

## Bur. of Consumer Financial Protection

## § 1070.2

rules and procedures specified in this part, are authorized by law.

(b) *Purpose and scope.* This part contains the CFPB's rules relating to the disclosure of records and information generated by and obtained by the CFPB.

(1) Subpart A contains general provisions and definitions used in this part.

(2) Subpart B implements the Freedom of Information Act, 5 U.S.C. 552.

(3) Subpart C sets forth the procedures with respect to subpoenas, orders, or other requests for CFPB information in connection with legal proceedings.

(4) Subpart D provides for the protection of confidential information and procedures for sharing confidential information with supervised institutions, government Agencies, and others in certain circumstances.

(5) Subpart E implements the Privacy Act of 1974, 5 U.S.C. 552a.

[83 FR 46084, Sept. 12, 2018]

### § 1070.2 General definitions.

For purposes of this part:

(a) *Associate Director for Supervision, Enforcement and Fair Lending* means the Associate Director for Supervision, Enforcement and Fair Lending of the CFPB or any CFPB employee to whom the Associate Director for Supervision, Enforcement and Fair Lending has delegated authority to act under this part.

(b) *Business day* means any day except Saturday, Sunday or a legal Federal holiday.

(c) *CFPB* means the Bureau of Consumer Financial Protection.

(d) *Chief FOIA Officer* means the Chief Operating Officer of the CFPB.

(e) *Chief Operating Officer* means the Chief Operating Officer of the CFPB, or any CFPB employee to whom the Chief Operating Officer has delegated authority to act under this part.

(f) *Confidential information* means confidential consumer complaint information, confidential investigative information, and confidential supervisory information, as well as any other CFPB information that may be exempt from disclosure under the Freedom of Information Act pursuant to 5 U.S.C. 552(b). Confidential information does not include information contained

in records that have been made publicly available by the CFPB or information that has otherwise been publicly disclosed by an employee, or agent of the CFPB, with the authority to do so. Confidential information obtained by a third party or otherwise incorporated in the records of a third party, including another agency, shall remain confidential information subject to this part.

(g) *Confidential consumer complaint information* means information received or generated by the CFPB through processes or procedures established under 12 U.S.C. 5493(b)(3), to the extent that such information is exempt from disclosure pursuant to 5 U.S.C. 552(b).

(h) *Confidential investigative information* means:

(1) Any documentary material, written report, or written answers to questions, tangible thing, or transcript of oral testimony received by the CFPB in any form or format pursuant to a civil investigative demand, as those terms are set forth in 12 U.S.C. 5562, or received by the CFPB voluntarily in lieu of a civil investigative demand; and

(2) Any other documents, materials, or records prepared by, on behalf of, received by, or for the use by the CFPB or any other Federal or State agency in the conduct of enforcement activities, and any information derived from such materials.

(i) *Confidential supervisory information* means:

(1) Reports of examination, inspection and visitation, non-public operating, condition, and compliance reports, supervisory letter, or similar document, and any information contained in, derived from, or related to such documents;

(2) Any documents, materials, or records, including reports of examination, prepared by, or on behalf of, or for the use of the CFPB or any other Federal, State, or foreign government agency in the exercise of supervisory authority over a financial institution, and any information derived from such documents, materials, or records;

(3) Any communications between the CFPB and a supervised financial institution or a Federal, State, or foreign

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government agency related to the CFPB's supervision of the institution;

(4) Any information provided to the CFPB by a financial institution for purposes of detecting and assessing risks to consumers and to markets for consumer financial products or services pursuant to 12 U.S.C. 5414(b)(1)(C), 5515(b)(1)(C), or 5516(b), or to assess whether an institution should be considered a covered person, as that term is defined by 12 U.S.C. 5481, or is subject to the CFPB's supervisory authority; and/or

(5) Information that is exempt from disclosure pursuant to 5 U.S.C. 552(b)(8).

(j) *Director* means the Director of the CFPB or his or her designee, or a person authorized to perform the functions of the Director in accordance with law.

(k) *Employee* means all current employees or officials of the CFPB, including contract personnel, the employees of the Office of the Inspector General of the Board of Governors of the Federal Reserve System and the Consumer Financial Protection Bureau, and any other individuals who have been appointed by, or are subject to the supervision, jurisdiction, or control of the Director, as well as the Director. The procedures established within this part also apply to former employees where specifically noted.

(l) *Financial institution* means any person involved in the offering or provision of a "financial product or service," including a "covered person" or "service provider," as those terms are defined by 12 U.S.C. 5481.

(m) *General Counsel* means the General Counsel of the CFPB or any CFPB employee to whom the General Counsel has delegated authority to act under this part.

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

(o) *Report of examination* means the report prepared by the CFPB concerning the examination or inspection of a supervised financial institution.

(p) *State* means any State, territory, or possession of the United States, the District of Columbia, the Common-

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wealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, or the United States Virgin Islands or any federally recognized Indian tribe, as defined by the Secretary of the Interior under section 104(a) of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a–1(a)), and includes any political subdivision thereof.

(q) *Supervised financial institution* means a financial institution that is or that may become subject to the CFPB's supervisory authority.

[85 FR 75216, Nov. 24, 2020]

### § 1070.3 Custodian of records; certification; alternative authority.

(a) *Custodian of records*. The Chief Operating Officer is the official custodian of all records of the CFPB, including records that are in the possession or control of the CFPB or any CFPB employee.

(b) *Certification of record*. The Chief Operating Officer may certify the authenticity of any CFPB record or any copy of such record, or the absence thereof, for any purpose, and for or before any duly constituted Federal or State court, tribunal, or agency.

(c) *Alternative authority*. Any action or determination required or permitted to be done by the Chief Operating Officer may be done by any employee who has been duly designated for this purpose by the Chief Operating Officer.

[83 FR 46084, Sept. 12, 2018]

### § 1070.4 Records of the CFPB not to be otherwise disclosed.

Except as provided by this part, employees or former employees of the CFPB, or others in possession of a record of the CFPB that the CFPB has not already made public, are prohibited from disclosing such records, without authorization, to any person who is not an employee of the CFPB.

[83 FR 46084, Sept. 12, 2018]

### § 1070.5 Service of summonses and complaints.

(a) Only the General Counsel is authorized to receive and accept summonses or complaints sought to be served upon the CFPB or CFPB employees sued in their official capacity.