information in the control or possession of the covered person concerning the consumer financial product or service that the consumer obtained from such covered person, including information relating to any transaction, series of transactions, or to the account including costs, charges and usage data. The information shall be made available in an electronic form usable by consumers.

(b) Exceptions

A covered person may not be required by this section to make available to the consumer—

- (1) any confidential commercial information, including an algorithm used to derive credit scores or other risk scores or predictors;
- (2) any information collected by the covered person for the purpose of preventing fraud or money laundering, or detecting, or making any report regarding other unlawful or potentially unlawful conduct;
- (3) any information required to be kept confidential by any other provision of law; or
- (4) any information that the covered person cannot retrieve in the ordinary course of its business with respect to that information.

(c) No duty to maintain records

Nothing in this section shall be construed to impose any duty on a covered person to maintain or keep any information about a consumer.

(d) Standardized formats for data

The Bureau, by rule, shall prescribe standards applicable to covered persons to promote the development and use of standardized formats for information, including through the use of machine readable files, to be made available to consumers under this section.

(e) Consultation

The Bureau shall, when prescribing any rule under this section, consult with the Federal banking agencies and the Federal Trade Commission to ensure, to the extent appropriate, that the rules—

- (1) impose substantively similar requirements on covered persons;
- (2) take into account conditions under which covered persons do business both in the United States and in other countries; and
- (3) do not require or promote the use of any particular technology in order to develop systems for compliance.

(Pub. L. 111-203, title X, § 1033, July 21, 2010, 124 Stat. 2008.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective on the designated transfer date, see section 1037 of Pub. L. 111-203, set out as a note under section 5531 of this title.

§ 5534. Response to consumer complaints and inquiries

(a) Timely regulator response to consumers

The Bureau shall establish, in consultation with the appropriate Federal regulatory agencies, reasonable procedures to provide a timely response to consumers, in writing where appropriate, to complaints against, or inquiries concerning, a covered person, including—

- (1) steps that have been taken by the regulator in response to the complaint or inquiry of the consumer;
- (2) any responses received by the regulator from the covered person; and
- (3) any follow-up actions or planned follow-up actions by the regulator in response to the complaint or inquiry of the consumer.

(b) Timely response to regulator by covered person

A covered person subject to supervision and primary enforcement by the Bureau pursuant to section 5515 of this title shall provide a timely response, in writing where appropriate, to the Bureau, the prudential regulators, and any other agency having jurisdiction over such covered person concerning a consumer complaint or inquiry, including—

- (1) steps that have been taken by the covered person to respond to the complaint or inquiry of the consumer;
- (2) responses received by the covered person from the consumer; and
- (3) follow-up actions or planned follow-up actions by the covered person to respond to the complaint or inquiry of the consumer.

(c) Provision of information to consumers

(1) In general

A covered person subject to supervision and primary enforcement by the Bureau pursuant