

Memorandum of Understanding
between
The Consumer Financial Protection Bureau
and
The United States Department of Justice

I. Background and Purpose.

Section 1054(d)(2)(B) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Act) requires the Consumer Financial Protection Bureau and the Department of Justice to establish an agreement to avoid conflicts and promote consistency regarding litigation of matters under Federal law. To satisfy that statutory provision, and to promote effective cooperation between the agencies, the Consumer Financial Protection Bureau (Bureau) and the Department of Justice (Department) (collectively, the Agencies) are entering into this memorandum of understanding (Agreement).

II. Avoiding Conflicts between Parallel Investigations.

The Bureau and the Department of Justice shall consult and coordinate with one another to ensure that parallel investigations and proceedings are conducted in a manner that avoids conflicts and does not impede the ability of the Department of Justice to prosecute violations of Federal criminal laws. Such investigations and proceedings shall be informed by the principles set forth in Department of Justice guidelines regarding parallel civil and criminal investigations and proceedings, namely the 1997 Attorney General Memorandum regarding the Coordination of Parallel Criminal, Civil, and Administrative Proceedings (attached hereto as Appendix A), or a subsequent document as agreed by the Agencies. The Bureau and the Department of Justice will conduct joint training programs with appropriate staff about the principles.

Upon obtaining evidence of conduct that may constitute a violation of Federal criminal law, the Bureau shall transmit that evidence to the Attorney General or any prosecuting component of the Department of Justice. Notice of such transmission shall be provided by the Bureau to the Department of Justice point(s) of contact identified by the Attorney General.

III. Notice Provisions.

1. The Bureau shall notify the Department concerning any action, suit, or proceeding to which the Bureau is named a party (including where a Bureau officer or employee is named in their official capacities, in a *Bivens* suit, or in which the United States is a party and the acts or omissions of the Bureau or one or more of its employees is at issue), except an action, suit, or proceeding that involves the offering or provision of consumer financial products or services. Additionally, the Bureau shall notify the Department whenever it commences a civil action under Federal consumer financial law, including any rule thereunder.

2. Whenever the Department is served in a matter in which an officer or employee of the Bureau is named as a party to litigation, or in which the United States is a party and the acts or omissions of the Bureau are at issue, the Department shall notify the Bureau.
3. Whenever the Bureau receives notice of a proposed settlement under the Class Action Fairness Act, 12 U.S.C. § 1715, it shall, in a timely fashion, provide a copy of the notice and accompanying materials to the Department. Whenever the Department receives notice under the Class Action Fairness Act, 12 U.S.C. § 1715, of a proposed settlement that relates to Federal consumer financial law, it shall, in a timely fashion, provide a copy of the notice and accompanying materials to the Bureau.
4. Whenever the Department receives notice under Federal Rule of Civil Procedure 5.1 or 28 U.S.C. § 2403 that, or when the Bureau is party to litigation in which, the constitutionality of a provision of Federal consumer financial law, including Titles X and XIV of the Dodd-Frank Wall Street Reform and Consumer Protection Act, is being drawn into question in pending litigation, each shall, in a timely fashion, provide a copy of the notice and related materials to the other. The Bureau and the Department shall confer with the goal of avoiding conflicts and promoting consistency regarding litigation of matters under Federal law.
5. Whenever the Department is considering whether amicus participation or the filing of a statement of interest in litigation that relates to a Federal consumer financial law is in the government's interests, and whenever the Bureau is considering amicus participation or the filing of a statement of interest in litigation, it shall notify the other. The Bureau and the Department shall confer with the goal of avoiding conflicts and promoting consistency regarding litigation of matters under Federal law.

IV. Amendments.

The parties may from time to time amend this Agreement in writing, and such amendment shall become effective when executed by both parties.

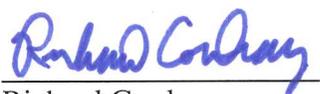
V. Effect.

Nothing in this Agreement shall be construed to create a cause of action or enforceable legal right for any person, or to modify the authorities of either agency under law.

VI. Approval.

The parties have entered into this Agreement on January 20, 2012.

Tom Perrelli
Associate Attorney General
Department of Justice



Richard Cordray
Director
Consumer Financial Protection Bureau

Consumer Financial Protection Bureau

Thomas J. Bevello

1/20/12

Department of Justice

27. Coordination of Parallel Criminal, Civil, and Administrative Proceedings

July 28, 1997

MEMORANDUM FOR ALL UNITED STATES ATTORNEYS
ALL ASSISTANT UNITED STATES ATTORNEYS
ALL LITIGATING DIVISIONS
ALL TRIAL ATTORNEYS

FROM: THE ATTORNEY GENERAL

The key to the Department's federal white-collar crime enforcement effort is to use the Government's resources as efficiently and effectively as possible in order to punish offenders, recover damages, and prevent future misconduct. In recent years, we have pursued greater numbers of complex cases, in which the Government has been required to employ the full range of criminal, civil and administrative remedies and sanctions. The challenge requires greater cooperation, communication and teamwork between the criminal and civil prosecutors who are often conducting parallel investigations of the same offenders and matters. Although policies and procedures on parallel proceedings have been adopted by many of the United States Attorneys' offices, and Department components, I am issuing the following policy statement to clarify the Department's priorities and responsibilities in this new litigative environment.

We have experienced significant change in the way the Government fights white-collar crime. We have also experienced enormous growth of affirmative civil enforcement (ACE), and with additional ACE resources, annual recoveries have increased by hundreds of millions of dollars. Enforcement priorities encompass not only government procurement and health care fraud, but also consumer protection, the environment, tax, and securities fraud, which implicate a variety of civil, criminal, and regulatory remedies.

In order to maximize the efficient use of resources, it is essential that our attorneys consider whether there are investigative steps common to civil and criminal prosecutions, and to agency administrative actions, and that they discuss all significant issues that might have a bearing on the matter as a whole with their colleagues. When appropriate, criminal, civil, and administrative attorneys should coordinate an investigative strategy that includes prompt decisions on the merits of criminal and civil matters; sensitivity to grand jury secrecy, tax disclosure limitations and civil statutes of limitation; early computation and recovery of the full measure of the Government's losses; prevention of the dissipation of assets; global settlements; proper use of discovery; and compliance with the Double Jeopardy Clause. By bringing additional expertise to our efforts, expanding our arsenal of remedies, increasing program integrity and deterring future violations, we represent the full range of the Government's interests.

Accordingly, every United States Attorney's office and each Department Litigating Division should have a system for coordinating the criminal, civil and administrative aspects of all white-collar crime matters within the office. The system should contain management procedures to address issues of parallel proceedings including:

- timely assessment of the civil and administrative potential in all criminal case referrals, indictments, and declinations;
- timely assessment of the criminal potential in all civil case referrals and complaints;
- effective and timely communication with cognizant agency officials, including suspension and debarment authorities, to enable agencies to pursue available remedies;
- early and regular communication between civil and criminal attorneys regarding *qui tam* and other civil referrals, especially when the civil case is developing ahead of the criminal prosecution; and
- coordination, when appropriate, with state and local authorities.

Consistent with our responsibility to make our enforcement efforts more efficient and effective, prosecutors should consult with the government attorneys on the civil side and appropriate agency officials regarding the investigative strategies to be used in their cases. With proper safeguards, evidence can be obtained without the grand jury by administrative subpoenas, search warrants and other means. Evidence can then be shared among the various personnel responsible for the matter. This information-sharing can provide a mechanism through which the Government can achieve a comprehensive settlement of all of the Government's various interests.

I welcome the participation of the various law enforcement agencies in this effort. I encourage those agencies and offices with investigatory responsibilities to recognize, through workplans and credit in the review process, accomplishments in the civil and administrative areas that arise from the work of their agents. I also encourage the United States Attorneys, Litigating Divisions and administrative agencies to similarly recognize those contributions.

To help offices in overcoming impediments to coordination that may arise from a lack of resources, experience or expertise, I also direct that appropriate staff in each office receive comprehensive training regarding parallel proceedings utilizing a course of instruction and training materials to be developed by the Council on White-Collar Crime and the Office of Legal Education.

[cited in [USAM Chapter 1-12.000](#); [Civil Resource Manual 228](#); [Criminal Resource Manual 2464](#)]