

Use of CII by RMR – Small-Dollar Lending
June 23, 2014

The Office of Enforcement currently has [REDACTED] open investigations into companies that extend high-cost credit where RMR staff may be able to provide useful assistance to the enforcement activity or where the confidential investigative information (CII) obtained in the normal course of the investigation may be informative to the Bureau's rulemaking on small-dollar lending. Pursuant to 12 C.F.R. § 1070.41(a)(2), staff in Regulations and Research have been receiving CII in order to assist Enforcement in carrying out investigations; RMR is now seeking to use CII for the upcoming small-dollar lending rulemaking. To further the Bureau's rulemaking activities related to small-dollar loans, the Office of Enforcement, the Office of Regulations, and the Legal Division have agreed on certain protocols for the protection and handling of CII by RMR in the rulemaking process.

The Bureau's investigation activities, including the scope of any civil investigative demands, are based on law enforcement needs and purposes as determined by Enforcement. Consistent with 12 C.F.R. § 1070.41 and 12 C.F.R. § 1070.45, Enforcement may share the information obtained in the course of investigations with RMR staff when such disclosure is relevant to their assigned duties. Any individuals with access to this information must comply with the same confidentiality policies and practices observed by Enforcement. Any staff receiving CII will have an obligation to adhere to appropriate data protection standards and take appropriate measures to protect the information from unauthorized disclosure. Protective measures include segregating and labeling CII in electronic and paper files, appropriately labeling confidential information, complying with procedures for proper disposal, and reporting any unauthorized use or disclosure. To help facilitate appropriate treatment of CII, RMR will schedule training for staff on handling CII.

RMR staff receiving CII will not share the information with any other division within the Bureau, except consistent with the Bureau's Data Governance Policy; pursuant to 12 C.F.R. § 1070.41(a), RMR staff will not disclose CII to persons outside the Bureau, except as required by law and in consultation with the Legal Division. Within RMR, where CII has been provided to staff to support an enforcement investigation, that information will not be shared with others working on the small-dollar rulemaking without first discussing the potential sharing with Enforcement. In addition, such sharing will occur only if the information is relevant to the performance of the other employee's assigned duties and he or she is trained in the proper handling of CII. RMR staff who are already providing investigative support for Enforcement will redact any direct identifiers before sharing with other RMR staff. When CII is provided to RMR and there are no RMR staff supporting Enforcement activities related to the same information, RMR will designate appropriate personnel to remove the direct identifiers. RMR will not analyze CII that contains direct identifiers for any purpose other than supporting an investigation.

In consultation with the Legal Division, Regulations and Enforcement have agreed that to the extent that the Bureau relies on CII in the course of the small-dollar lending rulemaking, Regulations will seek to handle the information in ways that protect the confidentiality of enforcement activity and the identity of the subjects of enforcement investigations. For example, Regulations will seek to consider the information in such a fashion that the administrative record

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contains only aggregated or summary information, rather than the underlying CII itself. As another example, rulemaking publications will ordinarily describe the information as confidential information gathered in the course of statutory functions without specifically identifying the channel through which the Bureau obtained the information. Regulations, Enforcement, and the Legal Division will continue to consult during the preparation of materials in support of the small-dollar lending rulemaking to ensure CII is handled consistent with this principle. They may agree on departures from it as appropriate.

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