

CFPB Bulletin 2011-04 (Enforcement)

Date: November 7, 2011

Subject: Early Warning Notice

This is the first in a series of periodic bulletins that the Consumer Financial Protection Bureau (CFPB) intends to issue in order to provide information about the policies and priorities of the Bureau's Office of Enforcement. These bulletins are intended to inform the public in a transparent manner about some of the types of legal violations that the Office intends to investigate for potential enforcement action, and the procedures and methods that it will use to do so.

Before the Office of Enforcement recommends that the Bureau commence enforcement proceedings, the Office of Enforcement may give the subject of such recommendation notice of the nature of the subject's potential violations and may offer the subject the opportunity to submit a written statement in response ([view](#) a sample notice letter). The decision whether to give such notice is discretionary, and a notice may not be appropriate in some situations, such as in cases of ongoing fraud or when the Office of Enforcement needs to act quickly. The objective of the notice is to ensure that potential subjects of enforcement actions have the opportunity to present their positions to the Bureau before an enforcement action is recommended or commenced.

The primary focus of the written statement in response should be legal and policy matters relevant to the potential enforcement proceedings. Any factual assertions relied upon or presented in the written statement must be made under oath by someone with personal knowledge of such facts. Submissions may be discoverable by third parties in accordance with applicable law.

Unless otherwise specified in the Office of Enforcement's notice, the written statement shall be submitted on 8.5 by 11 inch paper, double spaced, in at least 12-point type, and no longer than 40 pages; and must be received by the Bureau no more than 14 calendar days after the notice. The written statement should be sent to the Bureau staff conducting the investigation, and shall clearly reference the specific investigation to which it relates. If the Office of Enforcement ultimately recommends the commencement of an enforcement proceeding, the written statement will be included with that recommendation.

Persons involved in an investigation who wish to submit a written statement on their own initiative at any point during an investigation should follow the relevant procedures described above.

The CFPB created the Early Warning Notice process solely for the administrative use of its employees. It is not intended to nor should it be construed to: (1) restrict or limit in any way the CFPB's discretion in exercising its authorities; (2) constitute an interpretation of law; or (3) create or confer upon any person, including one who is the subject of a CFPB investigation or enforcement action, any substantive or procedural rights or defenses that are enforceable in any manner.