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12 *Attorneys for Petitioner*

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

13 CONSUMER FINANCIAL PROTECTION  
14 BUREAU,

15 Petitioner,

16 v.

17 CHECK CITY PARTNERSHIP, LLC,

18 Respondent.

2:23-ms-00035

**PETITION TO ENFORCE CIVIL  
INVESTIGATIVE DEMAND AND  
SUPPORTING MEMORANDUM**

19 The Consumer Financial Protection Bureau (Bureau) petitions this Court for an order  
 20 directing Check City Partnership, LLC (Check City) to show cause as to why it should not  
 21 comply fully with the Bureau’s civil investigative demand (CID). The Bureau is an  
 22 independent federal agency charged with regulating the offering and provision of consumer  
 23 financial products and services, as well as protecting consumers from unfair, deceptive, and  
 24 abusive acts and practices. 12 U.S.C. §§ 5491(a), 5511. To fulfill this purpose, the Consumer  
 25 Financial Protection Act of 2010 (CFPA) authorizes the Bureau to issue a CID to any entity it  
 26 has reason to believe may have information relevant to a violation of federal consumer  
 27 financial law. 12 U.S.C. § 5562(c)(1). A summary proceeding is necessary so the Bureau  
 28 may thoroughly conduct its investigation. As set forth below, the Bureau has authority to

1 issue the CID to Check City, and this Court has authority to enforce it. Accordingly, the  
2 Bureau respectfully asks this Court to enter an order requiring Check City to show cause as  
3 to why it should not comply with the CID and, thereafter, enter an order requiring full  
4 compliance.

5 **JURISDICTION AND VENUE**

6 The CFPA authorizes the Bureau to file a petition for an order to enforce the CID in  
7 the federal district court where the CID recipient “resides, is found, or transacts business.” 12  
8 U.S.C. § 5562(e)(1); 12 C.F.R. § 1080.10(b)(1). This Court has subject-matter jurisdiction  
9 under § 1052(h)(1) of the CFPA. 12 U.S.C. § 5562(h)(1). And venue is proper because  
10 Check City is located, resides, and does business in the District of Nevada.

11 **STATEMENT OF FACTS**

12 Check City is a limited-liability company that provides short-term, small-dollar, and  
13 installment loans to consumers. On December 16, 2022, the Bureau issued to Check City a  
14 CID via e-mail, as part of an investigation into possible violations of the CFPA. Assae-Bille  
15 Decl. ¶ 6; *see* 12 U.S.C. § 5562(c)(8). The CID required Check City to respond to six  
16 interrogatories, four requests for written reports, and twenty-one requests for documents by  
17 January 26, 2023. *Id.*, Ex. A.

18 The parties met and conferred by telephone on December 29, 2022 and again on  
19 January 6, 2023 and January 9, 2023 to discuss and attempt to resolve all issues regarding  
20 Check City’s compliance with the CID. During these calls, Check City indicated an intent to  
21 comply with the CID. *Id.* ¶ 7.

22 On January 18, 2023, and on January 24, 2023, Check City requested in writing  
23 modifications to the CID, including an extension of the deadline to respond to the CID. *Id.* ¶  
24 8; *see, generally* Ex. B. On February 2, 2023, the Bureau extended the CID compliance date  
25 to May 8, 2023, with interim production dates of January 26, 2023; February 13, 2023;  
26 February 20, 2023; February 27, 2023; March 6, 2023; March 20, 2023; March 27, 2023;  
27 April 10, 2023; and May 1, 2023. *Id.* ¶ 9, Ex. C at 6-7.



1 As relevant to this petition, Check City's responses to Request for Documents No. 21  
2 (seeking audio recordings) was due on February 13, 2023; its response to Request for  
3 Documents Nos. 11 and 19 (seeking internal communications) were due on March 6, 2023;  
4 and its response to Request for Documents No. 18 (seeking loan files) and Request for  
5 Documents No. 20 (seeking external communications) were due on March 27, 2023. *Id.*  
6 Check City's responses to the four Requests for Written Reports (seeking borrower-level,  
7 loan-level, payment-level, and note- or memo-level data) were due in four scheduled  
8 tranches: February 27, 2023, March 20, 2023, April 10, 2023, and May 1, 2023. *Id.* And its  
9 response to Interrogatory No. 6 (seeking information on complaints) was due on March 27,  
10 2023; its response to Interrogatory No. 5 (seeking information about how loans were  
11 underwritten) was due on May 8, 2023, and its response to Interrogatory No. 3(i) (seeking  
12 call notes) was due in three tranches on February 27, 2023, March 20, 2023, and April 10,  
13 2023. *Id.*

14 In a series of requests, Check City sought further extensions of the deadlines to  
15 respond to the CID's four Requests for Written Reports and Interrogatory No. 3(i). First, in e-  
16 mails dated February 24, 2023 and March 3, 2023, Check City asked the Bureau to (1)  
17 extend the February 27, 2023 production date for the responses to Requests for Written  
18 Reports to March 13, 2023, and (2) extend the production date for Interrogatory No. 3(i) so  
19 that tranches were due on April 10, 2023 and in May 2023. *Id.* ¶ 10, Ex. D at 4. As part of  
20 that request, Check City represented that "significant progress has been made" on perfecting  
21 the queries needed to pull the data requested by the CID and stated: "Check City will commit  
22 to producing this data sooner, if at all possible." *Id.* Then, on March 10, 2023, Check City  
23 requested a third extension of the deadline to respond to the CID. In this request, Check City  
24 represented that "the initial data pull for Check City will be complete in approximately one  
25 week," and it asked the Bureau for permission to produce responses to the requests for  
26 written reports on April 10, 2023, May 1, 2023, May 22, 2023, and June 5, 2023. *Id.* ¶ 12,  
27 Ex. F at 2. In modification letters sent on March 6, 2023 and March 15, 2023, the Bureau  
28 granted each of these requests. *Id.* ¶¶ 11, 13; Exs. E at 3-4, G at 3.

1 Check City made its last production in response to the CID on March 27, 2023. *Id.* ¶¶  
2 14, 20; Ex. H at 9-11. To date, Check City has not produced any responses to any of the  
3 Requests for Written Reports, Request for Documents Nos. 11, 18, 19, 20, and 21, and  
4 Interrogatory Nos. 3(i), 5, and 6. *Id.* ¶ 21.

5 On March 31, 2023, Check City counsel asked the Bureau to halt its investigation of  
6 Check City until the U.S. Supreme Court decides the Bureau’s appeal in *Com. Fin. Servs.*  
7 *Ass’n., et. al v. CFPB*, 51 F.4th 616 (5th Cir. 2022), *cert. granted*, No. 22-448 (U.S. Feb. 27,  
8 2023) (hereinafter, *CFSA*) (in *CFSA*, the Fifth Circuit held that the Bureau’s funding  
9 mechanism violates the Appropriations Clause). *Id.* ¶ 18, Ex. J at 2-3. This marked the first  
10 time that Check City raised *CFSA* or the specific issue at the center of the *CFSA* appeal—*i.e.*,  
11 the Bureau’s funding. *Id.* ¶ 19.

12 On April 3, 2023, the Bureau informed Check City counsel that it did not agree to halt  
13 its investigation of Check City, and asked Check City to confirm its intent to comply with the  
14 CID under the modified schedule. *Id.* ¶ 18, Ex. J at 1-2. On April 3, 2023, Check City  
15 counsel confirmed that Check City would no longer comply with the modified CID. *Id.* ¶ 18,  
16 Ex. J at 1. On May 12, 2023, Check City reiterated that it would not provide responses  
17 pending the resolution of *CFSA*. Ex. I at 2.

18 Check City has not produced responses to the CID since March 27, 2023. *Id.* ¶ 20.  
19 This refusal to comply with the CID burdens, delays, and impedes the Bureau’s investigation  
20 of Check City’s conduct in connection with the provision of short-term, small-dollar, or  
21 installment loans to consumers.

## 22 ARGUMENT

23 The law is well-settled that administrative agencies are to be given wide latitude in  
24 exercising their power to investigate by subpoena, including investigating by CID. *EEOC v.*  
25 *Fed. Express Corp.*, 558 F.3d 842, 851 n.3 (9th Cir. 2009); *see also, e.g., EEOC v. Karuk*  
26 *Tribe Hous. Auth.*, 260 F.3d 1071, 1076 (9th Cir. 2001) (“courts must enforce administrative  
27 subpoenas unless the evidence sought by the subpoena is plainly incompetent or irrelevant to  
28 any lawful purpose of the agency”) (quotation marks and citations omitted); *FTC v. Ken*



1 *Roberts Co.*, 276 F.3d 583, 586 (D.C. Cir. 2001); *United States v. Constr. Prods. Research,*  
2 *Inc.*, 73 F.3d 464, 470 (2d Cir. 1996); *Morgan Drexen, Inc. v. CFPB*, 979 F. Supp. 2d. 104,  
3 107 (D.D.C. 2013) (noting that CIDs are a form of administrative subpoena); *FTC v. Mfrs.*  
4 *Hanover Consumer Servs., Inc.*, 543 F. Supp. 1071, 1073 (E.D. Pa. 1982) (“A CID is  
5 analogous to an investigative subpoena.”).

6 Judicial enforcement of a CID is appropriate when (1) Congress has granted the  
7 authority to investigate, (2) procedural requirements have been followed, and (3) the  
8 evidence sought is relevant and material to the investigation. *See EEOC v. Fisher Sand &*  
9 *Gravel, Co.*, No. 2:12-CV-00649-JCM, 2012 WL 3996138, at \*1 (D. Nev. Sept. 11, 2012)  
10 (citing *Fed. Express Corp.*, 558 F.3d at 848 and *EEOC v. Children’s Hosp. Med. Ctr. of N.*  
11 *Cal.*, 719 F.2d 1426, 1428 (9th Cir. 1983) (en banc)); *see also United States v. Morton Salt*  
12 *Co.*, 338 U.S. 632, 652 (1950) (finding agency investigation to be “sufficient if the inquiry is  
13 within the authority of the agency, the demand is not too indefinite and the information  
14 sought is reasonably relevant.”). If these three requirements are met, the CID must be  
15 enforced unless the respondent can show that the CID is overbroad or unduly burdensome.  
16 *See FHFA v. SFR Invs. Pool I, LLC*, No. 2:17-CV-00914-GMN-PAL, 2018 WL 1524440, at  
17 \*5 (D. Nev. Mar. 27, 2018) (citation omitted); *see also EEOC v. McLane Co.*, 804 F.3d 1051,  
18 1056 (9th Cir. 2015), *vacated on other grounds*, 581 U.S. 72 (2017) (“If [the three initial  
19 requirements] are met, the court must enforce the subpoena unless the objecting party shows  
20 that the subpoena is overbroad or that compliance would be unduly burdensome”).

21 As shown below, the Bureau has met all three requirements, and Check City cannot  
22 show, and has not argued, that the CIDs are overbroad or unduly burdensome.

23 **A. The Bureau has investigative authority.**

24 Congress clearly granted the Bureau the authority to investigate in this instance. *See*  
25 *Fed. Express Corp.*, 558 F.3d at 848 (this criterion is met “unless jurisdiction is plainly  
26 lacking”) (quotation marks and citation omitted); 851 n.3 (collecting cases). The CFPA  
27 empowers the Bureau to issue a CID whenever it has reason to believe that “any person . . .  
28 may have any information[] relevant to a violation” of “Federal consumer financial law.” 12

1 U.S.C. § 5562(c)(1). A Bureau CID may, among other things, require the recipient to respond  
2 to interrogatories, provide written reports, produce documents, and submit tangible things. *Id.*  
3 Case law also recognizes that “agencies should remain free to determine, in the first instance,  
4 the scope of their own jurisdiction when issuing investigative subpoenas.” *Ken Roberts Co.*,  
5 276 F.3d at 586.

6 The violations potentially at issue here are plainly within the scope of the Bureau’s  
7 authority. As required by the CFPA, 12 U.S.C. § 1052(c)(2), the CID contained a  
8 Notification of Purpose informing Check City that the CID was issued as part of an ongoing  
9 investigation to determine whether:

10 short-term or small-dollar lenders or associated persons, in  
11 connection with providing short-term, small-dollar, or  
12 installment loans, have: (1) improperly induced borrowers to  
13 take out, renew, or refinance loan products that harmed them;  
14 (2) misrepresented the full, long-term costs of serially rolling  
15 over, renewing or refinancing their loan products; or (3)  
16 misrepresented that their loans are short-term obligations despite  
17 being structured and serviced in a manner that renders them  
18 longer-term obligations for many borrowers, all in a manner that  
19 is unfair, deceptive, or abusive in violation of §§ 1031 and 1036  
20 of the Consumer Financial Protection Act of 2010, 12 U.S.C. §§  
21 5531, 5536.

22 Assae-Bille Decl. ¶ 6, Ex. A at 3 (CID Notification of Purpose). Short-term, small-dollar, and  
23 installment loans offered and provided by Check City, and the subsequent collection of them,  
24 are “consumer financial product[s] or service[s]” under the CFPA. 12 U.S.C. § 5481(5),  
25 (15)(A)(i), (15)(A)(x). Check City is a “covered person” under the CFPA because it has  
26 engaged in offering and providing consumer financial products or services. 12 U.S.C. §  
27 5481(6). As a result, if Check City has improperly induced consumers to borrow these loan  
28 products, misrepresented their costs, or mischaracterized them as short-term obligations, then  
the Bureau could find that Check City engaged in unfair, deceptive, or abusive acts or  
practices under the CFPA. 12 U.S.C. §§ 5531(a), 5536(a)(1)(B). The Bureau’s investigation  
thus falls squarely within its authority to investigate violations of federal consumer financial  
law. 12 U.S.C. §§ 5531(a), 5562(c).



1       **B. All administrative prerequisites are met.**

2           The Bureau also followed all the required administrative steps to issue a civil  
3       investigative demand. 12 U.S.C. § 5562(c); 12 C.F.R. pt. 1080. On December 16, 2022, a  
4       Deputy Assistant Director of the Office of Enforcement issued the CID. The CID was served  
5       on Check City counsel via e-mail, with consent from Check City. Assae-Bille Decl. ¶ 6; Ex.  
6       A at 3, 49. As noted above, and pursuant to the CFPA, 12 U.S.C. § 5562(c)(2), the CID  
7       contained a Notification of Purpose apprising Check City of the nature of the conduct under  
8       investigation and applicable provisions of law. Assae-Bille Decl. ¶ 6, Ex. A at 3.

9       **C. The CID seeks information relevant to the Bureau’s investigation.**

10          Courts traditionally defer to the investigating agency to determine relevance in the  
11       context of an administrative subpoena, which must be enforced if the information sought  
12       could be pertinent to a legitimate agency inquiry. *Endicott Johnson Corp. v. Perkins*, 317  
13       U.S. 501, 507-09 (1943); *see also, e.g., Morton Salt Co.*, 338 U.S. at 652. “The Supreme  
14       Court has held that the relevance requirement is ‘not especially constraining.’” *SFR Invs.*  
15       *Pool I, LLC*, 2018 WL 1524440, at \*7 (citing *EEOC v. Shell Oil Co.*, 466 U.S. 54, 68  
16       (1984)); *see also McLane Co. v. EEOC*, 581 U.S. 72, 76-77 (2017), *as revised* (Apr. 3, 2017).  
17       An agency request is relevant as long as it is not “plainly incompetent or irrelevant to any  
18       lawful purpose of the agency.” *Karuk Tribe Hous. Auth.*, 260 F.3d at 1076 (internal  
19       quotations and citations omitted); *see also United States v. Exxon Mobil Corp.*, 943 F.3d  
20       1283, 1287 (9th Cir. 2019) (“The relevance requirement is not especially constraining, but is  
21       instead generously construed to afford the agency access to virtually any material that might  
22       cast light on the matter under investigation.”) (citations and quotations omitted). In addition,  
23       an agency like the Bureau “has a power of inquisition . . . [and] can investigate merely on  
24       suspicion that the law is being violated, or even just because it wants assurance that it is not.”  
25       *Morton Salt Co.*, 338 U.S. at 642-43.

26          Here, the Bureau’s CID seeks information relating to Check City’s business practices  
27       with respect to its provision of and collection on short-term, small-dollar, and installment  
28       loans, a consumer financial product or service. Assae-Bille Decl. ¶¶ 4, 6; *see, generally* Ex.

1 A. at 4-12. The information sought in the CID is plainly relevant to a legitimate Bureau  
2 inquiry.

3 **D. The CID requests at issue are not overbroad or unduly burdensome.**

4 Finally, the CID requests that Check City has refused to respond to are not overbroad  
5 or unduly burdensome. “A demand is not too indefinite when all of the categories of  
6 information are sufficiently specific to enable the respondent to understand what information  
7 the agency seeks,” and the CID “clearly identifies the information and documents sought.”  
8 *CFPB v. Ctr. for Excellence in Higher Educ.*, No. 2:19-CV-00877-RJS-CMR, 2022 WL  
9 2718245, at \*4 (D. Utah Apr. 20, 2022), *report and recommendation adopted*, No. 2:19-CV-  
10 00877-RJS-CMR, 2022 WL 4182301 (D. Utah Sept. 13, 2022) (internal punctuation marks  
11 and citations omitted). However, “the subpoena must not be so broad that compliance with its  
12 terms is unduly burdensome.” *Id.* As one court in this district has previously explained, “[t]o  
13 demonstrate that an administrative subpoena imposes an undue burden, a subpoenaed party  
14 must provide specific evidence showing that compliance ‘threatens to unduly disrupt or  
15 seriously hinder normal operations of a business.’” *SFR Invs. Pool 1, LLC*, 2018 WL  
16 1524440, at \*7 (citing *CFPB v. Future Income Payments, LLC*, 252 F. Supp. 3d 961, 970  
17 (C.D. Cal. 2017), and *FTC v. Texaco, Inc.*, 555 F.2d 862, 871-72 (D.C. Cir. 1977) (en banc)).  
18 This standard “is not easy to meet,” *SFR Invs. Pool 1, LLC*, 2018 WL 1524440, at \*7, and  
19 “[s]ome burden on subpoenaed parties is to be expected and is necessary in furtherance of the  
20 agency’s legitimate inquiry and the public interest.” *Texaco*, 555 F.2d at 882.

21 Here, Check City has refused to respond to three interrogatories, four requests for  
22 written reports, and five document requests. These interrogatories seek notes related to  
23 consumer calls and information about complaints and how loans are underwritten. The four  
24 requests for written reports seek borrower-level, loan-level, payment-level, and note-level  
25 data. And the document requests seek communications, loan files, and call recordings. *Id.* ¶  
26 6, Ex. A at 4-12. This is specific enough for Check City to understand the information the  
27 Bureau seeks. Indeed, since the Bureau issued the CID in December 2022, Check City has  
28 provided the Bureau multiple updates on its progress with respect to these requests,



1 indicating that Check City understands what information the CID seeks and is able to  
2 respond. *E.g.*, Assae-Bille Decl. ¶¶ 10, 12; Exs. D at 4, F at 2.

3         The Bureau has made reasonable efforts to limit Check City’s compliance burden,  
4 consistent with the needs of the investigation. For example, in its January 18, 2023 letter,  
5 Check City represented that responding to Request for Documents No. 18 (seeking complete  
6 loan files) would be burdensome because it required manually collecting hardcopy  
7 documents. *Id.* ¶ 8, Ex. B at 10. On February 2, 2023, the Bureau narrowed the request to  
8 exclude hardcopy documents and any title loans, with the understanding that Check City thus  
9 would be producing digital loan-level information that it was “already working to collect and  
10 produce . . . in connection with responding [to] the Bureau’s Requests for Written Reports.”  
11 *Id.* ¶¶ 8, 9; Ex. B at 10, Ex. C at 3. And, when Check City wrote to the Bureau on February  
12 24, 2023, March 3, 2023, and again on March 10, 2023, to seek a second and third CID  
13 modification, the Bureau promptly granted Check City’s precise requests. *Id.* ¶¶ 10-13; Exs.  
14 D at 1, 4, E at 2-4, F at 2, G at 3.

15         Check City has confirmed its ability to respond to all but one of the outstanding  
16 requests. For example, in its most recent request for an extension of the modified CID’s  
17 deadlines, Check City represented significant progress had been made in gathering  
18 information responsive to the requests for written reports (*i.e.*, noting on March 10, 2023,  
19 that “the initial data pull for Check City will be complete in approximately one week”). *Id.* ¶  
20 12, Ex. F at 2. And by e-mail on May 12, 2023, Check City represented that it intended to  
21 comply with the requests for internal communications pending the resolution of *CFSA*. *Id.* ¶  
22 16, Ex. I at 1-2.

23         The only request with which Check City has represented it cannot comply is Request  
24 for Documents No. 18. Check City informed the Bureau on March 27, 2023 that producing  
25 the responsive loan files was too burdensome, and sought a modification that would allow for  
26 a response based on sampling. *Id.* ¶ 14, Ex. H at 9-10. But the Bureau has already taken steps  
27 to completely address the burdens raised by Check City (*e.g.*, by excluding title loans and  
28 hardcopy documents from the scope of the request), the effects of which Check City’s

1 modification request failed to acknowledge. *Id.* ¶ 9, Ex. C at 3. In any event, Check City  
2 indicated its intent to stop complying with the CID before the Bureau could address this  
3 modification request. *Id.* ¶ 18, Ex. J at 2-3.

4 Given the limited scope of these CID requests, the significant progress that Check  
5 City previously represented having made on responding to these requests, and the fact that  
6 the Bureau has made every reasonable effort to ease Check City's compliance burden, the  
7 CID is not unduly burdensome.

8 **E. Summary enforcement is proper.**

9 “Questions concerning agency subpoenas should be promptly determined so that the  
10 subpoenas, if valid, may be speedily enforced.” *SEC v. First Sec. Bank of Utah, N.A.*, 447  
11 F.2d 166, 168 (10th Cir. 1971); *see also Fed. Mar. Comm'n v. Port of Seattle*, 521 F.2d 431,  
12 433 (9th Cir. 1975) (noting “that the very backbone of an administrative agency's  
13 effectiveness in carrying out the congressionally mandated duties of industry regulation is the  
14 rapid exercise of the power to investigate the activities of the entities over which it has  
15 jurisdiction and the right under the appropriate conditions to have district courts enforce its  
16 subpoenas.”); *SEC v. Lavin*, 111 F.3d 921, 926 (D.C. Cir. 1997) (noting that subpoena  
17 enforcement actions “are generally summary in nature and must be expedited”). Thus, “while  
18 the court's function is ‘neither minor nor ministerial,’ the scope of issues which may be  
19 litigated in an enforcement proceeding must be narrow, because of the important  
20 governmental interest in the expeditious investigation of possible unlawful activity.” *Texaco*,  
21 555 F.2d at 872 (internal quotations omitted); *see, e.g., SFR Invs. Pool I, LLC*, 2018 WL  
22 1524440, at \*5 (“The scope of the court's inquiry is ‘quite narrow’ in a proceeding to enforce  
23 an administrative subpoena.”) (quoting *United States v. Golden Valley Elec. Ass'n*, 689 F.3d  
24 1108, 1113 (9th Cir. 2012)). This Court thus has authority to resolve this proceeding  
25 summarily.

26 **CONCLUSION**

27 Because the Bureau has shown that it has authority to investigate, that the procedural  
28 requirements have been followed, that the evidence it seeks sought is relevant and material to



1 the investigation, and that the CID is not overbroad or unduly burdensome, the Bureau has  
2 demonstrated that enforcement of the CID is appropriate.

3 Therefore, the Bureau respectfully ask that this Court:

- 4 1. order Check City to show cause, in writing, why it should not comply  
5 with the Bureau CID issued on December 16, 2022, as modified on  
6 February 2, 2023, March 6, 2023, and March 15, 2023;
- 7 2. order Check City to comply fully with the CID within 14 days;
- 8 3. award the Bureau the costs it incurred in maintaining this action; and
- 9 4. grant such other relief as this Court deems just and proper.

10 Dated: June 12, 2023

Respectfully submitted,

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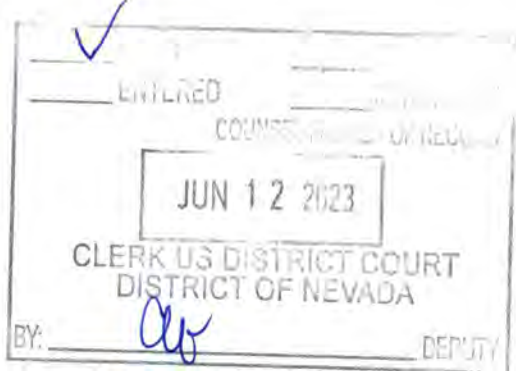
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8 **UNITED STATES DISTRICT COURT**  
9 **DISTRICT OF NEVADA**

10  
11 CONSUMER FINANCIAL PROTECTION  
12 BUREAU,

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16 Respondent.  
17

2:23-ms-00035

**CONSUMER FINANCIAL  
PROTECTION BUREAU'S  
INDEX OF EXHIBITS**

18  
19 Pursuant to Local Rule IA 10-3(d), the Consumer Financial Protection Bureau  
20 submits this Index of Exhibits in support of its Petition to Enforce Civil Investigative  
21 Demand in the above-captioned case.

- 22 Ex. A Civil Investigative Demand to Check City Partnership, LLC  
23 (December 16, 2022) and e-mail from Sarah Reise to Benjamin Clark  
24 (December 16, 2022)
- 25 Ex. B Letter from Sarah Reise and Jason Cover to E. Vanessa Assae-Bille  
26 (January 18, 2023) and e-mail from Sarah Reise to E. Vanessa Assae-  
27 Bille (January 24, 2023)
- 28 Ex. C Letter from Deborah Morris to Sarah Reise and Jason Cover (February  
2, 2023)



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- Ex. D E-mail exchange between Sarah Reise and E. Vanessa Assae-Bille (February 24, 2023 to March 3, 2023)
- Ex. E Letter from Deborah Morris to Sarah Reise and Jason Cover (March 6, 2023)
- Ex. F Letter from Sarah Reise and Jason Cover to E. Vanessa Assae-Bille (March 10, 2023)
- Ex. G Letter from Deborah Morris to Sarah Reise and Jason Cover (March 15, 2023)
- Ex. H Letters from Sarah Reise to E. Vanessa Assae-Bille (January 26, 2023; February 2, 2023; February 13, 2023; February 21, 2023; and March 27, 2023)
- Ex. I E-mail exchange between Sarah Reise and Benjamin Clark (May 9, 2023 to May 12, 2023)
- Ex. J E-mail exchange between Sarah Reise and E. Vanessa Assae-Bille (March 31, 2023 to April 3, 2023)

Dated: June 12, 2023

Respectfully submitted,

ERIC HALPERIN  
Enforcement Director

DEBORAH MORRIS  
Deputy Enforcement Director

EMILY SACHS  
Assistant Litigation Deputy

/s/ E. Vanessa Assae-Bille  
E. VANESSA ASSAE-BILLE  
NY Bar No. 5165501  
Email: elisabeth.assae-bille@cfpb.gov  
Telephone: 202-435-7688

BENJAMIN CLARK  
IL Bar No. 6316861  
Email: benjamin.clark@cfpb.gov  
Telephone: 202-435-7871

Consumer Financial Protection Bureau  
1700 G Street, NW  
Washington, DC 20552

*Attorneys for Petitioner  
Consumer Financial Protection Bureau*

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**Exhibit A**

Civil Investigative Demand to Check City Partnership, LLC  
(December 16, 2022)  
and  
E-mail from Sarah Reise to Benjamin Clark  
(December 16, 2022)





1700 G Street NW, Washington, D.C. 20552

December 16, 2022

Via Email

Check City Partnership, LLC  
c/o Sarah T. Reise  
Jason Miller Cover  
Troutman Pepper Hamilton Sanders LLP  
600 Peachtree Street NE, Suite 3000  
Atlanta, GA 30308-2216

Re: Civil Investigative Demand served on Check City Partnership, LLC on December 16, 2022

Dear Ms. Reise and Mr. Cover:

Attached is a Civil Investigative Demand (CID) issued to Financial Asset Management, Inc. by the Consumer Financial Protection Bureau (Bureau) under 12 C.F.R. § 1080.6 and § 1052(c) of the Dodd-Frank Wall Street Reform and Consumer Protection Act, 12 U.S.C. § 5562. The Bureau is currently seeking information for a non-public investigation, the purpose of which is explained on the attached CID cover sheet. Please note:

1. **Contact Bureau counsel, E. Vanessa Assae-Bille at (202) 435-7688 or [elisabeth.assae-bille@cfpb.gov](mailto:elisabeth.assae-bille@cfpb.gov), as soon as possible to schedule an initial meeting that is required to be held within 10 calendar days of receipt of this CID.** During this meeting, you must discuss and attempt to resolve all issues regarding the CID, including timely compliance. The rules require that you make available at this meeting personnel with the knowledge necessary to resolve issues; such individuals may include, for example, information-technology professionals. Please be prepared to discuss your planned compliance schedule, including any proposed changes that might reduce your cost or burden while still giving the Bureau the information it needs.
2. **You must retain, and suspend any procedures that may result in the destruction of, documents, information, or tangible things that are in any way relevant to the investigation as described in the CID's Notification of Purpose.** You are required to prevent the destruction of relevant material irrespective of whether you believe such material is protected from future disclosure or discovery by privilege or otherwise. See 18 U.S.C. §§ 1505, 1519.

Please contact me as soon as possible to set up an initial meeting, which must be held within 10 calendar days of receipt of this CID. We appreciate your cooperation.

[consumerfinance.gov](http://consumerfinance.gov)

Sincerely,

/s/ Benjamin Clark

Benjamin Clark  
Enforcement Attorney

Attachment





United States of America  
Consumer Financial Protection Bureau

# Civil Investigative Demand

To **Check City Partnership, LLC**  
c/o Sarah T. Reise  
Jason Miller Cover  
Troutman Pepper Hamilton Sanders LLP  
600 Peachtree Street NE, Suite 3000  
Atlanta, GA 30308-2216

This demand is issued pursuant to Section 1052 of the Consumer Financial Protection Act of 2010 and 12 C.F.R. Part 1080 to determine whether there is or has been a violation of any laws enforced by the Consumer Financial Protection Bureau.

## Action Required (choose all that apply)

Appear and Provide Oral Testimony

Location of Investigational Hearing	Date and Time of Investigational Hearing
	Bureau Investigators

Produce Documents and/or Tangible Things, as set forth in the attached document, by the following date 01/26/2023

Provide Written Reports and/or Answers to Questions, as set forth in the attached document, by the following date 01/26/2023

## Notification of Purpose Pursuant to 12 C.F.R. § 1080.5

The purpose of this investigation is to determine whether short-term or small-dollar lenders or associated persons, in connection with providing short-term, small-dollar, or installment loans, have: (1) improperly induced borrowers to take out, renew, or refinance loan products that harmed them; (2) misrepresented the full, long-term costs of serially rolling over, renewing or refinancing their loan products; or (3) misrepresented that their loans are short-term obligations despite being structured and serviced in a manner that renders them longer-term obligations for many borrowers, all in a manner that is unfair, deceptive, or abusive in violation of §§ 1031 and 1036 of the Consumer Financial Protection Act of 2010, 12 U.S.C. §§ 5531, 5536. The purpose of this investigation is also to determine whether Bureau action to obtain legal or equitable relief would be in the public interest.

### Custodian / Deputy Custodian

Deborah Morris / John Marlow  
1700 G St NW  
Washington DC, 20552

### Bureau Counsel

Benjamin Clark / Vanessa Assae-Bille  
1700 G St NW  
Washington DC, 20552

Date Issued

12/16/2022

Signature

**Deborah Morris**

Digitally signed by Deborah

Morris

Date: 2022.12.16 12:24:11 -05'00'

Name / Title

Deborah Morris / Deputy Director, Office of Enforcement

### Service

The delivery of this demand to you by any method prescribed by the Consumer Financial Protection Act of 2010, 12 U.S.C. § 5562, is legal service. If you fail to comply with this demand, the Bureau may seek a court order requiring your compliance.

### Travel Expenses

Request a travel voucher to claim compensation to which you are entitled as a witness before the Bureau pursuant to Section 1052 of the Consumer Financial Protection Act of 2010, 12 U.S.C. § 5562.

### Right to Regulatory Enforcement Fairness

The CFPB is committed to fair regulatory enforcement. If you are a small business under Small Business Administration standards, you have a right to contact the Small Business Administration's National Ombudsman at 1-888-REGFAIR (1-888-734-3247) or [www.sba.gov/ombudsman](http://www.sba.gov/ombudsman) regarding the fairness of the compliance and enforcement activities of the agency. You should understand, however, that the National Ombudsman cannot change, stop, or delay a federal agency enforcement action.

### Paperwork Reduction Act

This demand does not require approval by OMB under the Paperwork Reduction Act of 1980.

**CIVIL INVESTIGATIVE DEMAND FOR  
PRODUCTION OF DOCUMENTS, WRITTEN REPORTS,  
AND ANSWERS TO INTERROGATORIES**

**I. Requests.**

**Interrogatories**

1. For every former employee of the Company who was terminated or resigned during the Applicable Period, identify the following:
  - a. employee name;
  - b. position held as of date of departure;
  - c. if store employee, location of the store or stores where employee worked;
  - d. if a district manager, the name of district or districts where employee worked;
  - e. whether the departure was voluntary or involuntary;
  - f. reason for termination or resignation;
  - g. hire date;
  - h. departure date;
  - i. salary as of date of departure;
  - j. last-known telephone number(s);
  - k. last-known home address; and
  - l. last-known email address(es).
  
2. For each year during the Applicable Period, identify the top two and bottom two performing stores in each district by:
  - a. overall revenue;
  - b. revenue generated in connection with Deferred Deposit Loans;
  - c. overall default rate;



- d. default rate for Deferred Deposit Loans; and
  - e. total number of transactions.
3. Identify all telephone call recordings between the Company's "Customer Service Group" and consumers, and provide all associated elements as stored in Your or Your providers' databases (e.g., Customer Relations Management systems and call recording systems) at a call level, including:
  - a. account number associated with the call;
  - b. unique identifier for the call;
  - c. file extension for call recording, such as .wav file or similar;
  - d. date and time of call;
  - e. telephone number called by the Company or used to call the Company;
  - f. duration of call;
  - g. unique operator ID associated with call;
  - h. any call-type codes, disposition codes, resolution codes, product codes, or similar associated with the call (use separate columns);
  - i. notes or comments associated with the call; and
  - j. any other data unique to the call.
4. For each marketing campaign for Deferred Deposit Loans in which the Company sent emails to its existing customers, describe the criteria employed by the marketing division to develop the list of customers to whom the Company sent emails.
5. Provide the loan ID, as identified in response to Request for Written Report No. 2.a, for each loan in which the Company's decision engine treated a customer's repayment of a loan that was at least fourteen days delinquent as a positive factor in underwriting.
6. For each year during the Applicable Period, Identify:
  - a. any Person who made a complaint or filed a grievance relating to Your Deferred Deposit Loans, Installment Loans, and Signature Loans;

- b. whether the Person is a consumer or an employee/agent of the Company;
- c. any employee(s) involved;
- d. the format of the complaint or grievance;
- e. the nature of the complaint or grievance; and
- f. all corrective actions the Company took in response to the complaint or grievance.

### **Requests for Written Reports**

1. For every loan that You have originated during the applicable period, except for title loans, identify in a quoted, tab-delimited .csv file the following fields related to borrower-level data:
  - a. borrower's name;
  - b. street address of borrower's residence;
  - c. city of borrower's residence;
  - d. state of borrower's residence;
  - e. zip code of borrower's residence;
  - f. borrower's email address;
  - g. borrower's phone number #1;
  - h. borrower's phone number #2;
  - i. borrower's phone number #3;
  - j. borrower's phone number #4; and
  - k. borrower's unique identifier.
2. For every loan that You have originated since January 1, 2014, except for title loans, identify in a quoted, tab-delimited .csv file the following fields related to loan-level data, as applicable:



- a. loan ID as used in Your internal recordkeeping (or, if no such loan ID exists, a unique identifier generated for the purpose of this report);
- b. borrower's unique identifier as identified in response to Request for Written No. 1.k.;
- c. unique identifier for branch in which loan was originated;
- d. zip code in which loan was originated;
- e. loan origination date;
- f. loan type;
- g. loan principal, as identified on the truth-in-lending disclosure;
- h. loan APR, as identified on the truth-in-lending disclosure;
- i. total of finance charge, as identified on the truth-in-lending disclosure;
- j. interest included in the finance charge;
- k. any other charge/fee included in the finance charge;
- l. any other amounts payable;
- m. total amount financed, as identified on truth-in-lending disclosure;
- n. total of payments amount, as identified on the truth-in-lending disclosure;
- o. dollar amount given to borrower directly;
- p. dollar amount of all payments applied in connection with the loan;
- q. contractual term of the loan;
- r. late fees charged;
- s. date late fees charged;
- t. late fees paid;
- u. number of payments scheduled on the loan at origination;

- v. original date the loan was scheduled to be paid off;
- w. whether the loan was extended;
- x. date loan first extended;
- y. the number of times the loan was extended;
- z. the total length of time (in days) the loan was extended;
- aa. the date the loan was scheduled to be paid off after its final extension;
- bb. whether the loan was refinanced;
- cc. the date the loan was refinanced;
- dd. whether the loan defaulted;
- ee. whether the loan was entered into an Extended Payment Plan (pre-default);
- ff. the date the loan was placed on an Extended Payment Plan;
- gg. the length (in days) of the Extended Payment Plan;
- hh. the date the loan was scheduled to be paid off under the Extended Payment Plan;
- ii. the number of payments scheduled under the Extended Payment Plan;
- jj. the number of payments made under the Extended Payment Plan;
- kk. the amount subject to the Extended Payment Plan;
- ll. the amount paid under the Extended Payment Plan;
- mm. whether the loan was entered into an alternative repayment arrangement (post-default);
- nn. the date the loan was placed on an alternative repayment arrangement;
- oo. the length (in days) of the alternative repayment arrangement;



- pp. the date the loan was scheduled to be paid off under the alternative repayment arrangement;
  - qq. the number of payments scheduled under the alternative repayment arrangement;
  - rr. the number of payments made under the alternative repayment arrangement;
  - ss. the amount subject to the alternative repayment arrangement;
  - tt. the amount paid under the alternative repayment arrangement;
  - uu. the date on which loan was paid off;
  - vv. the date on which loan was charged off;
  - ww. at date of payoff/charge-off, amount of principal paid;
  - xx. at date of payoff/charge-off, amount of interest paid;
  - yy. at date of payoff/charge-off, amount of fees paid; and
  - zz. whether the loan was paid off through refinancing.
3. For every loan You have originated since January 1, 2014, except for title loans, identify in a quoted, tab-delimited .csv file, the following fields related to payment-level data:
- a. unique payment ID;
  - b. loan ID, as identified in response to Request for Written Report No. 2.a.;
  - c. date the Company received the payment;
  - d. date the Company applied the payment;
  - e. payment due date;
  - f. amount of payment;
  - g. whether the payment is a partial payment (Y/N);

- h. amount of payment allocated to payment of fees;
  - i. amount of payment allocated to payment of interest;
  - j. amount of payment allocated to payment of principal;
  - k. fee balance of the loan before the payment was applied;
  - l. fee balance of the loan after the payment was applied;
  - m. interest balance of the loan before the payment was applied;
  - n. interest balance of the loan after the payment was applied;
  - o. principal balance of the loan before the payment was applied; and
  - p. principal balance of the loan after the payment was applied.
4. For every loan You have originated since May 13, 2014, except for title loans, identify in a quoted, tab-delimited .csv file, the following fields related to note-/memo-level data (e.g. collection notes):
- a. borrower's unique identifier as identified in response to Request for Written Report No. 1. k.;
  - b. loan ID, as identified in response to Request for Written Report No. 2.a.;
  - c. unique identifier for the note or memo;
  - d. date of the note or memo; and
  - e. the full text of the note or memo, including a data dictionary for any shorthand notations reflected in the note or memo.

### **Requests for Documents**

1. All documents related to job performance in the personnel files of employees identified in Your answer to Interrogatory No. 1 who were terminated for performance-related reasons.
2. All documents memorializing the results of the Company's audits of stores, and documents reflecting the auditor's work product upon which any conclusions were



based.

3. All documents regarding store visits conducted by district managers, regional managers, the Corporate Auditor, and the Operations Executive at stores identified in Your answer to Interrogatory No. 2.
4. All quarterly development plans for employees of stores identified in Your answer to Interrogatory No. 2.
5. All documents memorializing the Company's ranking of stores, and documents reflecting the factors upon which the rankings have been based.
6. All documents memorializing performance improvement plans for store managers triggered by the store's ranking or store's score on metrics measured by rankings.
7. All documents memorializing the results of the Company's audits of CCI Financial, Inc., and documents reflecting the auditor's work product upon which any conclusions were based.
8. Documents sufficient to show all business review reports bundled and submitted to the Operation Executive, for the stores identified in Your answer to Interrogatory No. 2.
9. Documents sufficient to show all weekly reports generated by the store managers and submitted to the district managers, for the stores identified in Your answer to Interrogatory No. 2.
10. All communications between the Company's auditors and executive management team and/or Compliance Officer regarding audits of stores.
11. All communications involving the senior management team and/or executive management team regarding the ranking of stores.
12. All documents memorializing audits or reviews by the Company's compliance function of the Company's collections work.
13. All agendas, recorded minutes, presentations, and any written documents circulated in connection with the bimonthly compliance review meetings.
14. All agendas, recorded minutes, presentations, and written documents shared by or with the Company's senior management team in connection with meetings of the Company's senior management team.

15. All agendas, recorded minutes, presentations, and any written documents circulated in connection with the weekly, monthly, and bimonthly meetings between the Company's senior management team and the executive management team.
16. All agendas, recorded minutes, presentations, and any written documents circulated in connection with the weekly district meetings run by district managers and attended by store managers.
17. Documents sufficient to show all template versions of text and email communications used by the Company to notify consumers of upcoming payments due on Deferred Deposit Loans, Installment Loans, and Signature Loans.
18. The complete loan files, including payment receipts, payment histories, and account notes, for the loans originated at the stores identified in Your answer to Interrogatory No. 2.
19. All communications between district managers and store managers or stores related to the underwriting, origination, servicing, renewal, refinancing, or collection of Your Deferred Deposit Loans, Installment Loans, and Signature Loans.
20. All communications between consumers and the Company regarding Your Deferred Deposit Loans, Installment Loans, and Signature Loans originated at Stores identified in Your answer to Interrogatory No. 2.
21. For each telephone call You Identified in Your answer to Interrogatory 3, the audio recording and all associated metadata from call systems and related systems.

## II. Definitions.

- A. **"And"** and **"or"** must be construed both conjunctively and disjunctively.
- B. **"Any"** includes **"all,"** and **"all"** includes **"any."**
- C. **"CFPB"** or **"Bureau"** means the Consumer Financial Protection Bureau.
- D. **"CID"** means the Civil Investigative Demand, including the Requests, Topics for Hearing, Definitions, and Instructions.
- E. **"Company"** or **"you"** or **"your"** means Check City Partnership, LLC, also d/b/a, among others, Check City, Check City Check Cashing, and checkcity.com, and any successor in interest.
- F. **"Deferred Deposit Loan"** means any loan offered by the Company that, at



origination, is scheduled to be repaid in a single installment and for which a consumer must provide either a post-dated check or sign an ACH agreement.

G. **“Deputy Enforcement Director”** refers to a Deputy Assistant Director of the Office of Enforcement.

H. **“Document”** means any written matter of every type and description, including electronically stored information. “Document” includes any non-identical copy (such as a draft or annotated copy) of another document.

I. **“Each”** includes **“every,”** and **“every”** includes **“each.”**

J. **“Electronically Stored Information,”** or **“ESI,”** means the complete original and any non-identical copy (whether different from the original because of notations, different metadata, or otherwise) of any electronically created or stored information, including but not limited to e-mail, instant messaging, videoconferencing, SMS, MMS, or other text messaging, and other electronic correspondence (whether active, archived, unsent, or in a sent or deleted-items folder), word-processing files, spreadsheets, databases, unorganized data, document metadata, presentation files, and sound recordings, regardless of how or where the information is stored, including if it is on a mobile device.

K. **“Enforcement Director”** refers to the Assistant Director of the Office of Enforcement.

L. **“Extended Payment Plan”** means any plan offered by the Company in the ordinary course of business that allows consumers to repay Deferred Deposit Loans through multiple installments.

M. **“Identify”** means to provide: (a) for natural persons, their name, title or position, present business affiliation, present business address, e-mail address, and telephone number, or if a present business affiliation or present business address is not known, the last known business address, home address, e-mail address, and telephone number; (b) for businesses or other organizations, the name, address, identities of officers, directors, or managers of the business or organization, and contact persons with e-mail addresses and telephone numbers, where applicable; and (c) for documents, the title, date, authors, recipients, Bates numbers, if applicable, type of document or some other means of identifying the document, and the present or last known location or custodian.

N. **“Installment Loan”** means any loan offered by the Company that, at origination, is scheduled to be repaid in multiple installments.

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



P. “**Signature Loan**” means any loan offered by the Company that, at origination, is scheduled to be repaid in a single installment and is made to a consumer without a deposit account.

### III. Instructions.

A. **Sharing of Information:** This CID relates to a nonpublic, law-enforcement investigation being conducted by the Bureau. The Bureau may make its files available to other civil and criminal federal, state, or local law-enforcement agencies under 12 C.F.R. §§ 1070.43(b)(1) and 1070.45(a)(5). Information you provide may be used in any civil or criminal proceeding by the Bureau or other agencies. As stated in 12 C.F.R. § 1080.14, information you provide in response to this CID is subject to the requirements and procedures relating to the disclosure of records and information set forth in 12 C.F.R. pt. 1070.

B. **Meet and Confer:** As stated in 12 C.F.R. § 1080.6(c), you must contact Enforcement Attorney **E. Vanessa Assae-Bille** at **(202) 435-7688** as soon as possible to schedule a meeting (telephonic or in person) to discuss your response to the CID. The meeting must be held within **10** calendar days after you receive this CID or before the deadline for filing a petition to modify or set aside the CID, whichever is earlier.

C. **Applicable Period for Responsive Materials:** Unless otherwise directed, the applicable period for the request is from **July 1, 2017 until the date of this CID.**

D. **Privilege Claims:** If any material responsive to this CID is withheld on the grounds of privilege, you must make the privilege claim no later than the date set for the production of the material. As stated in 12 C.F.R. § 1080.8(a), any such claim must include a schedule of the documents, information, or tangible things withheld that states, for each:

1. its type, specific subject matter, and date;
2. the names, addresses, positions, and organizations of all authors and direct or indirect recipients;
3. the specific grounds for claiming the privilege;
4. the request to which the privileged document, information, or thing is responsive; and
5. its Bates number or range.

In addition, the person who submits the schedule and the attorney stating the grounds for the privilege must sign it. A person withholding material solely based on a claim of

privilege must comply with the requirements of 12 C.F. R. § 1080.8 rather than file a petition for an order modifying or setting aside a demand under 12 C.F.R. § 1080.6(e). Please follow the enclosed Document Submission Standards for further instructions about producing redacted privileged documents.

E. **Document Retention:** Until you are notified otherwise, you are required to retain all documents and other tangible things that you used or relied on in responding to this CID. In addition, you must retain, and suspend any procedures that may result in the destruction of, documents, information, or tangible things that are in any way relevant to the investigation, as described in the CID's Notification of Purpose. You are required to prevent the destruction of relevant material irrespective of whether you believe such material is protected from future disclosure or discovery by privilege or otherwise. *See* 18 U.S.C. §§ 1505, 1519.

F. **Modification Requests:** If you believe that the scope of the search or response required by this CID can be narrowed consistent with the Bureau's need for documents or information, you are encouraged to discuss such possible modifications, including modifications of the requirements of these instructions, with Enforcement Attorney **E. Vanessa Assae-Bille** at **(202) 435-7688**. Modifications must be agreed to in writing by the Enforcement Director or a Deputy Enforcement Director. 12 C.F.R. § 1080.6(d).

G. **Petition for Order Modifying or Setting Aside Demand:** Under 12 U.S.C. § 5562(f) and 12 C.F.R. § 1080.6(e), you may petition the Bureau for an order modifying or setting aside this CID. To file a petition, you must send it by e-mail to the Bureau's Executive Secretary at [ExecSec@cfpb.gov](mailto:ExecSec@cfpb.gov), copying the Enforcement Director at [Enforcement@cfpb.gov](mailto:Enforcement@cfpb.gov), within 20 calendar days of service of the CID or, if the return date is less than 20 calendar days after service, before the return date. The subject line of the e-mail must say "Petition to Modify or Set Aside Civil Investigative Demand." If a request for confidential treatment is filed, you must file a redacted public petition in addition to the unredacted petition. All requests for confidential treatment must be supported by a showing of good cause in light of applicable statutes, rules, Bureau orders, court orders, or other relevant authority.

H. **Certification:** The person to whom the CID is directed or, if it is directed to an entity, any person having knowledge of the facts and circumstances relating to the production, must certify that the response to this CID is true and complete. This certification must be made on the form declaration included with this CID.

I. **Scope of Search:** This CID covers materials and information in your possession, custody, or control, including but not limited to documents in the possession, custody, or control of your attorneys, accountants, other agents or consultants, directors, officers, and employees.

J. **Document Production:** The Bureau encourages the electronic production of all material responsive to this CID; please follow the enclosed Document Submission Standards and submit the production following the enclosed Extranet Guide.



For all packages destined for Bureau offices, please contact Enforcement Attorney **E. Vanessa Assae-Bille** for the mailing or internet-protocol address.

Please provide any tracking numbers by e-mail or telephone to Enforcement Attorney **E. Vanessa Assae-Bille** at [elisabeth.assae-bille@cfpb.gov](mailto:elisabeth.assae-bille@cfpb.gov).

**K. Document Identification:** Documents that may be responsive to more than one request of this CID need not be submitted more than once. All documents responsive to this CID must be accompanied by an index that identifies: (i) the name of each custodian of each responsive document; (ii) the corresponding Bates number or range used to identify that person's documents; and (iii) the request or requests to which each document responds.

**L. Sensitive Personally Identifiable Information:** If any material called for by these requests contains sensitive personally identifiable information, sensitive health information of any individual, or Suspicious Activities Reports, please contact Enforcement Attorney **E. Vanessa Assae-Bille** at **(202) 435-7688** before sending those materials to discuss ways to protect the information during production. You must encrypt electronic copies of such materials with encryption software acceptable to the Bureau. When submitting encrypted material, you must provide the encryption key, certificate, or passcode in a separate communication.

For purposes of this CID, sensitive personally identifiable information includes an individual's Social Security number alone or an individual's name, address, or phone number *in combination with* one or more of the following: date of birth, Social Security number, driver's-license number or other state-identification number, or a foreign country equivalent, passport number, financial-account number, credit-card number, or debit-card number. Sensitive health information includes medical records and other individually identifiable health information relating to the past, present, or future physical or mental health or conditions of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual.

**M. Information Identification:** Each request for a written report or interrogatory in this CID must be answered separately and fully in writing under oath. All information submitted must clearly and precisely identify the request or requests to which it is responsive.

**N. Submission of Documents in lieu of Answers:** Documents in existence before your receipt of this CID that contain the information requested in any interrogatory may be submitted as part of or in lieu of an answer to the interrogatory. If you submit documents as part of or in lieu of an answer, you must clearly indicate the specific request to which the documents are responsive, and you must clearly identify the specific portion of the documents that are responsive, including page, paragraph, and line numbers, as applicable.



O. **Declaration Certifying Records of Regularly Conducted Business**

**Activity:** Attached is a Declaration Certifying Records of Regularly Conducted Business Activity, which may limit the need to subpoena you to testify at future proceedings to establish the admissibility of documents produced in response to this CID. Please execute this Declaration and provide it with your response.

P. All references to “**year**” or “**annual**” refer to the calendar year. Where information is requested “for each year,” provide it separately for each year; where yearly data is not available, provide responsive information for the calendar year to date, unless otherwise instructed.

Q. **Duty to Estimate:** If you are unable to answer any interrogatory fully, supply such information as is available. Explain why such answer is incomplete, the efforts you made to obtain the information, and the source from which the complete answer may be obtained. If books and records that provide accurate answers are not available, enter best estimates and describe how the estimates were derived, including the sources or bases of such estimates. Estimated data should be followed by the notation “est.” If there is no reasonable way to make an estimate, provide an explanation.

### **CERTIFICATE OF COMPLIANCE WITH RFPA**

The Right to Financial Privacy Act of 1978 (RFPA) does not apply to the disclosure of financial records or information to the Bureau of Consumer Financial Protection “in the exercise of its authority with respect to a financial institution.” 12 U.S.C. § 3413(r). This civil investigative demand is also issued in connection with an investigation within the meaning of section 3413(h)(1)(A) of the RFPA. Therefore, in accordance with section 3403(b) of the RFPA, the undersigned certifies that, to the extent applicable, the provisions of the RFPA have been complied with as to the Civil Investigative Demand issued to Check City Partnership, LLC, to which this Certificate is attached.

The information obtained will be used to determine whether the persons named or referred to in the attached Civil Investigative Demand are in compliance with laws administered by the Bureau of Consumer Financial Protection. The information may be transferred to another department or agency consistent with the RFPA.

Under the RFPA, good faith reliance on this certificate relieves the recipient and its employees and agents of any liability to customers in connection with the requested disclosures of financial records of these customers. *See* 12 U.S.C. § 3417(c).

**Deborah Morris** Digitally signed by Deborah Morris  
Date: 2022.12.16 12:24:39 -05'00'

---

Deborah Morris  
Bureau of Consumer Financial Protection  
Deputy Director, Office of Enforcement

**DECLARATION CERTIFYING RECORDS OF  
REGULARLY CONDUCTED BUSINESS ACTIVITY**  
**Pursuant to 28 U.S.C. § 1746**

I, \_\_\_\_\_, pursuant to 28 U.S.C. § 1746, declare that:

1. I am employed by \_\_\_\_\_ as \_\_\_\_\_ and by reason of my position am authorized and qualified to certify the authenticity of the records produced by Check City Partnership, LLC and submitted with this Declaration.
2. The documents produced and submitted with this Declaration by Check City Partnership, LLC are true copies of records of regularly conducted activity that were:
  - a. made at or near the time of the occurrence of the matters set forth, by, or from information transmitted by, a person with knowledge of those matters;
  - b. kept in the course of the regularly conducted business activity; and
  - c. made by the regularly conducted business activity as a regular practice.

I certify under penalty of perjury that the foregoing is true and correct. Executed on

\_\_\_\_\_

\_\_\_\_\_  
Signature



**CERTIFICATE OF COMPLIANCE**

I, \_\_\_\_\_, pursuant to 28 U.S.C. § 1746, declare that:

1. I have confirmed that a diligent search has been made for all responsive documents and information in the possession, custody, or control of Check City Partnership, LLC.
2. All of the documents and information identified through the search described in paragraph 1 above required by the Civil Investigative Demand dated December 16, 2022 that are within the possession, custody, or control of Check City Partnership, LLC have been submitted to the Bureau custodian or deputy custodian identified in this Civil Investigative Demand.
3. If a document or tangible thing responsive to this Civil Investigative Demand has not been submitted, an interrogatory or a portion of an interrogatory has not been fully answered, or a report or a portion of a report has not been completed, a claim of privilege in compliance with 12 C.F.R. § 1080.8 has been submitted.
4. Check City Partnership, LLC has reviewed all responsive answers, reports, other documents and tangible things (collectively “Responses”), and has designated as confidential all those Responses, and only those Responses, the disclosure of which would cause substantial harm to the competitive position of Check City Partnership, LLC, as that term is used for purposes of the Freedom of Information Act.

5. All answers and reports prepared in response to the Civil Investigative Demand dated December 16, 2022 are true and complete.

I certify under penalty of perjury that the foregoing is true and correct. Executed on

\_\_\_\_\_.

\_\_\_\_\_  
Signature

# Civil Investigative Demand Document Submission Standards

BCFP Office of Enforcement





## **CID Document Submission Standards**

This describes the technical requirements for producing electronic document collections to the Bureau of Consumer Financial Protection (“the Bureau”)’s Office of Enforcement. All documents shall be produced in complete form, in color when necessary to interpret the document, unredacted unless privileged, and shall not be edited, cut, or expunged. These standards must be followed for all documents you submit in response to the CID. Any proposed file formats other than those described below must be discussed with the legal and technical staff of the Bureau’s Office of Enforcement prior to submission.

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## A. Transmittal Instructions

- 1) A cover letter should be included with each production. The following information should be included in the letter:
  - a) Name of the party making the production and the date of the CID to which the submission is responsive.
  - b) List of each piece of media (hard drive, thumb drive, DVD or CD) included in the production (refer to the media by the unique number assigned to it, see ¶ 4)
  - c) List of custodians, identifying:
    - i) The Bates Range (and any gaps therein) for each custodian,
    - ii) Total number of images for each custodian, and
    - iii) Total number of native files for each custodian
  - d) List of fields in the order in which they are listed in the metadata load file.
  - e) The specification(s) or portions thereof of the CID to which the submission is responsive.
- 2) Documents created or stored electronically MUST be produced in their original electronic format, not converted to another format such as PDF.
- 3) Data may be produced on CD, DVD, USB thumb drive, or hard drive; use the media requiring the least number of deliverables.
  - a) Magnetic media shall be carefully packed to avoid damage and must be clearly marked on the outside of the shipping container:
    - i) "MAGNETIC MEDIA – DO NOT USE METAL DETECTOR"
    - ii) "MAY BE OPENED FOR POSTAL INSPECTION"
  - b) CD-R CD-ROMs should be formatted to ISO 9660 specifications;
  - c) DVD-ROMs for Windows-compatible personal computers are acceptable;
  - d) USB 2.0 thumb drives for Windows-compatible personal computers are acceptable;
  - e) USB 3.0 or USB 3.0/eSATA external hard disk drives, formatted in a Microsoft Windows-compatible file system (FAT32 or NTFS), uncompressed data are acceptable.
- 4) Label all media with the following:
  - a) Production date
  - b) Bates range
  - c) Disk number (1 of X), if applicable
  - d) Name of producing party
  - e) A unique production number identifying each production
- 5) All productions must be produced free of computer viruses. Infected productions may affect the timing of your compliance with the CID.

- 6) All produced media must be encrypted. Encryption format must be agreed upon prior to production.
  - a) Data deliveries should be encrypted at the disc level.
  - b) Decryption keys should be provided separately from the data delivery via email or phone.
- 7) Passwords for documents, files, and compressed archives should be provided separately either via email or in a separate cover letter from the data.

## B. Delivery Formats

### 1) General ESI Standards

Before submitting any Electronically Stored Information (“ESI”) or any other documents submitted in electronic form that do not conform completely to the listed specifications, you must confirm with the Bureau that the proposed formats and media types that contain such ESI will be acceptable. You are encouraged to discuss your specific form of submission, and any related questions with the Bureau as soon as is practicable and not later than the Meet and Confer required pursuant to 12 C.F.R. § 1080.6(c).

All productions must follow the specifications outlined below:

#### De-duplication

De-duplication of documents should be applied across custodians (global); each custodian should be identified in the Custodian field in the metadata load file separated by semi-colon. The first name in the Custodian list should represent the original holder of the document.

#### Bates Numbering Documents

The Bates number must be a unique, sequential, consistently formatted identifier, i.e., an alpha prefix unique to each producing party along with a fixed length number, i.e., ABC0000001. This format must remain consistent across all productions. There should be no space in between the prefix and the number. The number of digits in the numeric portion of the format should not change in subsequent productions, nor should hyphens or other separators be added or deleted.

#### Document Retention / Preservation of Metadata

The recipient of this CID should use reasonable measures to maintain the original native source documents in a manner so as to preserve the metadata associated with these



electronic materials as it existed at the time of the original creation.

## 2) Native and Image Production

In general, and subject to the specific instructions below: (1) produce electronic documents in their complete native/original format along with corresponding bates-labeled single page TIFF images (with the exception of large spreadsheets and/or text files, those files should be processed and a placeholder TIFF image indicating that they were produced natively provided); (2) scan and process all paper documents into single page TIFF images, OCR the images, and apply bates numbers to each page of the image; (3) produce fully searchable document level text for every produced document; and (4) produce metadata for every produced document in a data file that conforms to the specific instructions below.

### a) Metadata File

All produced documents, regardless of their original file format, must be produced with the below-described metadata fields in a data file (.DAT).

- i) The first line of the .DAT file must be a header row identifying the field names.
- ii) The .DAT file must use the following default delimiters:

**TABLE 1: DAT FILE DELIMITERS**

Comma	,	ASCII character (020)
Quote	"	ASCII character (254)
Newline	␣	ASCII character (174)

- iii) Date fields should be provided in the format: mm/dd/yyyy
- iv) All attachments should sequentially follow the parent document/email.
- v) All documents shall be produced in both their native/original form and as a corresponding bates-labeled single page TIFF image; provide the link to the original/native document in the NATIVELINK field.
- vi) Produce extracted metadata for each document in the form of a .DAT file, and include these fields (fields should be listed but left blank if not applicable):

TABLE 2: DAT FILE FIELDS

Field Name	Description
<b>Required Fields</b>	
BATES_BEGIN	First Bates number of native file document/email
BATES_END	Last Bates number of native file document/email **The BATES_END field should be populated for single page documents/emails
ATTACH_BEGIN	First Bates number of attachment/family range
ATTACH_END	Last Bates number of attachment/family range
ATTACH_NAME	Populates parent records with original filenames of all attached records, separated by semi-colons.
PRIV	Indicate "YES" if document has a Privilege claim
ROG_NUM	Indicate Interrogatory number(s) document is responsive to. (ROG ##) If multiple, separate by semi-colon
DR_NUM	Indicate Document Request document is responsive to. (DR ##) If multiple, separate by semi-colon
RECORDTYPE	<u>Email</u> : Populate field as "E-Mail" <u>Email Attachment</u> : Populate field as "Attachment (E-mail)" <u>Loose Native</u> : Populate field as "E-Document" <u>Other Attachment</u> : Populate field as "Attachment" <u>Scanned Paper</u> : Populate field as "Paper"
CUSTODIAN	Individual(s) or department(s) from which the record originated **semi-colon should be used to separate multiple entries
FILENAME	Email: Filename of loose email or subject of non-loose email Non-email: original file name
PGCOUNT	Number of pages in document/email
MD5HASH	The 32 digit value representing each unique document
SOURCE	Email: Path to email container and email container name Non-email: Original path to source archive folder or files
FOLDERPATH	Email: Folder path within email container Non-email: Folder path to file
DATE_CREATED	The date the electronic file was created
TIME_CREATED	The time the electronic file was created
DATE_MOD	Date an electronic file was last modified
TIME_MOD	Time an electronic file was last modified
PRINT_DATE	Date the document was last printed
PRINT_TIME	Time the document was last printed



FILE_SIZE	Size of native file document/email in KB
FILE_EXT	The file extension representing the email or native file document
AUTHOR	Email: (empty) Non-email: Author of the document
SUBJECT	Subject metadata from electronic files (non-email)
COMPANY	Company (organization) metadata from electronic files
NATIVELINK	Hyperlink to the email or native file document **The linked file must be named per the BATES_BEGIN Number
TEXTPATH	Contains path to OCR/Extracted text file that is titled after the document BATES_BEGIN
<b>Additional Fields for Email Productions</b>	
FROM	Sender of email
TO	Recipient(s) of email **semi-colon should be used to separate multiple entries
CC	Carbon copy recipient(s) **semi-colon should be used to separate multiple entries
BCC	Blind carbon copy recipient(s) **semi-colon should be used to separate multiple entries
EMAIL_SUBJECT	"Subject" line of the email
DATE_SENT	Date and time that the email message was sent.
DATE_RECVD	Date and time that the email message was received.
TIME_ZONE	Time Zone processed in
CONVERSATION_INDEX	Conversation thread ID/Index value
PARENT_ID	Populated only for email attachments, this field will display the Image Tag field value of the attachment record's parent.

b) Document Text

Searchable text of the entire document must be provided for every record, at the document level.

- i) Extracted text must be provided for all documents that originated in electronic format.

Note: Any document in which text cannot be extracted must be OCR'd.

- ii) For documents redacted on the basis of any privilege, provide the OCR text for unredacted/unprivileged portions.



- iii) The text should be delivered in the following method: As multi-page ASCII text files with the files named the same as the Bates\_Begin field. Text files can be placed in a separate folder or included with the .TIFF files.
- c) Linked Native Files
  - Copies of original email and native file documents/attachments must be included for all electronic productions.
  - i) Native file documents must be named per the BATES\_BEGIN number (the original file name should be preserved and produced in the FILENAME metadata field).
  - ii) The full path of the native file must be provided in the .DAT file in the NATIVELINK field.
- d) Images
  - i) Images should be single-page, Group IV TIFF files, scanned at 300 dpi.
  - ii) File names should be titled per endorsed bates number.
  - iii) Color should be preserved when necessary to interpret the document.
  - iv) Bates numbers should be endorsed on the lower right corner of all images.
  - v) For documents partially redacted on the basis of any privilege, ensure the redaction box is clearly labeled "REDACTED".
- e) Image Cross Reference File
  - i) The image cross-reference file is needed to link the images to the database. It is a comma-delimited file consisting of seven fields per line. There must be a line in the cross-reference file for every image in the database.

TABLE 3: IMAGE CROSS REFERENCE FILE FIELDS

Field Title	Description
ImageID	The unique designation use to identify an image.
	<b>Note:</b> This imageID key must be a unique and fixed length number. This number will be used in the.DAT file as the ImageID field that links the database to the images. The format of this image key must be consistent across all productions. We recommend that the format be an eight digit number to allow for the possible increase in the size of a production.
VolumeLabel	Optional
ImageFilePath	The full path to the image file.
DocumentBreak	The letter "Y" denotes the first page of a document. If this field is blank, then the page is not the first page of a document.
FolderBreak	Leave empty
BoxBreak	Leave empty
PageCount	Optional

	<i>*This file should not contain a header row.</i>
--	--

**SAMPLE:**

```

IMG0000001,OPTIONALVOLUMENAME,E:\001\IMG0000001.TIF,Y,,,3
IMG0000002,OPTIONALVOLUMENAME,E:\001\IMG0000002.TIF,,,,
IMG0000003,OPTIONALVOLUMENAME,E:\001\IMG0000003.TIF,,,,
IMG0000004,OPTIONALVOLUMENAME,E:\001\IMG0000004.TIF,Y,,,1
IMG0000005,OPTIONALVOLUMENAME,E:\001\IMG0000005.TIF,Y,,,2
IMG0000006,OPTIONALVOLUMENAME,E:\001\IMG0000006.TIF,,,,

```

**3) PDF File Production**

When approved, Adobe PDF files may be produced in lieu of TIFF images for scanned paper productions (metadata must also be produced in accordance with the instructions above):

- a) PDF files should be produced in separate folders named by the Custodian.
- b) All PDFs must be unitized at the document level, i.e. each PDF should represent a discrete document; a single PDF cannot contain multiple documents.
- c) All attachments should sequentially follow the parent document.
- d) All PDF files must contain embedded text that includes all discernible words within the document, not selected text only. This requires all layers of the PDF to be flattened first.
- e) If PDF files are Bates endorsed, the PDF files must be named by the Bates range
- f) The metadata load file listed in 2.a. should be included.

**4) Transactional Data**

If transactional data must be produced, further discussion must be had to ensure the intended export is properly composed. If available, a data dictionary should accompany the production, if unavailable; a description of fields should accompany transactional data productions. The following formats are acceptable:

- MS Access
- XML
- CSV
- TSV
- Excel (with prior approval)

**5) Audio/Video/Electronic Phone Records**

- a) Audio files must be produced in a format that is playable using Microsoft Windows Media Player. Types of audio files that will be accepted include:
  - Nice Systems audio files (.aud). AUD files offer efficient compression and would be



preferred over both NMF and WAV files.

- Nice Systems audio files (.nmf).
- WAV Files
- MP3, MP4
- WMA
- AIF

Produced audio files must be in a separate folder compared to other data in the production.

Additionally, the call information (metadata) related to each audio recording must be produced if it exists. The metadata file must be produced in delimited text format (DAT, CSV, or TXT), using a tab or pipe delimiter. Field names must be included in the first row of the metadata file. Please note that the field names are case sensitive and should be created as listed below. The metadata must include, if available, the following fields:

**TABLE 4: AUDIO METADATA FIELDS**

AgentName	Name of agent/employee
AgentId	Unique identifier of agent/employee
Group	Name for a collection of agents
Supervisor	Name of the Agent's supervisor
Site	Location of call facility
DNIS	Dialed Number Identification Service, identifies the number that was originally called
Extension	Extension where call was routed
CallDirection	Identifies whether the call was inbound, outbound, or internal
CallType	Purpose of the call
DURATION	Duration of call
CustomerId	Customer's identification number
CustomerCity	Customer's city of residence
CustomerState	Customer's state of residence
CallDateTime	Date and start time of call (MM/DD/YYYY HH:MM:SS)
CUSTOMERNAME	Name of person called
FileName	Filename of audio file
BATES_BEGIN	Unique number of the audio file



CALLEDPARTYNUMBER	The call center or phone number called
CALLSIZE	File size of audio file
CALLSERVICE	Call service code
MD5HASH	The 32 digit value representing each unique document
DOC_REQ	Document request number to which the file is responsive
CUSTODIAN	Individual(s) or department(s) from which the recording originated
FOLDERPATH	Folder path of the audio file in the original source
SOURCE	Original path to where the source file resided
TIMEZONE	The time zone of the original call
GROUPID	A unique group identifier for grouping multiple calls
CODEC	Encoding/decoding of the audio digital stream
BITRATE	The number of bits that are conveyed or processed per unit of time

Supported Date Format	Example
mm/dd/yyyy hh:mm:ss am/pm	01/25/1996 10:45:15 am

The filename is used to link the metadata to the produced audio file. The file name in the metadata and the file name used to identify the corresponding audio file must match exactly.

- b) Video files must be produced in a format that is playable using Microsoft Windows Media Player along with any available metadata. If it is known that the video files do not contain associated audio, indicate this in the accompanying transmittal letter.

Types of video files accepted include:

- MPG
- AVI
- WMV
- MOV
- FLV

## C. Production of Partially Privileged Documents

If a portion of any material called for by this CID is withheld based on a claim of privilege, those portions may be redacted from the responsive material as long as the following conditions are met.

- a) If originally stored as native electronic files, the image(s) of the unredacted portions are submitted in a way that preserves the same appearance as the original without the redacted material (i.e., in a way that depicts the size and location of the redactions). The OCR text will be produced from the redacted image(s). Any redacted, privileged material should be clearly labeled to show the redactions on the tiff image(s). Any metadata not being withheld for privilege should be produced in the DAT file; any content (e.g., PowerPoint speaker notes, Word comments, Excel hidden rows, sheets or columns) contained within the native and not being withheld for privilege should be tiffed and included in the production.
- b) If originally in hard copy form, the unredacted portions are submitted in a way that depicts the size and location of the redactions; for example, if all of the content on a particular page is privileged, a blank, sequentially numbered page should be included in the production where the responsive material, had it not been privileged, would have been located.

**BUREAU OF CONSUMER FINANCIAL PROTECTION**  
**Washington, D.C. 20552**

**Notice to Persons Supplying Information**

You have been asked to supply information or speak voluntarily, or directed to provide sworn testimony, documents, or answers to questions in response to a civil investigative demand (CID) from the Bureau of Consumer Financial Protection (Bureau). This notice discusses certain legal rights and responsibilities. Unless stated otherwise, the information below applies whether you are providing information voluntarily or in response to a CID.

**A. False Statements; Perjury**

*False Statements.* Section 1001 of Title 18 of the United States Code provides as follows:

[W]hoever, in any matter within the jurisdiction of the executive ... branch of the Government of the United States, knowingly and willfully-- (1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact; (2) makes any materially false, fictitious, or fraudulent statement or representation; or (3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry; shall be fined under this title ...[or] imprisoned not more than 5 years ..., or both.

*Perjury.* Section 1621 of Title 18 of the United States Code provides as follows:

Whoever ... having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly or that any written testimony, declaration, deposition, or certificate by him subscribed, is true willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true ... is guilty of perjury and shall, except as otherwise expressly provided by law, be fined under this title or imprisoned not more than five years, or both. This section is applicable whether the statement or subscription is made within or without the United States.

**B. The Fifth Amendment; Your Right to Counsel**

*Fifth Amendment.* Information you provide may be used against you in any federal, state, local or foreign administrative, civil or criminal proceeding brought by the Bureau or any other agency. If you are an individual, you may refuse, in accordance with the rights guaranteed to you by the Fifth Amendment to the Constitution of the United States, to give any information that may tend to incriminate you or subject you to criminal liability, including fine, penalty or forfeiture.

*Counsel.* You have the right to be accompanied, represented and advised by counsel of your choice. For further information, you should consult Bureau regulations at 12 C.F.R. § 1080.9(b).



**C. Effect of Not Supplying Information**

*Persons Directed to Supply Information Pursuant to CID.* If you fail to comply with the CID, the Bureau may seek a court order requiring you to do so. If such an order is obtained and you still fail to supply the information, you may be subject to civil and criminal sanctions for contempt of court.

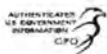
*Persons Requested to Supply Information Voluntarily.* There are no sanctions for failing to provide all or any part of the requested information. If you do not provide the requested information, the Bureau may choose to send you a CID or subpoena.

**D. Privacy Act Statement**

The information you provide will assist the Bureau in its determinations regarding violations of Federal consumer financial laws. The information will be used by and disclosed to Bureau personnel and contractors or other agents who need the information to assist in activities related to enforcement of Federal consumer financial laws. The information may also be disclosed for statutory or regulatory purposes, or pursuant to the Bureau's published Privacy Act system of records notice, to:

- a court, magistrate, administrative tribunal, or a party in litigation;
- another federal or state agency or regulatory authority;
- a member of Congress; and
- others as authorized by the Bureau to receive this information.

This collection of information is authorized by 12 U.S.C. §§ 5511, 5562.

**§ 1081.405 Decision of the Director.**

(a) Upon appeal from or upon further review of a recommended decision, the Director will consider such parts of the record as are cited or as may be necessary to resolve the issues presented and, in addition, will, to the extent necessary or desirable, exercise all powers which he or she could have exercised if he or she had made the recommended decision. In proceedings before the Director, the record shall consist of all items part of the record below in accordance with § 1081.306; any notices of appeal or order directing review; all briefs, motions, submissions, and other papers filed on appeal or review; and the transcript of any oral argument held. Review by the Director of a recommended decision may be limited to the issues specified in the notice(s) of appeal or the issues, if any, specified in the order directing further briefing. On notice to all parties, however, the Director may, at any time prior to issuance of his or her decision, raise and determine any other matters that he or she deems material, with opportunity for oral or written argument thereon by the parties.

(b) Decisional employees may advise and assist the Director in the consideration and disposition of the case.

(c) In rendering his or her decision, the Director will affirm, adopt, reverse, modify, set aside, or remand for further proceedings the recommended decision and will include in the decision a statement of the reasons or basis for his or her actions and the findings of fact upon which the decision is predicated.

(d) At the expiration of the time permitted for the filing of reply briefs with the Director, the Office of Administrative Adjudication will notify the parties that the case has been submitted for final Bureau decision. The Director will issue and the Office of Administrative Adjudication will serve the Director's final decision and order within 90 days after such notice, unless within that time the Director orders that the adjudication proceeding or any aspect thereof be remanded to the hearing officer for further proceedings.

(e) Copies of the final decision and order of the Director shall be served upon each party to the proceeding, upon other persons required by statute, and, if directed by the Director or required by statute, upon any appropriate State or Federal supervisory authority. The final decision and order will also be published on the Bureau's Web site or as otherwise deemed appropriate by the Bureau.

**§ 1081.406 Reconsideration.**

Within 14 days after service of the Director's final decision and order, any party may file with the Director a petition for reconsideration, briefly and specifically setting forth the relief desired and the grounds in support thereof. Any petition filed under this section must be confined to new questions raised by the final decision or final order and upon which the petitioner had no opportunity to argue, in writing or orally, before the Director. No response to a petition for reconsideration shall be filed unless requested by the Director, who will request such response before granting any petition for reconsideration. The filing of a petition for reconsideration shall not operate to stay the effective date of the final decision or order or to toll the running of any statutory period affecting such decision or order unless specifically so ordered by the Director.

**§ 1081.407 Effective date; stays pending judicial review.**

(a) Other than consent orders, which shall become effective at the time specified therein, an order to cease and desist or for other affirmative action under section 1053(b) of the Dodd-Frank Act becomes effective at the expiration of 30 days after the date of service pursuant to § 1081.113(d)(2), unless the Director agrees to stay the effectiveness of the order pursuant to this section.

(b) Any party subject to a final decision and order, other than a consent order, may apply to the Director for a stay of all or part of that order pending judicial review.

(c) A motion for stay shall state the reasons a stay is warranted and the facts relied upon, and shall include supporting affidavits or other sworn statements, and a copy of the relevant portions of the record. The motion shall address the likelihood of the movant's success on appeal, whether the movant will suffer irreparable harm if a stay is not granted, the degree of injury to other parties if a stay is granted, and why the stay is in the public interest.

(d) A motion for stay shall be filed within 30 days of service of the order on the party. Any party opposing the motion may file a response within five days after receipt of the motion. The movant may file a reply brief, limited to new matters raised by the response, within three days after receipt of the response.

(e) The commencement of proceedings for judicial review of a final decision and order of the Director does not, unless specifically ordered by the Director or a reviewing court, operate as a stay of any order issued by the

Director. The Director may, in his or her discretion, and on such terms as he or she finds just, stay the effectiveness of all or any part of an order pending a final decision on a petition for judicial review of that order.

Dated: June 4, 2012.

Richard Cordray,  
Director, Bureau of Consumer Financial Protection.

[FR Doc. 2012-14061 Filed 6-28-12; 8:45 am]

BILLING CODE 4810-AM-P

**BUREAU OF CONSUMER FINANCIAL PROTECTION****12 CFR Part 1080**

[Docket No.: CFPB-2011-0007]

RIN 3170-AA03

**Rules Relating to Investigations**

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Final rule.

**SUMMARY:** After considering the public comments on its interim final rule for the Rules Relating to Investigations, the Bureau of Consumer Financial Protection (Bureau), pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act), is making revisions to its procedures for investigations under section 1052 of the Dodd-Frank Act.

**DATES:** The final rule is effective June 29, 2012.

**FOR FURTHER INFORMATION CONTACT:** Peter G. Wilson, Office of the General Counsel, Consumer Financial Protection Bureau, 1700 G Street NW., Washington, DC 20552, (202) 435-7585.

**SUPPLEMENTARY INFORMATION:****I. Background**

The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act) was signed into law on July 21, 2010. Title X of the Dodd-Frank Act established the Bureau of Consumer Financial Protection (Bureau) to regulate the offering and provision of consumer financial products or services under the Federal consumer financial laws. The Dodd-Frank Act transferred to the Bureau the consumer financial protection functions formerly carried out by the Federal banking agencies, as well as certain authorities formerly carried out by the Department of Housing and Urban Development (HUD) and the Federal Trade Commission (FTC). As required by section 1062 of the Dodd-Frank Act, 12 U.S.C. 5582, the Secretary of the Treasury selected a



designated transfer date and the Federal banking agencies' functions and authorities transferred to the Bureau on July 21, 2011.

The Dodd-Frank Act authorizes the Bureau to conduct investigations to ascertain whether any person is or has been engaged in conduct that, if proved, would constitute a violation of any provision of Federal consumer financial law. Section 1052 of the Dodd-Frank Act sets forth the parameters that govern these investigations. 12 U.S.C. 5562. Section 1052 became effective immediately upon transfer on July 21, 2011 and did not require rules to implement its provisions. On July 28, 2011, the Bureau issued the interim final rule for the Rules Relating to Investigations (Interim Final Rule) to provide parties involved in Bureau investigations with clarification on how to comply with the statutory requirements relating to Bureau investigations.

## II. Summary of the Final Rule

Consistent with section 1052 of the Dodd-Frank Act, the final rule for the Rules Relating to Investigations (Final Rule) describes a number of Bureau policies and procedures that apply in an investigational, nonadjudicative setting. Among other things, the Final Rule sets forth (1) the Bureau's authority to conduct investigations, and (2) the rights of persons from whom the Bureau seeks to compel information in investigations.

Like the Interim Final Rule, the Final Rule is modeled on investigative procedures of other law enforcement agencies. For guidance, the Bureau reviewed the procedures currently used by the FTC, the Securities and Exchange Commission (SEC), and the prudential regulators, as well as the FTC's recently proposed amendments to its nonadjudicative procedures. In light of the similarities between section 1052 of the Dodd-Frank Act and section 20 of the Federal Trade Commission Act (FTC Act), 15 U.S.C. 41 *et seq.*, the Bureau drew most heavily from the FTC's nonadjudicative procedures in constructing the rules.

The Final Rule lays out the Bureau's authority to conduct investigations before instituting judicial or administrative adjudicatory proceedings under Federal consumer financial law. The Final Rule authorizes the Director, the Assistant Director of the Office of Enforcement, and the Deputy Assistant Directors of the Office of Enforcement to issue civil investigative demands (CIDs) for documentary material, tangible things, written reports, answers to questions, or oral testimony. The

demands may be enforced in district court by the Director, the General Counsel, or the Assistant Director of the Office of Enforcement. The Final Rule also details the authority of the Bureau's investigators to conduct investigations and hold investigational hearings pursuant to civil investigative demands for oral testimony.

Furthermore, the Final Rule sets forth the rights of persons from whom the Bureau seeks to compel information in an investigation. Specifically, the Final Rule describes how such persons should be notified of the purpose of the Bureau's investigation. It also details the procedures for filing a petition for an order modifying or setting aside a CID, which the Director is authorized to rule upon. And it describes the process by which persons may obtain copies of or access to documents or testimony they have provided in response to a civil investigative demand. In addition, the Final Rule describes a person's right to counsel at investigational hearings.

## III. Legal Authority

As noted above, section 1052 of the Dodd-Frank Act outlines how the Bureau will conduct investigations and describes the rights of persons from whom the Bureau seeks information in investigations. This section became effective immediately upon the designated transfer date, July 21, 2011, without any requirement that the Bureau first issue procedural rules. Nevertheless, the Bureau believes that the legislative purpose of section 1052 will be furthered by the issuance of rules that specify the manner in which persons can comply with its provisions.

Section 1022 of the Dodd-Frank Act authorizes the Director to prescribe rules as may be necessary or appropriate for the Bureau to administer and carry out the purposes and objectives of Federal consumer financial laws and to prevent evasion of those laws. 12 U.S.C. 5512. The Bureau believes that the Final Rule will effectuate the purpose of section 1052 and facilitate compliance with Bureau investigations.

## IV. Overview of Public Comments on the Interim Final Rule

After publication of the Interim Final Rule on July 28, 2011, the Bureau accepted public comments until September 26, 2011. During the comment period, the Bureau received seven comments. Two of the comments were submitted by individual consumers. Four trade associations and a mortgage company also submitted comments. The trade associations represent credit unions, banks, consumer credit companies, members of

the real estate finance industry, and other financial institutions.

The commenters generally support the Interim Final Rule. Most sections of the Interim Final Rule received no comment and are being finalized without change. The comments did, however, contain questions and recommendations for the Bureau.

Several of the commenters expressed concern that the Interim Final Rule appeared to provide staff-level Bureau employees with unchecked authority to initiate investigations and issue CIDs, or that the Interim Final Rule otherwise did not provide sufficient oversight for particular actions.

A number of commenters expressed concern about sections of the Interim Final Rule that relate to CIDs. One trade association recommended that a statement of "the purpose and scope" of a Bureau investigation—in addition to a notification of the nature of the conduct constituting the alleged violation under investigation and the applicable provisions of law—be included in CIDs. A commenter suggested that the Bureau require a conference between CID recipients and the Assistant Director of the Office of Enforcement to negotiate the terms of compliance with the demand. Three of the trade associations noted concern with the statement that extensions of time are disfavored for petitions to modify or set aside CIDs. Two commenters questioned who would rule on such petitions without a confirmed Director. One trade association commented that witnesses should be permitted to object to questions demanding information outside of the scope of the investigation during an investigational hearing pursuant to a CID for oral testimony.

A number of commenters expressed concern about maintaining the confidentiality of demand material, sharing information with other State and Federal agencies, and the duties of the custodians of those materials. For example, one trade association and the mortgage company recommended that investigations should remain confidential in all circumstances. Another trade association asserted that the Bureau is not permitted to engage in joint investigations with State attorneys general.

The Bureau reviewed all of the comments on its Interim Final Rule thoroughly and addresses the significant issues they raise herein. Although most sections of the Interim Final Rule received no comment and are being finalized without change, the Bureau has made several changes to the Interim Final Rule based on the comments it received. The comments and these



changes are discussed in more detail in parts V and VI of the **SUPPLEMENTARY INFORMATION**.

#### V. General Comments

Some comments on the Interim Final Rule were not directed at a specific section but rather concerned issues of general applicability. The Bureau addresses those comments in this section and addresses comments related to specific sections of the Interim Final Rule in part VI.

One commenter asked the Bureau to specify who would rule on petitions to set aside or modify CIDs while the Bureau lacked a Director. This commenter also asked who would review requests to the Attorney General under § 1080.12 for authority to immunize witnesses and to order them to testify or provide other information. The President appointed a Director of the Bureau on January 4, 2012. Therefore, both questions posed by this commenter are moot. The Director or any official to whom the Director has delegated his authority pursuant to 12 U.S.C. 5492(b) will rule on petitions to set aside or modify CIDs. Furthermore, the Bureau has revised § 1080.12 to clarify that only the Director has the authority to request approval from the Attorney General for the issuance of an order immunizing witnesses.

A commenter asserted that section 1052(c)(1) of the Dodd-Frank Act prohibits the Bureau from issuing CIDs after the institution of any proceedings under Federal consumer financial laws, including proceedings initiated by a State or a private party. The commenter argued that a CID should be accompanied by a certification that the demand will have no bearing on any ongoing proceeding. Section 1052(c)(1) provides, in relevant part, that "the Bureau may, before the institution of any proceedings under the Federal consumer financial law, issue in writing, and cause to be served upon such person, a civil investigative demand." The language "before the institution of any proceeding under Federal consumer financial law" refers to the institution of proceedings by the Bureau. It does not limit the Bureau's authority to issue CIDs based upon the commencement of a proceeding by other parties.

Another commenter requested that the Bureau exempt all credit unions from Bureau investigations. The Bureau believes that granting an exemption from the Bureau's enforcement authority through the Final Rule would be inappropriate and that there is an insufficient record to support such an exemption.

A commenter recommended that covered persons be allowed to recover attorneys' fees and costs incurred by defending against an investigation that is shown to be without merit. The Dodd-Frank Act does not provide the right to recover fees and costs by defending against an investigation. Further, as explained below, the Bureau believes that the procedures for petitioning to modify or set aside a CID set forth in § 1080.6(d) of the Interim Final Rule (now 1080.6(e) of the Final Rule) provide sufficient protections to a recipient of a demand it believes lacks merit.

#### VI. Section-by-Section Summary

##### Section 1080.1 Scope

This section describes the scope of the Interim Final Rule. It makes clear that these rules only apply to investigations under section 1052 of the Dodd-Frank Act. The Bureau received no comment on § 1080.1 of the Interim Final Rule and is adopting it as the Final Rule without change.

##### Section 1080.2 Definitions

This section of the Interim Final Rule defines several terms used throughout the rules. Many of these definitions also may be found in section 1051 of the Dodd-Frank Act.

A commenter questioned the breadth of the definition of the term "Assistant Director of the Division of Enforcement." The commenter argued that because that term was defined to include "any Bureau employee to whom the Assistant Director of the Division of Enforcement has delegated authority to act under this part," the Interim Final Rule could give Bureau employees inappropriately broad authority to take certain actions, such as issuing CIDs.

The Bureau has revised the Final Rule in response to these comments. The Final Rule identifies those with authority to take particular actions under each section of the Final Rule. Sections 1080.4 (initiating and conducting investigations) and 1080.6 (civil investigative demands) of the Final Rule clarify that the authority to initiate investigations and issue CIDs cannot be delegated by the identified officials. The Final Rule also changes the defined term "Division of Enforcement" to "Office of Enforcement" to reflect the Bureau's current organizational structure.

##### Section 1080.3 Policy as to Private Controversies

This section of the Interim Final Rule states the Bureau's policy of pursuing investigations that are in the public

interest. Section 1080.3 is consistent with the Bureau's mission to protect consumers by investigating potential violations of Federal consumer financial law. The Bureau received no comments on § 1080.3 of the Interim Final Rule and is adopting it as the Final Rule without change.

##### Section 1080.4 Initiating and Conducting Investigations

This section of the Interim Final Rule explains that Bureau investigators are authorized to conduct investigations pursuant to section 1052 of the Dodd-Frank Act.

A commenter observed that this section of the Interim Final Rule did not explicitly provide a procedure for senior agency officials to authorize the opening of an investigation. The commenter argued that only senior agency officials should decide whether to initiate investigations. The commenter questioned whether staff-level employees could open investigations and issue CIDs without sufficient supervision, and noted that the FTC's analogous rule specifically lists the senior officials to whom the Commission has delegated, without power of redelegation, the authority to initiate investigations.

A commenter also expressed concern that the FTC's analogous rule explicitly provides that FTC investigators must comply with the laws of the United States and FTC regulations. According to the commenter, such language is necessary to ensure that the Bureau complies with the Right to Financial Privacy Act (RFPA) to the extent that statute applies to the Bureau. The commenter also believes that this language is needed to guard against investigations undertaken for what the commenter characterized as the impermissible purpose of aiding State attorneys general or State regulators. The commenter suggested that the Bureau add a statement to this section of the Interim Final Rule similar to the FTC's rule requiring compliance with Federal law and agency regulations.

The Final Rule clarifies that only the Assistant Director or any Deputy Assistant Director of the Office of Enforcement has the authority to initiate investigations. The Bureau has significant discretion to determine whether and when to open an investigation, and the public benefits from a process whereby the Bureau can open and close investigations efficiently. But the Bureau did not intend its rules to be interpreted so broadly as to suggest that any staff-level employee could unilaterally open an investigation or issue a CID. The Final



Rule also provides that Bureau investigators will perform their duties in accordance with Federal law and Bureau regulations.

#### *Section 1080.5 Notification of Purpose*

This section of the Interim Final Rule specifies that a person compelled to provide information to the Bureau or to testify in an investigational hearing must be advised of the nature of the conduct constituting the alleged violation under investigation and the applicable provisions of law. This section of the Interim Final Rule implements the requirements for CIDs described in section 1052(c)(2) of the Dodd-Frank Act.

Commenters noted that although the Dodd-Frank Act and the FTC Act both require CIDs to state “the nature of the conduct constituting the alleged violation which is under investigation and the provision of law applicable to such violation,” the two agencies’ implementing regulations on this topic differ. Both agencies’ regulations require a statement of the nature of the conduct at issue and the relevant provisions of law, but the FTC rule also requires that the recipient of the CID be advised of “the purpose and scope” of the investigation. Commenters argued that the Bureau should add this phrase to its rule because excluding it would lead to requests for materials outside the scope of an investigation. One commenter argued that only senior agency officials should authorize investigations to ensure that CIDs are relevant to the purpose and scope of the Bureau’s investigations.

The language in § 1080.5 of the Interim Final Rule mirrors the language of the Dodd-Frank Act, which provides that “[e]ach civil investigative demand shall state the nature of the conduct constituting the alleged violation which is under investigation and the provision of law applicable to such violation.” The Bureau believes that the information covered by this statutory language provides sufficient notice to recipients of CIDs. As discussed above, § 1080.4 (initiating and conducting investigations) of the Final Rule limits the authority to open investigations to the Assistant Director or any Deputy Assistant Director of the Office of Enforcement. Similarly, § 1080.6 of the Final Rule (civil investigative demands) limits the authority to issue CIDs to the Director of the Bureau, the Assistant Director of the Office of Enforcement, and the Deputy Assistant Directors of the Office of Enforcement. Thus, one of these identified officials will review and approve the initiation of all investigations and the issuance of all

CIDs. In addition, to the extent recipients of CIDs consider the demands to be for an unauthorized purpose or outside the scope of the investigation, they will have an opportunity to negotiate the terms of compliance pursuant to § 1080.6(c) of the Interim Final Rule (now § 1080.6(d) of the Final Rule) or to petition to set aside or modify the demand pursuant to § 1080.6(d) of the Interim Final Rule (now § 1080.6(e) of the Final Rule).

The Bureau therefore adopts this section of the Interim Final Rule as the Final Rule without change.

#### *Section 1080.6 Civil Investigative Demands*

This section of the Interim Final Rule lays out the Bureau’s procedures for issuing CIDs. It authorizes the Assistant Director of the Office of Enforcement to issue CIDs for documentary material, tangible things, written reports, answers to questions, and oral testimony. This section of the Interim Final Rule details the information that must be included in CIDs and the requirement that responses be made under a sworn certificate. Section 1080.6 of the Interim Final Rule also authorizes the Assistant Director of the Office of Enforcement to negotiate and approve the terms of compliance with CIDs and grant extensions for good cause. Finally, this section of the Interim Final Rule describes the procedures for seeking an order to modify or set aside a CID, which the Director is authorized to rule upon.

One commenter argued that § 1080.6(a) permits almost any Bureau employee to issue CIDs without sufficient supervision. The commenter stated that this lack of oversight is problematic and does not reflect Congress’ intent when it enacted the Act.

Section 1080.6(a) of the Final Rule limits the authority to issue CIDs to the Director, the Assistant Director of the Office of Enforcement, and the Deputy Assistant Directors of the Office of Enforcement. This change to the Final Rule balances the efficiency of the Bureau’s investigative process with appropriate supervision and oversight.

A commenter suggested that the Bureau require a conference between the CID recipient and the Assistant Director of the Office of Enforcement within ten days of service of the CID to negotiate and approve the terms of compliance. The commenter envisioned a conference analogous to a discovery planning conference under the Federal Rules of Civil Procedure, during which the parties could discuss requests for information, appropriate limitations on

the scope of requests, issues related to electronically stored information (ESI), issues related to privilege and confidential information, and a reasonable time for compliance. The commenter stated that this type of conference would better ensure prompt and efficient production of material and information related to the investigation.

The Bureau agrees that a conference between the parties within ten calendar days of serving a CID is likely to improve the efficiency of investigations, and § 1080.6(c) of the Final Rule provides for such a conference. The Final Rule does not, however, adopt the suggestion that the Assistant Director of the Office of Enforcement preside over all such conferences.

Several commenters also noted concern with the statement in § 1080.6(d) of the Interim Final Rule disfavoring extensions of time for petitioning for an order modifying or setting aside CIDs. One commenter argued that the 20-day period to file petitions, for which extensions of time are disfavored, is inconsistent with the “reasonable” period of time for compliance with the CID set forth in § 1080.6(a). The commenter also argued that this timeframe leaves a short period for the CID recipient to decide which documents are privileged or otherwise protected and to file a petition articulating privilege and scope objections. Another commenter noted that the analogous FTC rules do not include a provision disfavoring extensions for petitions to modify or set aside a CID. These commenters recommended that the Bureau delete the sentence related to disfavoring extensions. One commenter recommended that the rules be corrected to provide an independent review if a covered person believes a CID is without merit.

Like the Interim Final Rule, the Final Rule includes a provision disfavoring extensions of time for petitions to modify or set aside a CID. The Bureau believes its policy of disfavoring extensions is appropriate in light of its significant interest in promoting an efficient process for seeking materials through CIDs. By disfavoring extensions, the Bureau means to prompt recipients to decide within 20 days whether they intend to comply with the CID. The Final Rule also clarifies that this 20-day period should be computed with calendar days.

The Bureau notes that § 1080.6(d) of the Interim Final Rule (now § 1080.6(e) of the Final Rule) only provides the due date for a petition for an order modifying or setting aside a CID. It does not require recipients to comply fully



with CIDs within 20 days. In addition, the Final Rule provides several options to recipients of CIDs that need additional time to respond. For example, the recipient may negotiate for a reasonable extension of time for compliance or a rolling document production schedule pursuant to § 1080.6(c) of the Interim Final Rule (now § 1080.6(d) of the Final Rule).

Section 1080.6(e) of the Final Rule clarifies that recipients of CIDs should not assert claims of privilege through a petition for an order modifying or setting aside a CID. Instead, when privilege is the only basis for withholding particular materials, they should utilize the procedures set forth in § 1080.8 (withholding requested material) of the Final Rule. Section 1080.6(e) of the Final Rule also lays out the authority of Bureau investigators to provide to the Director a reply to a petition seeking an order modifying or setting aside a CID. Specifically, the Final Rule states that Bureau investigators may provide the Director with a statement setting forth any factual and legal responses to a petition. The Bureau will not make these statements or any other internal deliberations part of the Bureau's public records. Section 1080.6(g) of the Final Rule clarifies that the Bureau, however, will make publicly available both the petition and the Director's order in response. Section 1080.6(g) of the Final Rule also clarifies that if a CID recipient wants to prevent the Director from making the petition public, any showing of good cause must be made no later than the time the petition is filed. The Final Rule also adds a provision clarifying how the Bureau will serve the petitioner with the Director's order.

Finally, the Bureau believes the procedures for petitions to modify or set aside a CID set forth in the Final Rule adequately protect a covered person who believes a CID is without merit, and that an additional independent review is unnecessary.

#### *Section 1080.7 Investigational Hearings*

This section of the Interim Final Rule describes the procedures for investigational hearings initiated pursuant to a CID for oral testimony. It also lays out the roles and responsibilities of the Bureau investigator conducting the investigational hearing, which include excluding unauthorized persons from the hearing room and ensuring that the investigational hearing is transcribed, the witness is duly sworn, the transcript is a true record of the testimony, and the

transcript is provided to the designated custodian.

A commenter argued that the Bureau is not authorized to conduct joint investigations with State attorneys general under the Dodd-Frank Act and, correspondingly, State attorneys general cannot attend an investigational hearing as a representative of an agency with whom the Bureau is conducting a joint investigation. The commenter argued that Congress distinguished between State attorneys general and State regulatory agencies in section 1042 of the Dodd-Frank Act and that State attorneys general are therefore not "agencies" with whom the Bureau can partner. The commenter also asserted that the Bureau cannot share a copy of the transcript of an investigational hearing with another agency without the consent of the witness.

Another commenter argued that representatives of agencies with which the Bureau is conducting a joint investigation may be present at an investigational hearing only with the witness's consent. This commenter stated that the Bureau should recognize in the rules that a witness who does not consent to the presence of a representative of another agency at an investigational hearing should not be presumed guilty.

The Dodd-Frank Act states that the Bureau "may engage in joint investigations and requests for information, as authorized under this title." This statutory language permits the Bureau to engage in joint investigations with State or Federal law enforcement agencies, including State attorneys general, with jurisdiction that overlaps with the Bureau's. The Bureau's disclosure rules also permit the Bureau to share certain confidential information, including investigational hearing transcripts, with Federal or State agencies to the extent the disclosure is relevant to the exercise of an agency's statutory or regulatory authority. See 12 CFR 1070.43(b). In addition, neither the Dodd-Frank Act nor the rules require the consent of the witness to permit a representative of an agency with which the Bureau is conducting a joint investigation to be present at the hearing. Consent is required only when people other than those listed in the rule are included.

Thus, the Bureau adopts § 1080.7 of the Interim Final Rule as the Final Rule without change.

#### *Section 1080.8 Withholding Requested Material*

This section of the Interim Final Rule describes the procedures that apply when persons withhold material

responsive to a CID. It requires the recipient of the CID to assert a privilege by the production date and, if so directed in the CID, also to submit a detailed schedule of the items withheld. Section 1080.8 also sets forth the procedures for handling the disclosure of privileged or protected information or communications.

The Bureau received no comment on § 1080.8 of the Interim Final Rule and is adopting it as the Final Rule without substantive change.

#### *Section 1080.9 Rights of Witnesses in Investigations*

This section of the Interim Final Rule describes the rights of persons compelled to submit information or provide testimony in an investigation. It details the procedures for obtaining a copy of submitted documents or a copy of or access to a transcript of the person's testimony. This section of the Interim Final Rule also describes a witness's right to make changes to his or her transcript and the rules for signing the transcript.

Section 1080.9 of the Interim Final Rule lays out a person's right to counsel at an investigational hearing and describes his or her counsel's right to advise the witness as to any question posed for which an objection may properly be made. It also describes the witness's or counsel's rights to object to questions or requests that the witness is privileged to refuse to answer. This section of the Interim Final Rule states that counsel for the witness may not otherwise object to questions or interrupt the examination to make statements on the record but may request that the witness have an opportunity to clarify any of his or her answers. Finally, this section of the Interim Final Rule authorizes the Bureau investigator to take all necessary action during the course of the hearing to avoid delay and to prevent or restrain disorderly, dilatory, obstructionist, or contumacious conduct, or contemptuous language.

A commenter noted that under the Interim Final Rule witnesses could not object during an investigational hearing on the ground that a question was outside the scope of the investigation. The commenter argued that a covered person's inability to raise such objections might allow "a fishing expedition." The commenter recommended amending § 1080.9(b) to allow objections based on scope.

Section 1052(c)(13)(D)(iii) of the Dodd-Frank Act states, in relevant part:

[a]n objection may properly be made, received, and entered upon the record when it is claimed that such person is entitled to



refuse to answer the question on grounds of any constitutional or other legal right or privilege, including the privilege against self-incrimination, but the person shall not otherwise object to or refuse to answer any question, and such person or attorney shall not otherwise interrupt the oral examination.

Thus, to the extent the scope objection was grounded in a witness's constitutional or other legal right, it would be a proper objection.

The Final Rule clarifies that counsel may confer with a witness while a question is pending or instruct a witness not to answer a question only if an objection based on privilege or work product may properly be made. The Final Rule also describes counsel's limited ability to make additional objections based on other constitutional or legal rights. The Final Rule provides that if an attorney has refused to comply with his or her obligations in the rules of this part, or has allegedly engaged in disorderly, dilatory, obstructionist, or contumacious conduct, or contemptuous language during an investigational hearing, the Bureau may take further action, including action to suspend or disbar the attorney from further participation in the investigation or further practice before the Bureau pursuant to 12 CFR 1081.107(c). The Final Rule also includes other nonsubstantive changes, including clarifying that the 30-day period that the witness has to sign and submit his or her transcript should be computed using calendar days.

#### *Section 1080.10 Noncompliance With Civil Investigative Demands*

This section of the Interim Final Rule authorizes the Director, the Assistant Director of the Office of Enforcement, and the General Counsel to initiate an action to enforce a CID in connection with the failure or refusal of a person to comply with, or to obey, a CID. In addition, they are authorized to seek civil contempt or other appropriate relief in cases where a court order enforcing a CID has been violated.

The Bureau received no comment on § 1080.10 of the Interim Final Rule and is adopting it as the Final Rule without substantive change.

#### *Section 1080.11 Disposition*

This section of the Interim Final Rule explains that an enforcement action may be instituted in Federal or State court or through administrative proceedings when warranted by the facts disclosed by an investigation. It further provides that the Bureau may refer investigations to appropriate Federal, State, or foreign government agencies as appropriate. This section of the Interim Final Rule

also authorizes the Assistant Director of the Office of Enforcement to close the investigation when the facts of an investigation indicate an enforcement action is not necessary or warranted in the public interest.

One commenter indicated that the Bureau's authority to refer investigations to other law enforcement agencies should be limited to circumstances when it is expressly authorized to do so by the Dodd-Frank Act, an enumerated consumer financial law, or other Federal law, because of potential risks to the confidentiality of the investigatory files.

The Bureau's ability to refer matters to appropriate law enforcement agencies is inherent in the Bureau's authority and is a corollary to the Bureau's statutorily recognized ability to conduct joint investigations. The documentary materials and tangible things obtained by the Bureau pursuant to a CID are subject to the requirements and procedures relating to disclosure of records and information in part 1070 of this title. These procedures for sharing information with law enforcement agencies provide significant and sufficient protections for these materials.

The Bureau has amended § 1080.11 to clarify that the Assistant Director and any Deputy Assistant Director of the Office of Enforcement are authorized to close investigations.

The Bureau adopts § 1080.11 of the Interim Final Rule with the changes discussed above.

#### *Section 1080.12 Orders Requiring Witnesses To Testify or Provide Other Information and Granting Immunity*

This section of the Interim Final Rule authorizes the Assistant Director of the Office of Enforcement to request approval from the Attorney General for the issuance of an order requiring a witness to testify or provide other information and granting immunity under 18 U.S.C. 6004. The Interim Final Rule also sets forth the Bureau's right to review the exercise of these functions and states that the Bureau will entertain an appeal from an order requiring a witness to testify or provide other information only upon a showing that a substantial question is involved, the determination of which is essential to serve the interests of justice. Finally, this section of the Interim Final Rule describes the applicable rules and time limits for such appeals.

A commenter questioned whether this section of the Interim Final Rule would permit any Bureau employee to request that the Attorney General approve the issuance of an order granting immunity

under 18 U.S.C. 6004 and requiring a witness to testify or provide information. The commenter noted that the Dodd-Frank Act authorizes the Bureau, with the Attorney General's permission, to compel a witness to testify under 18 U.S.C. 6004 if the witness invokes his or her privilege against self-incrimination. The commenter argued that this section should delegate the authority to seek permission to compel testimony to a specific individual to provide accountability and ensure that information is not disclosed to the Attorney General in a manner that violates the Right to Financial Privacy Act. The commenter noted that the FTC's analogous rule specifically lists the senior agency officials who are authorized to make such requests to the Attorney General, and identifies a liaison officer through whom such requests must be made. The commenter also suggested that § 1080.12(b) of the Interim Final Rule, which provides that the Assistant Director's exercise of this authority is subject to review by "the Bureau," specify who will conduct this review.

The Final Rule provides that only the Director of the Bureau has the authority to request approval from the Attorney General for the issuance of an order requiring a witness to testify or provide other information and granting immunity under 18 U.S.C. 6004. This change addresses the concern that requests for witness immunity would be made without oversight. Limiting this authority to the Director provides sufficient accountability.

#### *Section 1080.13 Custodians*

This section of the Interim Final Rule describes the procedures for designating a custodian and deputy custodian for material produced pursuant to a CID in an investigation. It also states that these materials are for the official use of the Bureau, but, upon notice to the custodian, must be made available for examination during regular office hours by the person who produced them.

A commenter suggested that the Bureau should detail the particular duties of custodians designated under this section and that, without an enumerated list of duties, the custodian would not have any responsibilities regarding CID materials. The commenter noted that the FTC Act requires the custodian to take specific actions, while the Dodd-Frank Act does not. The commenter suggested specifying a series of custodial duties, including (1) taking and maintaining custody of all materials submitted pursuant to CIDs or subpoenas that the Bureau issues,



including transcripts of oral testimony taken by the Bureau; (2) maintaining confidentiality of those materials as required by applicable law; (3) providing the materials to either House of Congress upon request, after ten days notice to the party that owns or submitted the materials; (4) producing any materials as required by a court of competent jurisdiction; and (5) complying at all times with the Trade Secrets Act.

Section 1052 of the Dodd-Frank Act sets forth the duties of the Bureau's custodian. Sections 1052(c)(3) through (c)(6) of the Dodd-Frank Act give the custodian responsibility for receiving documentary material, tangible things, written reports, answers to questions, and transcripts of oral testimony given by any person in compliance with any CID. Section 1052(d) of the Dodd-Frank Act, as well as the Bureau's Rules for Disclosure of Records and Information in part 1070 of this title, outline the requirements for the confidential treatment of demand material. Section 1052(g) addresses custodial control and provides that a person may file, in the district court of the United States for the judicial district within which the office of the custodian is situated, a petition for an order of such court requiring the performance by the custodian of any duty imposed upon him by section 1052 of the Dodd-Frank Act or by Bureau rule. These duties and obligations do not require additional clarification by rule.

The Final Rule clarifies that the custodian has the powers and duties of both section 1052 of the Dodd-Frank Act and 12 CFR 1070.3.

The Bureau adopts § 1080.13 of the Interim Final Rule with the changes discussed above.

#### *Section 1080.14 Confidential Treatment of Demand Material and Non-Public Nature of Investigations*

Section 1080.14 of the Interim Final Rule explains that documentary materials, written reports, answers to questions, tangible things, or transcripts of oral testimony received by the Bureau in any form or format pursuant to a CID are subject to the requirements and procedures relating to disclosure of records and information in part 1070 of this title. This section of the Interim Final Rule also states that investigations generally are non-public. A Bureau investigator may disclose the existence of an investigation to the extent necessary to advance the investigation.

A commenter recommended that the Bureau revise this section to mandate that Bureau investigations remain confidential. The commenter noted the

potential reputation risk to an entity if an investigation is disclosed to the public. In addition, the commenter argued that failing to conduct investigations confidentially will increase litigation risk. One commenter recommended that the Bureau issue a public absolution of a company if the Bureau does not maintain the confidentiality of an investigation.

Section 1080.14 of the Interim Final Rule provides that investigations generally will not be disclosed to the public, but permits Bureau investigators to disclose the existence of an investigation when necessary to advance the investigation. The Interim Final Rule does not contemplate publicizing an investigation, but rather disclosing the existence of the investigation to, for example, a potential witness or third party with potentially relevant information when doing so is necessary to advance the investigation. This limited exception sufficiently balances the concerns expressed by the commenter with the Bureau's need to obtain information efficiently.

Thus, the Bureau adopts § 1080.14 of the Interim Final Rule as the Final Rule without change.

#### **VII. Section 1022(b)(2) Provisions**

In developing the Final Rule, the Bureau has considered the potential benefits, costs, and impacts, and has consulted or offered to consult with the prudential regulators, HUD, the SEC, the Department of Justice, and the FTC, including with regard to consistency with any prudential, market, or systemic objectives administered by such agencies.<sup>1</sup>

The Final Rule neither imposes any obligations on consumers nor is expected to have any appreciable impact on their access to consumer financial products or services. Rather, the Final Rule provides a clear, efficient mechanism for investigating compliance with the Federal consumer financial laws, which benefits consumers by creating a systematic process to protect them from unlawful behavior.

<sup>1</sup> Section 1022(b)(2)(A) of the Dodd-Frank Act addresses the consideration of the potential benefits and costs of regulation to consumers and covered persons, including the potential reduction of access by consumers to consumer financial products or services; the impact on depository institutions and credit unions with \$10 billion or less in total assets as described in section 1026 of the Dodd-Frank Act; and the impact on consumers in rural areas. Section 1022(b)(2)(B) addresses consultation between the Bureau and other Federal agencies during the rulemaking process. The manner and extent to which these provisions apply to procedural rules and benefits, costs and impacts that are compelled by statutory changes rather than discretionary Bureau action is unclear. Nevertheless, to inform this rulemaking more fully, the Bureau performed the described analyses and consultations.

The Final Rule imposes certain obligations on covered persons who receive CIDs in Bureau investigations. Specifically, as described above, the Final Rule sets forth the process for complying with or objecting to CIDs for documentary material, tangible things, written reports or answers to questions, and oral testimony. Most obligations in the Final Rule stem from express language in the Dodd-Frank Act and do not impose additional burdens on covered persons.

To the extent that the Final Rule includes provisions not expressly required by statute, these provisions benefit covered persons by providing clarity and certainty. In addition, the Final Rule vests the Bureau with discretion to modify CIDs or extend the time for compliance for good cause. This flexibility benefits covered persons by enabling the Bureau to assess the cost of compliance with a civil investigative demand in a particular circumstance and take appropriate steps to mitigate any unreasonable compliance burden.

Moreover, because the Final Rule is largely based on section 20 of the FTC Act and its corresponding regulations, it should present an existing, stable model of investigatory procedures to covered persons. This likely familiarity to covered persons should further reduce the compliance costs for covered persons.

The Final Rule provides that requests for extensions of time to file petitions to modify or set aside CIDs are disfavored. This may impose a burden on covered entities in some cases, but it may also lead to a more expeditious resolution of matters, reducing uncertainty. Furthermore, the Final Rule has no unique impact on insured depository institutions or insured credit unions with less than \$10 billion in assets as described in section 1026(a) of the Dodd-Frank Act. Nor does the Final Rule have a unique impact on rural consumers.

A commenter suggested that the Bureau conduct a nonpublic study of the impact of complying with a CID on the entities who have been subjected to them by other agencies, with specific focus on those that were found not to have violated the law. As the commenter implicitly recognizes, such data does not currently exist and thus was not reasonably available to the Bureau in finalizing the Interim Final Rule. Moreover, as explained above, most of the costs associated with complying with a CID result from the Dodd-Frank Act, which authorizes the Bureau to issue such demands.

A commenter asserted that disfavoring extensions of petitions to



modify or set aside CIDs will require the recipient to conduct a full review of the demanded material within the normal 20-day period in order to comply with the deadline for filing a petition. Under the Final Rule, recipients of a CID are not required to comply fully within twenty days; rather, they are required simply to decide whether they will comply with the demand at all. The Assistant Director of the Office of Enforcement and the Deputy Assistant Directors of the Office of Enforcement have the discretion to negotiate and approve the terms of satisfactory compliance with CIDs and, for good cause shown, may extend the time prescribed for compliance. Thus, the Final Rule provides reasonable steps to mitigate compliance burden while simultaneously protecting the Bureau's law enforcement interests.

Another commenter stated that the four interim final rules that the Bureau promulgated together on July 28, 2011 failed to satisfy the rulemaking requirements under section 1022 of the Dodd-Frank Act. Specifically, the commenter stated that "the CFPB's analysis of the costs and benefits of its rules does not recognize the significant costs the CFPB imposes on covered persons." The Bureau believes that it appropriately considered the benefits, costs, and impacts of the Interim Final Rule pursuant to section 1022. Notably, the commenter did not identify any specific costs to covered persons that are not discussed in Part C of the SUPPLEMENTARY INFORMATION to the Interim Final Rule.

### VIII. Procedural Requirements

As noted in publishing the Interim Final Rule, under the Administrative Procedure Act, 5 U.S.C. 553(b), notice and comment is not required for rules of agency organization, procedure, or practice. As discussed in the preamble to the Interim Final Rule, the Bureau confirms its finding that this is a procedural rule for which notice and comment is not required. In addition, because the Final Rule relates solely to agency procedure and practice, it is not subject to the 30-day delayed effective date for substantive rules under section 553(d) of the Administrative Procedure Act, 5 U.S.C. 551 *et seq.* Because no notice of proposed rulemaking is required, the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601(2) do not apply. Finally, the Bureau has determined that this Final Rule does not impose any new recordkeeping, reporting, or disclosure requirements on covered entities or members of the public that would be collections of

information requiring approval under 44 U.S.C. 3501. *et seq.*

### List of Subjects in 12 CFR Part 1080

Administrative practice and procedure, Banking, Banks, Consumer protection, Credit, Credit unions, Investigations, Law enforcement, National banks, Savings associations, Trade practices.

For the reasons set forth in the preamble, the Bureau of Consumer Financial Protection revises part 1080 to Chapter X in Title 12 of the Code of Federal Regulations to read as follows:

### PART 1080—RULES RELATING TO INVESTIGATIONS

Sec.

- 1080.1 Scope.
- 1080.2 Definitions.
- 1080.3 Policy as to private controversies.
- 1080.4 Initiating and conducting investigations.
- 1080.5 Notification of purpose.
- 1080.6 Civil investigative demands.
- 1080.7 Investigational hearings.
- 1080.8 Withholding requested material.
- 1080.9 Rights of witnesses in investigations.
- 1080.10 Noncompliance with civil investigative demands.
- 1080.11 Disposition.
- 1080.12 Orders requiring witnesses to testify or provide other information and granting immunity.
- 1080.13 Custodians.
- 1080.14 Confidential treatment of demand material and non-public nature of investigations.

**Authority:** Pub. L. 111–203, Title X, 12 U.S.C. 5481 *et seq.*

#### § 1080.1 Scope.

The rules of this part apply to Bureau investigations conducted pursuant to section 1052 of the Dodd-Frank Act, 12 U.S.C. 5562.

#### § 1080.2 Definitions.

For the purposes of this part, unless explicitly stated to the contrary:

*Bureau* means the Bureau of Consumer Financial Protection.

*Bureau investigation* means any inquiry conducted by a Bureau investigator for the purpose of ascertaining whether any person is or has been engaged in any conduct that is a violation.

*Bureau investigator* means any attorney or investigator employed by the Bureau who is charged with the duty of enforcing or carrying into effect any Federal consumer financial law.

*Custodian* means the custodian or any deputy custodian designated by the Bureau for the purpose of maintaining custody of information produced pursuant to this part.

*Director* means the Director of the Bureau or a person authorized to

perform the functions of the Director in accordance with the law.

*Documentary material* means the original or any copy of any book, document, record, report, memorandum, paper, communication, tabulation, chart, log, electronic file, or other data or data compilation stored in any medium, including electronically stored information.

*Dodd-Frank Act* means the Dodd-Frank Wall Street Reform and Consumer Financial Protection Act of 2010, as amended, Public Law 111–203 (July 21, 2010), Title X, codified at 12 U.S.C. 5481 *et seq.*

*Electronically stored information (ESI)* means any information stored in any electronic medium from which information can be obtained either directly or, if necessary, after translation by the responding party into a reasonably usable form.

*Office of Enforcement* means the office of the Bureau responsible for enforcement of Federal consumer financial law.

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

*Violation* means any act or omission that, if proved, would constitute a violation of any provision of Federal consumer financial law.

#### § 1080.3 Policy as to private controversies.

The Bureau shall act only in the public interest and will not initiate an investigation or take other enforcement action when the alleged violation is merely a matter of private controversy and does not tend to affect adversely the public interest.

#### § 1080.4 Initiating and conducting investigations.

The Assistant Director of the Office of Enforcement and the Deputy Assistant Directors of the Office of Enforcement have the nondelegable authority to initiate investigations. Bureau investigations are conducted by Bureau investigators designated and duly authorized under section 1052 of the Dodd-Frank Act, 12 U.S.C. 5562, to conduct such investigations. Bureau investigators are authorized to exercise and perform their duties in accordance with the laws of the United States and the regulations of the Bureau.

#### § 1080.5 Notification of purpose.

Any person compelled to furnish documentary material, tangible things, written reports or answers to questions, oral testimony, or any combination of



such material, answers, or testimony to the Bureau shall be advised of the nature of the conduct constituting the alleged violation that is under investigation and the provisions of law applicable to such violation.

#### § 1080.6 Civil investigative demands.

(a) *In general.* In accordance with section 1052(c) of the Act, the Director of the Bureau, the Assistant Director of the Office of Enforcement, and the Deputy Assistant Directors of the Office of Enforcement, have the nondelegable authority to issue a civil investigative demand in any Bureau investigation directing the person named therein to produce documentary material for inspection and copying or reproduction in the form or medium requested by the Bureau; to submit tangible things; to provide a written report or answers to questions; to appear before a designated representative at a designated time and place to testify about documentary material, tangible things, or other information; and to furnish any combination of such material, things, answers, or testimony.

(1) *Documentary material.* (i) Civil investigative demands for the production of documentary material shall describe each class of material to be produced with such definiteness and certainty as to permit such material to be fairly identified, prescribe a return date or dates that will provide a reasonable period of time within which the material so demanded may be assembled and made available for inspection and copying or reproduction, and identify the custodian to whom such material shall be made available. Documentary material for which a civil investigative demand has been issued shall be made available as prescribed in the civil investigative demand.

(ii) Production of documentary material in response to a civil investigative demand shall be made under a sworn certificate, in such form as the demand designates, by the person to whom the demand is directed or, if not a natural person, by any person having knowledge of the facts and circumstances relating to such production, to the effect that all of the documentary material required by the demand and in the possession, custody, or control of the person to whom the demand is directed has been produced and made available to the custodian.

(2) *Tangible things.* (i) Civil investigative demands for tangible things shall describe each class of tangible things to be produced with such definiteness and certainty as to permit such things to be fairly identified, prescribe a return date or

dates which will provide a reasonable period of time within which the things so demanded may be assembled and submitted, and identify the custodian to whom such things shall be submitted.

(ii) Submissions of tangible things in response to a civil investigative demand shall be made under a sworn certificate, in such form as the demand designates, by the person to whom the demand is directed or, if not a natural person, by any person having knowledge of the facts and circumstances relating to such production, to the effect that all of the tangible things required by the demand and in the possession, custody, or control of the person to whom the demand is directed have been submitted to the custodian.

(3) *Written reports or answers to questions.* (i) Civil investigative demands for written reports or answers to questions shall propound with definiteness and certainty the reports to be produced or the questions to be answered, prescribe a date or dates at which time written reports or answers to questions shall be submitted, and identify the custodian to whom such reports or answers shall be submitted.

(ii) Each reporting requirement or question in a civil investigative demand shall be answered separately and fully in writing under oath. Responses to a civil investigative demand for a written report or answers to questions shall be made under a sworn certificate, in such form as the demand designates, by the person to whom the demand is directed or, if not a natural person, by any person responsible for answering each reporting requirement or question, to the effect that all of the information required by the demand and in the possession, custody, control, or knowledge of the person to whom the demand is directed has been submitted to the custodian.

(4) *Oral testimony.* (i) Civil investigative demands for the giving of oral testimony shall prescribe a date, time, and place at which oral testimony shall be commenced, and identify a Bureau investigator who shall conduct the investigation and the custodian to whom the transcript of such investigation shall be submitted. Oral testimony in response to a civil investigative demand shall be taken in accordance with the procedures for investigational hearings prescribed by §§ 1080.7 and 1080.9 of this part.

(ii) Where a civil investigative demand requires oral testimony from an entity, the civil investigative demand shall describe with reasonable particularity the matters for examination and the entity must designate one or more officers, directors, or managing

agents, or designate other persons who consent to testify on its behalf. Unless a single individual is designated by the entity, the entity must designate the matters on which each designee will testify. The individuals designated must testify about information known or reasonably available to the entity and their testimony shall be binding on the entity.

(b) *Manner and form of production of ESI.* When a civil investigative demand requires the production of ESI, it shall be produced in accordance with the instructions provided by the Bureau regarding the manner and form of production. Absent any instructions as to the form for producing ESI, ESI must be produced in the form in which it is ordinarily maintained or in a reasonably usable form.

(c) *Meet and confer.* The recipient of a civil investigative demand shall meet and confer with a Bureau investigator within 10 calendar days after receipt of the demand or before the deadline for filing a petition to modify or set aside the demand, whichever is earlier, to discuss and attempt to resolve all issues regarding compliance with the civil investigative demand. The Assistant Director of the Office of Enforcement and the Deputy Assistant Directors of the Office of Enforcement may authorize the waiver of this requirement for routine third-party civil investigative demands or in other circumstances where he or she determines that a meeting is unnecessary. The meeting may be in person or by telephone.

(1) *Personnel.* The recipient must make available at the meeting personnel with the knowledge necessary to resolve any issues relevant to compliance with the demand. Such personnel could include individuals knowledgeable about the recipient's information or records management systems and/or the recipient's organizational structure.

(2) *ESI.* If the civil investigative demand seeks ESI, the recipient shall ensure that a person familiar with its ESI systems and methods of retrieval participates in the meeting.

(3) *Petitions.* The Bureau will not consider petitions to set aside or modify a civil investigative demand unless the recipient has meaningfully engaged in the meet and confer process described in this subsection and will consider only issues raised during the meet and confer process.

(d) *Compliance.* The Assistant Director of the Office of Enforcement and the Deputy Assistant Directors of the Office of Enforcement are authorized to negotiate and approve the terms of satisfactory compliance with civil investigative demands and, for good



cause shown, may extend the time prescribed for compliance.

(e) *Petition for order modifying or setting aside demand—in general.* Any petition for an order modifying or setting aside a civil investigative demand shall be filed with the Executive Secretary of the Bureau with a copy to the Assistant Director of the Office of Enforcement within 20 calendar days after service of the civil investigative demand, or, if the return date is less than 20 calendar days after service, prior to the return date. Such petition shall set forth all factual and legal objections to the civil investigative demand, including all appropriate arguments, affidavits, and other supporting documentation. The attorney who objects to a demand must sign any objections.

(1) *Statement.* Each petition shall be accompanied by a signed statement representing that counsel for the petitioner has conferred with counsel for the Bureau pursuant to section 1080.6(c) in a good-faith effort to resolve by agreement the issues raised by the petition and has been unable to reach such an agreement. If some of the matters in controversy have been resolved by agreement, the statement shall specify the matters so resolved and the matters remaining unresolved. The statement shall recite the date, time, and place of each such meeting between counsel, and the names of all parties participating in each such meeting.

(2) *Extensions of time.* The Assistant Director of the Office of Enforcement and the Deputy Assistant Directors of the Office of Enforcement are authorized to rule upon requests for extensions of time within which to file such petitions. Requests for extensions of time are disfavored.

(3) *Bureau investigator response.* Bureau investigators may, without serving the petitioner, provide the Director with a statement setting forth any factual and legal response to a petition for an order modifying or setting aside the demand.

(4) *Disposition.* The Director has the authority to rule upon a petition for an order modifying or setting aside a civil investigative demand. The order may be served on the petitioner via email, facsimile, or any other method reasonably calculated to provide notice of the order to the petitioner.

(f) *Stay of compliance period.* The timely filing of a petition for an order modifying or setting aside a civil investigative demand shall stay the time permitted for compliance with the portion challenged. If the petition is denied in whole or in part, the ruling will specify a new return date.

(g) *Public disclosure.* All such petitions and the Director's orders in response to those petitions are part of the public records of the Bureau unless the Bureau determines otherwise for good cause shown. Any showing of good cause must be made no later than the time the petition is filed.

#### § 1080.7 Investigational hearings.

(a) Investigational hearings, as distinguished from hearings in adjudicative proceedings, may be conducted pursuant to a civil investigative demand for the giving of oral testimony in the course of any Bureau investigation, including inquiries initiated for the purpose of determining whether or not a respondent is complying with an order of the Bureau.

(b) Investigational hearings shall be conducted by any Bureau investigator for the purpose of hearing the testimony of witnesses and receiving documentary material, tangible things, or other information relating to any subject under investigation. Such hearings shall be under oath or affirmation and stenographically reported, and a transcript thereof shall be made a part of the record of the investigation. The Bureau investigator conducting the investigational hearing also may direct that the testimony be recorded by audio, audiovisual, or other means, in which case the recording shall be made a part of the record of the investigation as well.

(c) In investigational hearings, the Bureau investigators shall exclude from the hearing room all persons except the person being examined, his or her counsel, the officer before whom the testimony is to be taken, any investigator or representative of an agency with which the Bureau is engaged in a joint investigation, and any individual transcribing or recording such testimony. At the discretion of the Bureau investigator, and with the consent of the person being examined, persons other than those listed in this paragraph may be present in the hearing room. The Bureau investigator shall certify or direct the individual transcribing the testimony to certify on the transcript that the witness was duly sworn and that the transcript is a true record of the testimony given by the witness. A copy of the transcript shall be forwarded promptly by the Bureau investigator to the custodian designated in section 1080.13.

#### § 1080.8 Withholding requested material.

(a) Any person withholding material responsive to a civil investigative demand or any other request for

production of material shall assert a claim of privilege not later than the date set for the production of material. Such person shall, if so directed in the civil investigative demand or other request for production, submit, together with such claim, a schedule of the items withheld which states, as to each such item, the type, specific subject matter, and date of the item; the names, addresses, positions, and organizations of all authors and recipients of the item; and the specific grounds for claiming that the item is privileged. The person who submits the schedule and the attorney stating the grounds for a claim that any item is privileged must sign it.

(b) A person withholding material solely for reasons described in this subsection shall comply with the requirements of this subsection in lieu of filing a petition for an order modifying or setting aside a civil investigative demand pursuant to section 1080.6(e).

(c) Disclosure of privileged or protected information or communications produced pursuant to a civil investigative demand shall be handled as follows:

(1) The disclosure of privileged or protected information or communications shall not operate as a waiver with respect to the Bureau if:

(i) The disclosure was inadvertent;

(ii) The holder of the privilege or protection took reasonable steps to prevent disclosure; and

(iii) The holder promptly took reasonable steps to rectify the error, including notifying a Bureau investigator of the claim of privilege or protection and the basis for it.

(2) After being notified, the Bureau investigator must promptly return, sequester, or destroy the specified information and any copies; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if he or she disclosed it before being notified; and, if appropriate, may sequester such material until such time as a hearing officer or court rules on the merits of the claim of privilege or protection. The producing party must preserve the information until the claim is resolved.

(3) The disclosure of privileged or protected information or communications shall waive the privilege or protection with respect to the Bureau as to undisclosed information or communications only if:

(i) The waiver is intentional;

(ii) The disclosed and undisclosed information or communications concern the same subject matter; and

(iii) They ought in fairness to be considered together.



**§ 1080.9 Rights of witnesses in investigations.**

(a) Any person compelled to submit documentary material, tangible things, or written reports or answers to questions to the Bureau, or to testify in an investigational hearing, shall be entitled to retain a copy or, on payment of lawfully prescribed costs, request a copy of the materials, things, reports, or written answers submitted, or a transcript of his or her testimony. The Bureau, however, may for good cause deny such a request and limit the witness to inspection of the official transcript of the testimony. Upon completion of transcription of the testimony of the witness, the witness shall be offered an opportunity to read the transcript of his or her testimony. Any changes by the witness shall be entered and identified upon the transcript by the Bureau investigator with a statement of the reasons given by the witness for making such changes. The transcript shall then be signed by the witness and submitted to the Bureau unless the witness cannot be found, is ill, waives in writing his or her right to signature, or refuses to sign. If the signed transcript is not submitted to the Bureau within 30 calendar days of the witness being afforded a reasonable opportunity to review it, the Bureau investigator, or the individual transcribing the testimony acting at the Bureau investigator's direction, shall sign the transcript and state on the record the fact of the waiver, illness, absence of the witness, or the refusal to sign, together with any reasons given for the failure to sign.

(b) Any witness compelled to appear in person at an investigational hearing may be accompanied, represented, and advised by counsel as follows:

(1) Counsel for a witness may advise the witness, in confidence and upon the initiative of either counsel or the witness, with respect to any question asked of the witness where it is claimed that a witness is privileged to refuse to answer the question. Counsel may not otherwise consult with the witness while a question directed to the witness is pending.

(2) Any objections made under the rules in this part shall be made only for the purpose of protecting a constitutional or other legal right or privilege, including the privilege against self-incrimination. Neither the witness nor counsel shall otherwise object or refuse to answer any question. Any objection during an investigational hearing shall be stated concisely on the record in a nonargumentative and nonsuggestive manner. Following an objection, the examination shall proceed

and the testimony shall be taken, except for testimony requiring the witness to divulge information protected by the claim of privilege or work product.

(3) Counsel for a witness may not, for any purpose or to any extent not allowed by paragraphs (b)(1) and (2) of this section, interrupt the examination of the witness by making any objections or statements on the record. Petitions challenging the Bureau's authority to conduct the investigation or the sufficiency or legality of the civil investigative demand shall be addressed to the Bureau in advance of the hearing in accordance with § 1080.6(e). Copies of such petitions may be filed as part of the record of the investigation with the Bureau investigator conducting the investigational hearing, but no arguments in support thereof will be allowed at the hearing.

(4) Following completion of the examination of a witness, counsel for the witness may, on the record, request that the Bureau investigator conducting the investigational hearing permit the witness to clarify any of his or her answers. The grant or denial of such request shall be within the sole discretion of the Bureau investigator conducting the hearing.

(5) The Bureau investigator conducting the hearing shall take all necessary action to regulate the course of the hearing to avoid delay and to prevent or restrain disorderly, dilatory, obstructionist, or contumacious conduct, or contemptuous language. Such Bureau investigator shall, for reasons stated on the record, immediately report to the Bureau any instances where an attorney has allegedly refused to comply with his or her obligations under the rules in this part, or has allegedly engaged in disorderly, dilatory, obstructionist, or contumacious conduct, or contemptuous language in the course of the hearing. The Bureau will thereupon take such further action, if any, as the circumstances warrant, including actions consistent with those described in 12 CFR 1081.107(c) to suspend or disbar the attorney from further practice before the Bureau or exclude the attorney from further participation in the particular investigation.

**§ 1080.10 Noncompliance with civil investigative demands.**

(a) In cases of failure to comply in whole or in part with Bureau civil investigative demands, appropriate action may be initiated by the Bureau, including actions for enforcement.

(b) The Director, the Assistant Director of the Office of Enforcement,

and the General Counsel of the Bureau are authorized to:

(1) Institute, on behalf of the Bureau, an enforcement proceeding in the district court of the United States for any judicial district in which a person resides, is found, or transacts business, in connection with the failure or refusal of such person to comply with, or to obey, a civil investigative demand in whole or in part if the return date or any extension thereof has passed; and

(2) Seek civil contempt or other appropriate relief in cases where a court order enforcing a civil investigative demand has been violated.

**§ 1080.11 Disposition.**

(a) When the facts disclosed by an investigation indicate that an enforcement action is warranted, further proceedings may be instituted in Federal or State court or pursuant to the Bureau's administrative adjudicatory process. Where appropriate, the Bureau also may refer investigations to appropriate Federal, State, or foreign governmental agencies.

(b) When the facts disclosed by an investigation indicate that an enforcement action is not necessary or would not be in the public interest, the investigational file will be closed. The matter may be further investigated, at any time, if circumstances so warrant.

(c) The Assistant Director of the Office of Enforcement and the Deputy Assistant Directors of the Office of Enforcement are authorized to close Bureau investigations.

**§ 1080.12 Orders requiring witnesses to testify or provide other information and granting immunity.**

The Director has the nondelegable authority to request approval from the Attorney General of the United States for the issuance of an order requiring a witness to testify or provide other information and granting immunity under 18 U.S.C. 6004.

**§ 1080.13 Custodians.**

(a) The Bureau shall designate a custodian and one or more deputy custodians for material to be delivered pursuant to a civil investigative demand in an investigation. The custodian shall have the powers and duties prescribed by 12 CFR 1070.3 and section 1052 of the Act, 12 U.S.C. 5562. Deputy custodians may perform all of the duties assigned to custodians.

(b) Material produced pursuant to a civil investigative demand, while in the custody of the custodian, shall be for the official use of the Bureau in accordance with the Act; but such material shall upon reasonable notice to the custodian



be made available for examination by the person who produced such material, or his or her duly authorized representative, during regular office hours established for the Bureau.

**§ 1080.14 Confidential treatment of demand material and non-public nature of investigations.**

(a) Documentary materials, written reports, answers to questions, tangible things or transcripts of oral testimony the Bureau receives in any form or format pursuant to a civil investigative demand are subject to the requirements and procedures relating to the disclosure of records and information set forth in part 1070 of this title.

(b) Bureau investigations generally are non-public. Bureau investigators may disclose the existence of an investigation to potential witnesses or third parties to the extent necessary to advance the investigation.

Dated: June 4, 2012.

**Richard Cordray,**

*Director, Bureau of Consumer Financial Protection.*

[FR Doc. 2012-14047 Filed 6-28-12; 8:45 am]

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**BUREAU OF CONSUMER FINANCIAL PROTECTION**

**12 CFR Part 1082**

[Docket No. CFPB-2011-0005]

RIN 3170-AA02

**State Official Notification Rule**

**AGENCY:** Bureau of Consumer Financial Protection.

**ACTION:** Final rule.

**SUMMARY:** The Dodd-Frank Wall Street Reform and Consumer Financial Protection Act of 2010 (Dodd-Frank Act) requires the Bureau of Consumer Financial Protection (Bureau) to prescribe rules establishing procedures that govern the process by which State Officials notify the Bureau of actions undertaken pursuant to the authority granted to the States to enforce the Dodd-Frank Act or regulations prescribed thereunder. This final State Official Notification Rule (Final Rule) sets forth the procedures to govern this process.

**DATES:** The Final Rule is effective June 29, 2012.

**FOR FURTHER INFORMATION CONTACT:** Veronica Spicer, Office of Enforcement, Consumer Financial Protection Bureau, 1700 G Street NW., Washington, DC 20552, at (202) 435-7545.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

The Dodd-Frank Wall Street Reform and Consumer Financial Protection Act of 2010 (Dodd-Frank Act) was signed into law on July 21, 2010. Title X of the Dodd-Frank Act established the Bureau to regulate the offering and provision of consumer financial products or services under the Federal consumer financial laws. Section 1042 of the Dodd-Frank Act, 12 U.S.C. 5552, governs the enforcement powers of the States under the Dodd-Frank Act. Under section 1042(a), a State attorney general or regulator (State Official) may bring an action to enforce Title X of the Dodd-Frank Act and regulations issued thereunder. Prior to initiating any such action, the State Official is required to provide notice of the action to the Bureau and the prudential regulator, if any, pursuant to section 1042(b) of the Dodd-Frank Act. Section 1042(b) further authorizes the Bureau to intervene in the State Official's action as a party, remove the action to a Federal district court, and appeal any order or judgment.

Pursuant to section 1042(c) of the Dodd-Frank Act, the Bureau is required to issue regulations implementing the requirements of section 1042. On July 28, 2011, the Bureau promulgated the State Official Notification Rule (Interim Final Rule) with a request for comment. The comment period for the Interim Final Rule ended on September 26, 2011. After reviewing and considering the issues raised by the comments, the Bureau now promulgates the Final Rule establishing a procedure for the timing and content of the notice required to be provided by State Officials pursuant to section 1042(b) of the Dodd-Frank Act, 12 U.S.C. 5552(b).

**II. Summary of the Final Rule**

Like the Interim Final Rule, the Final Rule implements a procedure for the timing and content of the notice required by section 1042(b), sets forth the responsibilities of the recipients of the notice, and specifies the rights of the Bureau to participate in actions brought by State Officials under section 1042(a) of the Dodd-Frank Act. In drafting the Final Rule, the Bureau endeavored to create a process that would provide both the Bureau and, where applicable, the prudential regulators with timely notice of pending actions and account for the investigation and litigation needs of State regulators and law enforcement agencies. In keeping with this approach, the Final Rule provides for a default notice period of at least ten calendar days, with exceptions for emergencies and other extenuating circumstances,

and requires substantive notice that is both straightforward and comprehensive. The Final Rule further makes clear that the Bureau can intervene as a party in an action brought by a State Official under Title X of the Dodd-Frank Act or a regulation prescribed thereunder, provides for the confidential treatment of non-public information contained in the notice if a State so requests, and provides that provision of notice shall not be deemed a waiver of any applicable privilege. In addition, the Final Rule specifies that the notice provisions do not create any procedural or substantive rights for parties in litigation against the United States or against a State that brings an action under Title X of the Dodd-Frank Act or a regulation prescribed thereunder.

**III. Legal Authority**

Section 1042(c) of the Dodd-Frank Act authorizes the Bureau to prescribe regulations implementing the requirements of section 1042(b). In addition, the Bureau has general rulemaking authority pursuant to section 1022(b)(1) of the Dodd-Frank Act to prescribe rules to enable the Bureau to administer and carry out the purposes and objectives of the Federal consumer financial laws and to prevent evasions thereof.

**IV. Overview of Comments Received**

In response to the Interim Final Rule, the Bureau received several comments. Four letters were received from associations representing the financial industry, two letters were received from financial industry regulators and supervisors, and one letter was received from an individual consumer. The Bureau also received a comment letter from a financial industry regulator in response to its **Federal Register** notification of November 21, 2011, regarding the information collection requirements associated with the Interim Final Rule pursuant to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. All of the comments are available for review on [www.regulations.gov](http://www.regulations.gov).

The financial industry associations' comments fell into several general categories. Several comments expressed concerns about the Bureau's ability to maintain confidentiality for notification materials received by the Bureau. Other commenters requested clarity as to the type of actions for which the Bureau requires notification. One commenter requested that the Bureau require uniform interpretation by States of all Federal law within the Bureau's jurisdiction.



**From:** [Reise, Sarah T.](#)  
**To:** [Clark, Benjamin \(CFPB\)](#); [Cover, Jason M.](#)  
**Cc:** [Assae-Bille, Vanessa \(CFPB\)](#)  
**Subject:** RE: Check City  
**Date:** Friday, December 16, 2022 10:48:20 AM

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Good morning, Ben. Our clients have authorized us to accept service of the new CIDs via email.

Thank you,  
Sarah

**Sarah T. Reise**

Counsel

**troutman pepper**

Direct: 404.885.3803 | Mobile: 404.697.7117

[sarah.reise@troutman.com](mailto:sarah.reise@troutman.com)

Pronouns: she, her, hers

---

**From:** Clark, Benjamin (CFPB) <[Benjamin.Clark@cfpb.gov](mailto:Benjamin.Clark@cfpb.gov)>  
**Sent:** Thursday, December 15, 2022 5:17 PM  
**To:** Reise, Sarah T. <[Sarah.Reise@troutman.com](mailto:Sarah.Reise@troutman.com)>; Cover, Jason M. <[Jason.Cover@troutman.com](mailto:Jason.Cover@troutman.com)>  
**Cc:** Assae-Bille, Vanessa (CFPB) <[Elisabeth.Assae-Bille@cfpb.gov](mailto:Elisabeth.Assae-Bille@cfpb.gov)>  
**Subject:** RE: Check City

**EXTERNAL SENDER**

Thanks very much, Sarah. Have a nice evening.

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**From:** Reise, Sarah T. <[Sarah.Reise@troutman.com](mailto:Sarah.Reise@troutman.com)>  
**Sent:** Thursday, December 15, 2022 5:16 PM  
**To:** Clark, Benjamin (CFPB) <[Benjamin.Clark@cfpb.gov](mailto:Benjamin.Clark@cfpb.gov)>; Cover, Jason M. <[Jason.Cover@troutman.com](mailto:Jason.Cover@troutman.com)>  
**Cc:** Assae-Bille, Vanessa (CFPB) <[Elisabeth.Assae-Bille@cfpb.gov](mailto:Elisabeth.Assae-Bille@cfpb.gov)>  
**Subject:** RE: Check City

**CAUTION:** This email originated from a non-government domain. DO NOT click links or open attachments unless you recognize and/or trust the sender. Contact Cybersecurity Incident Response Team (CSIRT) at 202-435-7200 or

report a suspicious email.

Good afternoon, Ben. I expect Jason and I will be able to accept service, but we are just confirming with our clients to make sure we do not speak out of turn. I have not heard back from them yet, but will follow up and hopefully will get back to you either later this evening or late morning tomorrow (accounting for the time difference between us and our clients).

**Sarah T. Reise**

**Counsel**

**troutman pepper**

Direct: 404.885.3803 | Mobile: 404.697.7117

[sarah.reise@troutman.com](mailto:sarah.reise@troutman.com)

Pronouns: she, her, hers

**From:** Clark, Benjamin (CFPB) <[Benjamin.Clark@cfpb.gov](mailto:Benjamin.Clark@cfpb.gov)>

**Sent:** Thursday, December 15, 2022 12:15 PM

**To:** Reise, Sarah T. <[Sarah.Reise@troutman.com](mailto:Sarah.Reise@troutman.com)>; Cover, Jason M. <[Jason.Cover@troutman.com](mailto:Jason.Cover@troutman.com)>

**Cc:** Assae-Bille, Vanessa (CFPB) <[Elisabeth.Assae-Bille@cfpb.gov](mailto:Elisabeth.Assae-Bille@cfpb.gov)>

**Subject:** Check City

**EXTERNAL SENDER**

Sarah and Jason,

We are planning on serving second CIDs on FAMI and CCP by the end of this week. Can you please confirm that you are authorized to accept service of the CIDs by email, as you were for the initial ones?

Thanks,

Ben Clark

Attorney | Office of Enforcement

Telephone: (202) 435-7871

Pronouns: he/him/his

Consumer Financial Protection Bureau

**consumerfinance.gov**

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**Exhibit B**

Letter from Sarah Reise and Jason Cover to E. Vanessa Assae-Bille  
(January 18, 2023)

and

E-mail from Sarah Reise to E. Vanessa Assae-Bille  
(January 24, 2023)



Troutman Pepper Hamilton Sanders LLP  
600 Peachtree Street NE, Suite 3000  
Atlanta, GA 30308-2216

troutman.com



**Sarah T Reise**  
sarah.reise@troutman.com

**Jason Miller Cover**  
jason.cover@troutman.com

January 18, 2023

**VIA EMAIL**

**CONFIDENTIAL TREATMENT REQUESTED - FOIA EXEMPTION (B)(4)**

Vanessa Assae-Bille  
Enforcement Attorney  
Consumer Financial Protection Bureau  
1700 G Street NW  
Washington, D.C. 20552  
Elisabeth.Assae-Bille@cfpb.gov

**Re: December 16, 2022 Civil Investigative Demands to Check City Partnership, LLC**

Dear Ms. Assae-Bille:

This letter is to follow-up on our December 29, 2022, January 5, 2023 and January 9, 2023 telephone conferences ("Meet and Confer") with you and your team about the December 16, 2022 Civil Investigative Demand ("CID") issued to our client, Check City Partnership, LLC ("Check City"). During the Meet and Confer, we discussed Check City's desire to work cooperatively with the Bureau in providing it with the documents and information that it needs in a timely manner. We also discussed a proposed production schedule and proposed modifications to certain requests.

Check City takes its obligation to respond to the CID very seriously and intends to work cooperatively with the Bureau in doing so. As you are aware, the CID calls for the production of a great deal of data and information. Consequently, while Check City intends to respond a number of the CID Requests by the original return date of January 26, 2023, Check City asks that the Bureau modify certain requests and provide additional time to respond to some Requests. We understand that in granting any of these proposals the Bureau reserves the right to request additional responsive documents or information as the investigation progresses.

Vanessa Assae-Bille  
January 18, 2023  
Page 2



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**Requests for Which No Modification is Requested**

Check City intends to respond to the following CID requests by January 26, 2023 without modification (although it proposes to provide partial responses on this date to other requests, as outlined below):<sup>1</sup>

- Interrogatories 1 and 2
- Requests for Documents 3, 6, and 7

**Modification Requests**

Check City requests modifications of the remainder of the CID requests for the reasons detailed below.

1. Interrogatory 3

Interrogatory 3 requests information on all call recordings between Check City's Customer Service Department and consumers. As we discussed, pursuant to Check City's retention policy, Check City has a relatively limited volume of call recordings to produce. However, given how voluminous the call recordings are from a data perspective (despite the relatively short retention period), Check City needs some additional time to pull and transfer all of the recordings for production. Until the data is collected, Check City will not be able to create the necessary report containing the data requested for each call. Therefore, Check City proposes to respond to this Interrogatory, *except* subpart (i), at the same time it proposes to produce all of the available call recordings (requested by Request for Documents 19) by February 27, 2023.

With respect to subpart (i), which requests the notes associated with each call, that information is not maintained in or captured by Check City's call recording software. Instead, notes are kept in its Cashwise system, and that information requires a separate data collection process. Importantly, this information is already being collected in connection with the Bureau's Request For Written Report 4. Therefore, Check City proposes to respond to subpart (i) as part of that written report, as discussed below.

2. Interrogatory 4

Interrogatory 4 requests a description of the factors used to develop the list of customers to whom marketing emails are sent related to the Company's Deferred Deposit Loans. We understand based on our discussion during the Meet and Confer that the Bureau is not necessarily looking for the specific criteria used for every marketing campaign, but rather a list of the criteria generally used by Check City when it develops these campaigns. With that

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<sup>1</sup> Check City notes that Interrogatory 5 requires modification by the Bureau in order to respond, as Check City does not and has not during the Applicable Period used a decision engine to underwrite loan applications.



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understanding, Check City requests a 30 day extension and proposes to respond to this Interrogatory on February 27, 2023.

This process is handled by CCI, and therefore, CCI/FAMI's Data Team will gather the requested information. This Team is staffed by two individuals, and responding this Interrogatory requires that they search in multiple databases to locate the relevant information as far back as 2017. However, this is the same Team responsible for preparing and running the data queries and generating Check City's (and FAMI's) responses to the Bureau's Requests for Written Report (discussed below). Given the limited personnel available and the significant amount of work required to generate the written reports (in addition to their day-to-day responsibilities), Check City requests an additional 30 days to respond to Interrogatory 4.

### 3. Interrogatory 6

Interrogatory 6 seeks the production of certain complaint information related to Check City's Deferred Deposit Loans, Installment Loans, and Signature Loans. Check City requests an extension of time through March 26, 2023 to respond. While Check City maintains a complaint log, it contains complaints related to every product or service offered by the Company, as well as complaints that are entirely unrelated to any product. For example, one of, if not the largest volume of consumer "complaints" included in the log are general customer service-related issues, such as when a consumer felt they had to wait too long at a store to be helped by an employee. Accordingly, Check City will need to manually review its Complaint log to identify the subset of Complaints requested by the CID.

Additionally, while the complaint log contains most of the requested information regarding the Company's corrective actions, the log does not contain details regarding any employee discipline. As such, Check City will have to cross check the relevant complaint information with its human resources information.

Finally, the only individual with the ability to complete this task is Check City's compliance officer, who is responsible for maintaining the complaint log. She does not have any direct reports with subject matter expertise who can assist. She just completed Check City's annual examination with the State of Nevada and is also assisting the Company with the launch of a new lending product and simultaneously conducting her annual audit of CCI. This is in addition to her daily responsibilities overseeing the Company's regular compliance functions.

Given the work needed to identify and collect the information requested and the associated personnel limitations, Check City will need through March 26, 2023 to respond to Interrogatory 6.

### 4. Written Reports 1-4

These Requests and Interrogatory seek loan/transactional level data and related underwriting information. With respect to *online* loans, Check City proposes a temporal scope modification

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given that historical loan information (pre-January 15, 2022) is housed on archived legacy systems. With respect to storefront limitations, Check City requests a significant extension of time and a rolling production schedule to respond due to personnel and system limitations that will impact its ability to pull the volume of data requested without significant business disruption.

a. Historical Online Lending Operations (Pre-January 15, 2022)

Since May 2014 (the beginning date of the relevant requests), Check City's service provider, CCI Financial, Inc. ("CCI"), has upgraded the online lending system twice. The current system for Check City's online lending operations was fully implemented on January 15, 2022. At the time of each system upgrade, only information related to Check City's current customer base was imported. Therefore, historical data is located *only* on the two archived systems.

At this point, these legacy systems are no longer accessible because the user interfaces for these legacy databases are no longer available. Therefore, CCI would have to re-create a means to visually access, review and search the data. CCI previously estimated that it would take a least one month to re-create an interface to be able to query the data base (although this process has not been previously attempted, so this is only a good-faith estimate). Once the databases are accessible, CCI will have to develop queries to attempt to capture the relevant data, run those queries on a small subset of data, and /audit the results to ensure the correct data was being captured. Only at that time could CCI and Check City actually begin the process of pulling the data required to prepare the requested reports.

This process is further hampered by personnel limitations. First, most of the individuals with knowledge of these systems, which are proprietary to CCI, are no longer employed by CCI (particularly with respect to the system in place for the beginning of the time period). Second, the Development Team, which would be responsible for re-creating the user interface, only has a staff of three employees. Once the archived databases are accessible, CCI's Data Team would create, test, and run the necessary queries. However, that Team is staffed by two employees and they will also be working to assist *both* Check City and FAMI in responding to their respective CIDs by collecting data from the current online lending system and their storefront operations.

Given the significant challenges and burdens related to accessing the legacy online lending databases, Check City proposes to modify the effective date range for the Requests for Written Report *with respect to online lending only*. Specifically, Check City proposes that the date range for these Requests be modified to January 15, 2022 through the date of the CID. As illustrated below, the vast majority of Check City's lending business occurs through its storefront location. As illustrated below, since 2014, online lending represented less than 10% of Check City's lending business, by both number of loans made and total amount money lent:



VOLUME OF ONLINE LENDING		
Year	By # of Loans	By Money Lent
2014	8.1%	9.2%
2015	7.4%	8.5%
2016	7.9%	7.9%
2017	8.0%	7.5%
2018	8.0%	7.5%
2019	8.2%	8.0%
2020	8.6%	8.9%
2021	2.5%	2.6%

Although this modification would *significantly* reduce Check City's burden in responding to the CID, it will not result in any material deficiencies in the information produced to the Bureau. Even with the proposed scope modification, the Bureau will still receive information that is relevant to Check City's online business for most of 2022. The Bureau will also receive information related to Check City's storefront operations (which represents the vast majority of Check City's business) for the entire requested period.

b. Storefront and Post-January 2022 Online Lending Operations

Although Check City does not have the same type of access challenges to its store-front lending data and current online lending data, the collection and production of the volume of data requested by the Bureau will nevertheless be laborious and very time-consuming, and therefore, Check City requests a modification to the production schedule.

First, as discussed above, CCI's Data Team has a staff of two employees who will be responsible for developing, testing and running the queries needed to pull the requested data. These employees perform a number of critical functions for CCI, not just for Check City, but also for FAMI and its related entities. While the Data Team will prioritize their work needed to respond to the CID, they must continue to balance and perform their responsibilities that are critical to all of CCI's operations.

Second, these Requests seek nearly a decade of data—an incredible volume and far more data than Check City has ever attempted to pull from its systems at one time. Due to system and bandwidth limitations, CCI will be unable to run the necessary system queries during business hours, as it would create significant lag in the systems Check City's storefronts depend upon to operate day-to-day. To avoid substantial and harmful interruptions of its business and ability to serve its customers, CCI will be able to run these queries *only* during nights and weekends. Moreover, until CCI actually is in position to begin running these queries, it is very difficult to predict how long it may take. Indeed, in undersigned counsel's experience assisting other

Vanessa Assae-Bille  
January 18, 2023  
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clients responding to similar requests for data from the Bureau, system queries of this breadth and nature often take much longer to run than anticipated.

Based on its best estimates, and given the challenges and limitations described above, Check City proposes the following rolling collection and production schedule<sup>2</sup>:

- If the CID is modified as requested, Check City anticipates that it will be able to pull the necessary data from its current online database and data from January 1, 2020 through December 16, 2022 from the storefront database by March 26, 2023.
  - Note, however, that if the CCI's data teams need to also access the historical online lending databases and develop searches on these unfamiliar legacy systems, that may divert necessary resources and delay Check City's ability to meet this proposed deadline.
- Rolling productions of two years of data every 60 days, beginning on May 26, 2023 for storefront data for 2018-2019, with subsequent productions of data for 2016-2017 and 2014-2015 on July 26 and September 26, 2023, respectively.

For these reasons, Check City requests that the time period covered by these Requests for Written Report be narrowed only as to online lending operations to exclude its archived legacy online lending databases, and that the Bureau approve the production schedule proposed above that reflects the associated significant system, personnel and business limitations.

#### 5. Request for Documents 1

Check City proposes to respond to Request for Documents 1 by March 27, 2023. Check City requires some additional time to respond to this request because there is no centralized human resources database containing personnel files. Additionally, while Check City has worked since 2019 to attempt to digitize its personnel records, some managers still elect to maintain significant information in physical personnel files located in branches and/or offsite storage. Moreover, due to labor market conditions in Nevada, Check City has significant store employee turnover; Check City currently estimates that more than 1,000 employees were terminated or have resigned during the Applicable Period (this number will be confirmed once Check City completes its response to Interrogatory 1 later this month).

Therefore, Check City requests an additional 60 days, through March 26, 2023, to conduct a manual collection, including contacting individual store managers, to determine whether the requested documents still exist and request copies of any available documents (including requesting, searching, and scanning any documents currently held in offsite storage).

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<sup>2</sup> As discussed above, Check City's productions in response to Request for Written Report 4 will also include the information responsive to Interrogatory 3(i).



Vanessa Assae-Bille  
January 18, 2023  
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Check City also wishes to advise the CFPB of a potential limitation in its ability to identify the relevant subset of employees at issue in this Request. As we discussed during the Meet and Confer, Check City has used three payroll companies during the Applicable Period. Unfortunately, its previous two companies were not always as diligent as they could have been in connection with identifying an employee's departure reason. Specifically, when employees left Check City, prior payroll companies would often categorize the departure reason as "Other," rather than as voluntary, termination, etc. Where the "Other" reason was used, Check City cannot determine the actual reason for separation without reviewing the full personnel file. And as noted above, many historical personnel files, and particularly those dating from employment prior to 2019, are likely available only in hardcopy.

Given the number of former employees at issue, and the fact that many of the historical personnel files are available only in hardcopy and/or in offsite storage, Check City lacks the resources and personnel needed to conduct a full review of all prior personnel files to identify all employees terminated for performance-based reasons. Therefore, although Check City will endeavor to produce the relevant documents for all employees that it can reasonably identify as having been terminated for performance reasons, its production may not include every relevant document due to these limitations. However, if there is any particular personnel file that the Bureau is interested in (based on its review of Interrogatory 1 or other information) that is not produced in Check City's initial production, Check City is happy to confer regarding potential supplemental productions as needed.

#### 6. Requests for Document 2 and 12

Request for Documents 2 seeks all documents related to store audits and Request for Document 12 seeks all documents memorializing audits or reviews by the Company's compliance functions of the Company's collections work. Check City proposes a rolling production schedule for these requests.

Check City employs one auditor who is responsible for conducting regular audits of its branches and collections operation. Every Check City branch is audited four times a year, which results in over 125 audits annually. Similarly, the Customer Service Group, which manages Check City's collections work, is regularly audited. There are six departments in the Customer Service Group, and the auditor conducts an audit of each department three times a year, resulting in 18 audits annually. In addition to working to assist Check City with responding to these CID Requests, the auditor must continue to keep up with this robust internal audit and compliance schedule.

With respect to documentation, some of the documents related to these audits are stored electronically. However, some documents, particularly historical documents and any documentation regarding post-audit follow up, are not centrally stored, and some may be retained in hardcopy and could be in offsite storage.

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Given the limited personnel available to assist with the collection of responsive documents (including the critical importance of maintaining her daily job responsibilities), and the fact that a significant portion of the responsive documents will require manual effort to search for, including a search for any hardcopies that may be stored offsite (necessitating a laborious review of boxes of documents once retrieved from the Company's vendor), Check City proposes the following rolling production schedule:

- January 26, 2023: 2020-2022 audits
- February 26, 2023: Historical documents (pre-2020) stored electronically
- April 26, 2023: Any remaining historical documents that can be located, including hardcopy documents

7. Requests for Documents 4, 8, 9, 18 and 20

With respect to Requests for Documents 4, 8, 9, 18, and 20, Check City will need additional time to respond, although it is not yet able to propose a specific production schedule.

All of these Requests for Documents seek various documents related to the stores identified in response to Interrogatory 2 (the "Interrogatory 2 Stores"). As of the date of this letter, Check City is still working to identify the Interrogatory 2 Stores and, as noted above, Check City intends to respond to Interrogatory 2 by January 26, 2023.

Importantly, as Interrogatory 2 is drafted, it is impossible to anticipate the number of potential stores at issue. Specifically, Interrogatory 2 asks for the two top and two bottom stores in each district for *five* different metrics. Check City has four districts. While it is possible that the same relatively small number of stores will consistently be identified as the top and bottom stores based on all of the identified metrics, it is also possible that there will be a large number of stores ultimately identified in response to Interrogatory 2 depending on store performance year over year, metric by metric. The number of stores directly impacts that burden of every request that is derived from Interrogatory 2.<sup>3</sup>

In addition to the potentially massive scope of Interrogatory 2, there are specific challenges related to many of these requests, such as the collection, review and production of email, or the need to conduct a manual search and collection of documents. These challenges are outlined below. Given that these challenges cannot be fully assessed until Check City can respond to Interrogatory 2 and identify the number of stores at issue, Check City proposes that the Bureau

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<sup>3</sup> For example, if the same four stores in each of Check City's four districts are consistently the top and bottom performers across each of the five identified metrics over the six year Applicable Period, that would result in pulling current and historical documents (including email) from 16 different stores (four per district), which is a significant amount of work. However, if store performance varied even slightly year-to-year or metric-by-metric, the volume of information and documents, and the work needed to respond to these requests derived from Interrogatory 2, would increase dramatically.



hold these Requests in abeyance until after Check City responds to Interrogatory 2 on January 26, 2023. At that time, Check City will be able to more fully examine the burdens and challenges associated with the Requests that are derivative of Interrogatory 2, and we will be able to further meet and confer with the Bureau regarding a production schedule or other proposed modifications.

a. Request for Documents 4

Request for Documents 4 asks for "quarterly development plans" for employees from the Interrogatory 2 Stores. As Check City's representative testified during the Investigational Hearing, managers do not always provide quarterly development plans to employees. It is strongly encouraged but it is not currently a requirement. Moreover, some managers may provide feedback orally instead of creating a written document; where documentation is created, there is no central repository where any existing documents are stored. As discussed during the Investigational Hearing, plans may be stored in hardcopy in a branch in the employee's personnel file. However, managers may save electronic versions locally on their computer or on the manager's network drive. Therefore, in order locate and collect any existing documents, Check City will have to request that each manager manually search for and collect them. For personnel files stored offsite, boxes containing files will need to be requested and delivered from offsite and searched, and any responsive documents scanned for production. Therefore, Check City anticipates needing additional time to respond to this Request once the Interrogatory 2 Stores are identified.

b. Request for Documents 8

Request for Documents 8 seeks all business review bundles prepared by stores and submitted to the Operations Executive. These are not saved in any central repository. Instead, store managers may save them locally on computer hard drives or in the manager's network drive. Accordingly, after the Interrogatory 2 Stores are identified, Check City will need to request that its managers of the relevant stores conduct a manual search and collection of these locations, and it will need to request an extension of time to complete that process.

c. Request for Documents 9

Request for Documents 9 seeks all weekly reports generated by store managers and submitted to district managers for the Interrogatory 2 Stores. These weekly reports are simply emails that contain certain performance information. Therefore, Check City will need to collect and search email to identify potentially responsive documents. Once the Interrogatory 2 Stores are identified, Check City will be able to identify the appropriate custodians (including store managers) and assess the volume of email for potential collection, as well as potential methods to searching and reviewing the collected email. Once the email has been collected and a review protocol is finalized, Check City will be able to propose to the Bureau a potential production schedule and/or scope modification based on the estimated cost and time to review and produce emails in response to the CID.



a. Requests for Documents 18 and 20

Requests for Documents 18 and 20 seek the complete loan files and communications with consumers for *each and every* loan originated in Interrogatory 2 Stores since 2017. In addition to the inability to estimate the potential volume of loans at issue (given that the Interrogatory 2 Stores have not yet been identified), pulling the requested documents is incredibly laborious and may simply not be possible based on the volume of documents and information sought in the Requests.

As an initial matter, Check City requests that the scope of Document Request 18 be modified to exclude title loans. Every other request in the CID requesting loan information seeks information and documents related to Deferred Deposit, Installment, and Signature loans, and excludes title loans. In addition to being more consistent with the scope of the rest of the CID, excluding title loans will reduce the volume of loans at issue which in turn will reduce the burden of production.

With respect to the digital loan-level information Check City maintains, the Company is already working to collect and produce all such information in connection with responding to the Bureau's Requests for Written Report, which are duplicative of this Request. With respect to hardcopy documents, including payment receipts and the original signed loan documents, Check City does not maintain individual loan files by consumers. Instead, each store maintains paperwork by business day. For example, if a new loan is originated on January 1, the loan disclosure and any other related documents would be stored in the January 1 file(s). If a follow-on transaction associated with that same loan is conducted on January 19, then all paperwork associated with that transaction (payment receipt, extension agreement, etc.) would be stored in our January 19 file(s). In other words, while the account notes (maintained electronically) would reflect the account activity and Check City can regenerate electronic unsigned copies of the disclosures and contracts, signed copies and other hardcopy documents are not organized by consumer or loan. Therefore, in order to construct an actual "loan file" consisting of every document or receipt associated with an individual loan, Check City must manually review the account history for every individual date on which a transaction was completed and aggregate all of the records manually.

This manual process is very time consuming. For example, the State of Nevada conducts an examination of Check City's operations each year. As part of that examination, the State selects a sample of 28 loans from each store that were originated within the previous 12 months – therefore, for Check City's 33 stores, the total sample size is slightly less than 1,000 loan files. It typically takes Check City three months to pull and produce the requested files. By comparison, Request for Documents 18 and 19 relate to not just loans originated within the previous 12 months, but for the previous six years. Much of the historical information is stored offsite. And of course, the potential population of loans at issue will be far greater than 1,000 files.



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Given the scope these Requests, Check City does not believe it will be able to respond to this Request as drafted within any reasonable time frame, given the burden involved and its experience responding to its State regulator's similar, narrower request.

Therefore, Check City proposes to produce a similar sample of 1,000 loan files to be selected by the Bureau after Check City completes its production in response to Request for Written Report 1. Check City will further request that it be given 90 days to complete this production, consistent with its experience responding to State examinations, and also considering that the Bureau may select loan files for which any physical documentation is now maintained in offsite storage that will require additional time to request and physically review.

8. Request for Documents 5

Request for Documents 5 seeks all documents memorializing the Company's ranking of stores and related factors. Check City proposes to respond to this Request by February 27, 2023. This task can only be accomplished by the one employee responsible for generating and maintaining the relevant documents. Additionally, Check City creates two ranking documents per month in addition to its annual rankings. Check City needs an additional 30 days to ensure that all relevant documents are collected for the entire Applicable Period.

9. Requests for Documents 10, 13 and 15

Request for Documents 10 seeks all communications between the Company's auditor and board of directors/compliance officer. Request for Documents 13 and 15 seek various agendas and other documents related to specified internal meetings. The Company proposes a rolling production schedule with responsive documents from 2021-2022 being produced by the original deadline of January 26, 2023, and the remainder to be produced by February 27, 2023. Due to work related to responding to other CID requests, and the additional effort needed to locate and collect historical documents, Check City needs an additional 30 days to respond for the earlier time period.

10. Request for Documents 11 and 19

Request for Documents 11 seeks all communications between the senior management team and/or the executive team regarding store rankings. Similarly, Request for Documents 19 seeks certain communications between district and store managers related to the underwriting, origination, servicing, renewal, refinancing, or collection of Deferred Deposit Loans, Installment Loans, and Signature Loans. To the extent these internal communications are in writing (as opposed to oral), they are primarily conducted via email. Therefore, Check City will continue to update the Bureau regarding its email collection and proposed modification(s) as described above in connection with Request for Documents 9.

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11. Request for Documents 14

Request for Documents 14 seeks all agendas and similar documents related to the Company's senior management team meetings. These meetings occur weekly three times a month.<sup>4</sup> Given the volume of documents and work needed to locate historical versions, and the limited personnel available to assist given the work being done to respond to other CID requests, the Company proposes a rolling production schedule.

Check City proposes to produce the documents related to the meetings held during 2020-2022 by February 26, 2023, and the earlier historical documents from 2017-2019 by March 27, 2023.

12. Request for Documents 16

Request for Documents 16 seeks all agendas and related documents circulated in connection with weekly meetings run by district managers and attended by store managers. This request seeks a very large volume of documents. There are four districts and these meetings occur three times a month (36 times a year, per district). Additionally, the agendas are not retained in any central repository; instead, district managers maintain these documents locally in various possible locations (such as local computer hard drives or the manager's corporate network drive). Accordingly, Check City's district managers must do a manual search and collection for these documents. Finally, the first quarter of the year is incredibly busy for Check City's district managers, and they are charged with additional responsibilities and workloads during income tax season. Therefore, after consulting with its district managers and taking into the consideration the distributive nature of the documents and manual work required to collect them, Check City proposes to produce responsive documents from 2020-2022 by March 26, 2023, and the remaining documents from 2017-2019 by April 26, 2023.

13. Request for Documents 17

Request for Documents 17 seeks the production of all template versions of text and email communications to consumers. Check City needs additional time to respond to this Request, which will be handled by CCI in its capacity as a service provider. These communications are warehoused in three separate systems – a text system, a system managed and provided by Hubspot, and emails. After conferring with CCI, Check City anticipates that it needs an additional 30 days, through February 27, 2023, to collect the messages sent via text and Hubspot, including review of collected documents to ensure it has identified all responsive documents and historical versions. However, Check City proposes to produce the requested email templates, which relate solely to online loans, on March 26, 2023. The CCI employee who managed and had experience with the relevant system sadly died on November 28, 2022 and the other employees with the general technical knowledge sufficient to become familiar with and

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<sup>4</sup> The fourth weekly meeting held during the month is an "all managers" meeting, not just the senior management team, and the agendas and other documents related to that monthly meeting are covered by a different CID request.



learn to navigate that system are already fully engaged in assisting Check City (and FAMI) respond to the other CID requests that seek data and digital information. Therefore, Check City requests additional time to produce the requested email communications.

#### 14. Request for Documents 19

Finally, with respect to Request for Documents 19, as discussed above in connection with Interrogatory 3, pursuant to Check City's retention policy and data storage limitations, Check City retains a limited volume of phone calls (generally for 6 months). However, given how voluminous the call recordings are (despite the relatively short retention period), Check City needs some additional time to pull and transfer all of the recordings for production. Specifically, Check City proposes to produce all available call recordings (requested by Request for Documents 19) by February 27, 2023.

#### Conclusion

In summary, Check City proposes to respond to the December 16, 2023 CID as follows:

- January 26, 2023 (original return date):
  - Interrogatories 1 and 2
  - Requests for Documents 2 (for 2020-2022), 3, 6, 7, 10 (for 2021-2022), 12 (for 2020-2022); 13 (for 2021-2022), and 15 (for 2021-2022)
- February 27, 2023
  - Interrogatories 3 (except subpart (i)) and 4
  - Requests for Documents 2 (pre-2020 electronically stored), 5, 10 (remainder), 12 (pre-2020 electronically stored), 13 (remainder), 14 (2020-2022), 15 (remainder), 17 (for text and Hubspot templates), and 19
- March 26, 2023
  - Interrogatories 3(i) and 6
  - Requests for Written Report 1-4 for current online database and storefront data for 2020-2022
  - Document Requests 1, 14 (remainder), 16 (2020-2022), and 17 (email templates)

Vanessa Assae-Bille  
January 18, 2023  
Page 14



- April 26, 2023: Document Requests 2 (any remaining), 12 (any remaining), and 16 (remainder)
- May 26, 2023: Requests for Written Report 1-4 for storefront data for 2018-2019
- July 26, 2023: Requests for Written Report 1-4 for storefront data for 2016-2017
- September 26, 2023: Requests for Written Report 1-4 for storefront data for 2014-2015

Finally, as set forth above, Check City proposes and looks forward to further meet and confer regarding Document Requests 4, 8, 9, 18 and 20 (which cannot be scoped and assessed until January 26 when Check City responds to Interrogatory 2) and Document Requests 11 and 19, which requires the collection, review and production of emails from multiple custodians.

Check City requests that the Bureau hold in abeyance for a short time 4, 8, 9, 18 and 20 (which cannot be scoped and assessed until January 26 when Check City responds to Interrogatory 2) and Document Requests 11 and 19, which requires the collection, review and production of emails from multiple custodians. After Check City responds to Interrogatory 2 on January 26, 2023, the subset of stores relevant to most of these Requests will have been identified, and Check City will be able to assess the burden and challenges of production and develop a production schedule. Similarly, Check City will know the full list of relevant custodians to further develop its email collection and review protocol. Check City anticipates promptly scheduling a further meet and confer discussion with the Bureau in early February 2023 to finalize a production schedule or discuss proposed any proposed modifications for these requests.

Pursuant to the Bureau's Regulations (12 C.F.R. §§ 1070.20, 1070.36(b)(4) and (b)(7), 1070.41, and 1080.14(a)), we request that the Bureau maintain this letter and the enclosed information as confidential and not make any of it available in response to a FOIA request or subpoena without giving notice to the Company and Troutman Pepper, and provide the opportunity to object, as set forth in § 1070.20. We are cooperating with the Bureau during this investigation. This cooperation, however, should not be construed as, and is not intended to be, a waiver of any substantive or procedural rights or privileges.

We respectfully request that the Bureau permit Check City to respond to the CIDs in the manner and on the time frame set forth in this letter. Jason Cover and I are available to discuss anything set forth in this letter at any time.



Vanessa Assae-Bille  
January 18, 2023  
Page 15



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Sincerely,

A handwritten signature in cursive script that reads "Sarah T. Reise".

Sarah T Reise

Jason Miller Cover

Enclosure

cc: Benjamin Clark (via email)  
John Marlow (via email)

**From:** [Reise, Sarah T.](#)  
**To:** [Assae-Bille, Vanessa \(CFPB\)](#); [Marlow, John \(CFPB\)](#)  
**Cc:** [Cover, Jason M.](#)  
**Subject:** Check City CID - Document Request 12 production this week  
**Date:** Tuesday, January 24, 2023 10:24:03 AM

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Hi Vanessa – I wanted to let you know that Check City will need one additional week for the first production for Request for Documents 12. By way of reminder, in the modification letter, we proposed to produce the requested audits for 2020-2022 on the original return date. As we discussed, Check City has one auditor, and she is the only person who maintains these documents and, therefore, is the only person able to collect these documents. Check City has advised that their auditor had to unexpectedly spend some time in the hospital, and therefore, her collection efforts are a bit behind schedule.

I understand she is now back at work and anticipates completing the initial collection of the 2020-2022 audits by early next week, which will position us to produce them on February 2, instead of January 26. I understand that the store audits (Request for Documents 2) from 2020-2022 will be produced as planned later this week, as Check City's auditor completed that collection prior to her hospital stay.

While the situation was unexpected, we nevertheless apologize for the delayed production of the documents responsive to Document Request 12.

Please let us know if you have any questions.

Thank you,  
Sarah

**Sarah T. Reise**

**Counsel**

Direct: 404.885.3803 | Mobile: 404.697.7117

[sarah.reise@troutman.com](mailto:sarah.reise@troutman.com)

Pronouns: she, her, hers

---

**troutman pepper**

600 Peachtree Street, NE, Suite 3000

Atlanta, GA 30308

[troutman.com](http://troutman.com)

[Troutman Pepper is a Mansfield Certified Plus Firm](#)

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**Exhibit C**

Letter from Deborah Morris to Sarah Reise and Jason Cover  
(February 2, 2023)





1700 G Street NW, Washington, D.C. 20552

February 2, 2023

Via Email

Check City Partnership, LLC  
c/o Sarah Reise and Jason Cover  
Troutman Pepper Hamilton Sanders LLP  
600 Peachtree Street NE, Suite 3000  
Atlanta, GA 30308-2216

Re: Civil Investigative Demand served on Check City Partnership, LLC on December 16, 2022

Dear Ms. Reise and Mr. Cover:

This letter modifies the terms for compliance with the December 16, 2022 Civil Investigative Demand (CID) issued to Check City Partnership, LLC (Check City) by the Consumer Financial Protection Bureau (Bureau), as permitted by 12 C.F.R. § 1080.6(d). This letter sets forth the only modifications to the CID. The Bureau's willingness to approve these modifications is based, in part, on Check City's representations described or referred to below. The production of information and documents in accordance with the modifications described below constitutes compliance with the CID.

### **Modifications to Interrogatories**

#### Interrogatory 5

Interrogatory No. 5 requests that Check City identify each loan in which the Company's decision engine treated a customer's repayment of a loan that was at least fourteen days delinquent as a positive factor in underwriting. In a meet-and-confer that occurred on December 29, 2022, and in a letter to the Bureau dated January 18, 2023 (January 18 Letter), Check City represented that it does not use a decision engine.

In addition, with respect to online loans, in its January 18 Letter, Check City explains that its service provider, CCI Financial, Inc. (CCI), updated the online lending system twice before fully implementing the current system on January 15, 2022. As a result, historical data relating to the

[consumerfinance.gov](https://consumerfinance.gov)

loans Check City originated online are archived in two systems. Check City represents that CCI will need to re-create the user interfaces necessary before it can query the databases for the requested information as it applies to online loans. Check City estimates that online loans constituted 7-8 percent of the total number of loans originated between 2014 and 2020, and 2.5 percent of the total loans originated in 2021.

Based on these representations, Interrogatory No. 5 is modified to read as follows:

5. Provide the loan ID, as identified in response to Request for Written Report No. 2.a, for each loan the Company originated in stores during the applicable period and online since January 15, 2022, in which the Company treated a customer's repayment of a loan that was at least fourteen days delinquent as a positive factor in underwriting.

### **Modifications to Requests for Written Reports**

#### *Requests for Written Reports Nos. 1-4*

Requests for Written Reports Nos. 1 through 4, and their subparts, seek borrower-level, loan-level, payment-level, and account-level information relating to certain loans originated by Check City originated through the date of the CID. The effective period begins on July 1, 2017, for Request for Written Reports No. 1; January 1, 2014, for Requests for Written Reports Nos. 2 and 3; and May 13, 2014, for Written Report No. 4.

Based on Check City's representations about the archived online loans, and in order to streamline the effective date ranges where possible, the first paragraph of each Request for Written Reports is modified as follows:

1. For every loan that You have originated in stores during the applicable period, and online since January 15, 2022, excluding all title loans, identify in a quoted, tab-delimited .csv file the following fields related to borrower-level data:
2. For every loan that You have originated in stores since January 1, 2014, and online since January 15, 2022, excluding all title loans, identify in a quoted, tab-delimited .csv file the following fields related to loan-level data, as applicable:
3. For every loan You have originated in stores since January 1, 2014, and online since January 15, 2022, excluding all title loans, identify in a quoted, tab-delimited .csv file, the following fields related to payment-level data:
4. For every loan You have originated in stores since January 1, 2014, and online since January 15, 2022, excluding all title loans, identify in a quoted, tab-delimited .csv file, the following fields related to note-/memo-level data (e.g. collection notes):



## **Modifications to Document Requests**

### *Request for Documents No. 18*

Request for Documents No. 18 seeks the complete loan files for the loans originated at the top two and bottom two performing stores in each district during each year of the Applicable Period.

Check City represents that the loan files are partially digitized and partially maintained in hardcopy documents organized by date, rather than by consumer or by loan. This hardcopy information includes payment receipts, original signed documents, and extension agreements. Check City states that the account notes are maintained electronically and reflect the account activity, which permits Check City to regenerate electronic unsigned copies of disclosures. Check City represents that in response to annual examinations by the State of Nevada, it typically takes the Company three months to pull together a sample of 924 loan files, and that the information requested by the Bureau is even broader. Accordingly, Check City proposes modifying the Request to produce a sample of 1,000 files to be selected by the Bureau from the Company's response to Request for Written Report No. 1.

To reduce the volume of responsive loans and lessen the corresponding burden of production, Check City also requests the exclusion of title loans, noting that other requests in the CID are limited to information and documents related to the Company's Deferred Deposit, Installment, and Signature loans

This request for modification is denied in part and granted in part. The Bureau declines to limit the scope of the request to a sample. However, the Bureau is willing to exclude title loans and hardcopy documents such as payment receipts and original signed documents, provided that Check City submit to the Bureau:

(1) a complete, written list of the documents comprising a complete loan file, annotating which documents are fully digitized, partially digitized, and maintained in hardcopy only, and noting any material changes to the list during the Applicable Period, to be submitted to the Bureau **no later than February 13, 2023**; and

(2) one sample of a complete loan file for each year during the Applicable Period, including the corresponding hardcopy documents, to be selected by the Bureau and submitted to the Bureau **within 10 business days** of the request.

The Bureau may request additional hardcopy documents at a later time.

Request of Documents No. 18 is modified to read as follows:

18. The complete loan files, including payment histories and account notes, but excluding documents stored exclusively in hardcopy, for the loans originated at the stores identified in Your answer to Interrogatory No. 2, with the exception of title loans.

*Requests for Documents Nos. 4, 8, 9, 11, 18, 19, and 20*

Check City represents that it needs until the original compliance date of January 26 to complete its response to Interrogatory No. 2, and that it will only be able to assess the burden of responding to related Requests for Documents Nos. 4, 8, 9, 18, and 20, after the response to Interrogatory No. 2 is complete, permitting the Company to propose a production schedule. Check City also represents that it needs until the original compliance date of January 26 to determine the full list of relevant custodians who hold information responsive to Requests for Documents Nos. 11 and 19, and thereafter develop an email collection and review protocol. Check City asks the Bureau to postpone addressing these requests at present, and to schedule another meet-and-confer to discuss the timing of their production after January 26.

The request to postpone addressing Requests for Documents Nos. 4, 8, 9, 11, 18, 19, and 20 is denied, and their compliance date is extended as further detailed below. However, the Bureau remains open to discussing the new production schedule as Check City obtains additional information about the scope of the response.

**Timing of the Production**

The CID as issued requires Check City to comply fully by **January 26, 2023**. In its January 18 Letter to the Bureau, Check City represents that complying with the CID by this deadline would be burdensome with respect to all but two Interrogatories and three Requests for Documents. Specifically, Check City identifies a number of significant burdens requiring an extension of time to respond to the CID, including:

- the large scope of information potentially responsive to the Bureau's request that Check City identify the top two and bottom two performing stores for each year during the applicable period, and based on several factors;
- the limited number of staff able to complete certain requests for the Company and for the service provider CCI, on behalf of the Company, such as the fact that a single auditor who is assisting with responding to the CIDs is also solely responsible for conducting more than 143 audits at Check City annually;
- the storage and archiving of certain data across multiple systems;
- the system limitations requiring large data queries to be run after business hours and on the weekends to avoid disrupting business operations;
- the manual component required to filter responsive consumer complaints and determine corrective actions taken by the Company;
- the lack of a centralized human resources database containing personnel files and inconsistent recordkeeping practices across managers, requiring manual gathering and review to produce certain responses; and
- the extent of the email search required to identify certain responsive documents.



The Bureau agrees to extend Check City's compliance as follows:

January 26, 2023

- Interrogatory No. 1
- Interrogatory No. 2
- Request for Documents No. 2 – First Tranche (Jan. 1, 2020 – Dec. 16, 2022)
- Request for Documents No. 3
- Request for Documents No. 6
- Request for Documents No. 7
- Request for Documents No. 10 – First Tranche (Jan. 1, 2021 – Dec. 16, 2022)
- Request for Documents No. 13 – First Tranche (Jan. 1, 2021 – Dec. 16, 2022)
- Request for Documents No. 15 – First Tranche (Jan. 1, 2021 – Dec. 16, 2022)

February 13, 2023

- Interrogatory No. 3 (a-h, j)
- Interrogatory No. 4
- Request for Documents No. 5
- Request for Documents No. 12 – First Tranche (Jan. 1, 2020 – Dec. 16, 2022)
- Request for Documents No. 14 – First Tranche (Jan. 1, 2020 – Dec. 16, 2022)
- Request for Documents No. 16 – First Tranche (Jan. 1, 2021 – Dec. 16, 2022)
- Request for Documents No. 21

February 20, 2023

- Request for Documents No. 2 – Last Tranche (pre Jan. 1, 2020)
- Request for Documents No. 10 – Last Tranche (pre Jan. 1, 2021)
- Request for Documents No. 12 – Last Tranche (pre Jan. 1, 2020)
- Request for Documents No. 13 – Last Tranche (pre Jan. 1, 2021)
- Request for Documents No. 15 – Last Tranche (pre Jan. 1, 2021)
- Request for Documents No. 17 (excluding email templates)

February 27, 2023

- Request for Written Report No. 1 – First Tranche (Jan. 1, 2020 – Dec. 16, 2022)
- Request for Written Report No. 2 – First Tranche (Jan. 1, 2020 – Dec. 16, 2022)
- Request for Written Report No. 3 – First Tranche (Jan. 1, 2020 – Dec. 16, 2022)
- Request for Written Report No. 4 – First Tranche (Jan. 1, 2020 – Dec. 16, 2022)
- Interrogatory No. 3 (i) – First Tranche (Jan. 1, 2020 – Dec. 16, 2022)

March 6, 2023

- Request for Documents No. 11

- Request for Documents No. 19
- Request for Documents No. 14 – Last Tranche (pre Jan. 1, 2020)
- Request for Documents No. 16 – Last Tranche (pre Jan. 1, 2021)

March 20, 2023

- Request for Written Report No. 1 – Second Tranche (Jan. 1, 2018 – Dec. 31, 2019)
- Request for Written Report No. 2 – Second Tranche (Jan. 1, 2018 – Dec. 31, 2019)
- Request for Written Report No. 3 – Second Tranche (Jan. 1, 2018 – Dec. 31, 2019)
- Request for Written Report No. 4 – Second Tranche (Jan. 1, 2018 – Dec. 31, 2019)
- Interrogatory No. 3 (i) – Second Tranche (Jan. 1, 2018 – Dec. 31, 2019)

March 27, 2023

- Interrogatory No. 6
- Requests for Documents No. 1
- Requests for Documents No. 4
- Requests for Documents No. 8
- Requests for Documents No. 9
- Request for Documents No. 17 (email templates)
- Requests for Documents No. 18
- Requests for Documents No. 20

April 10, 2023

- Request for Written Report No. 1 – Third Tranche (Jan. 1, 2016 – Dec. 31, 2017)
- Request for Written Report No. 2 – Third Tranche (Jan. 1, 2016 – Dec. 31, 2017)
- Request for Written Report No. 3 – Third Tranche (Jan. 1, 2016 – Dec. 31, 2017)
- Request for Written Report No. 4 – Third Tranche (Jan. 1, 2016 – Dec. 31, 2017)
- Interrogatory No. 3 (i) – Last Tranche (July 1, 2017 – Dec. 31, 2018)

May 1, 2023

- Request for Written Report No. 1 – Last Tranche (pre Jan. 1, 2016)
- Request for Written Report No. 2 – Last Tranche (pre Jan. 1, 2016)
- Request for Written Report No. 3 – Last Tranche (pre Jan. 1, 2016)
- Request for Written Report No. 4 – Last Tranche (pre Jan. 1, 2016)

May 8, 2023

- Interrogatory No. 5

Check City must fully comply with the modified CID by **May 8, 2023**.



If Check City withholds information responsive to the CID based on privilege, it must produce a privilege log in accordance with the procedures set forth in the Rules Relating to Investigations § 1080.8 (Withholding Requested Material). *See* 12 C.F.R. § 1080.8. If required, a privilege log is due by the final CID production date of **May 8, 2023**.

**Nature of the Modifications**

To assist in construing any terms of this letter, the definitions set forth in the CID are incorporated by reference. This letter does not change Check City's responsibilities described in the Document Retention instruction in the CID. Further, nothing in this letter precludes the Bureau from issuing additional CIDs to or seeking discovery from Check City.

If you have any questions regarding the terms outlined above, contact Enforcement Attorney E. Vanessa Assae-Bille at (202) 435-7688.

Sincerely,

*Deborah Morris*

Deborah M. Morris  
Deputy Enforcement Director

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**Exhibit D**

E-mail exchange between Sarah Reise and E. Vanessa Assae-Bille  
(February 24, 2023 to March 3, 2023)



**From:** [Reise, Sarah T.](#)  
**To:** [Assae-Bille, Vanessa \(CFPB\)](#)  
**Cc:** [Marlow, John \(CFPB\)](#); [Morgan, Addison J.](#); [Cover, Jason M.](#)  
**Subject:** RE: Check City  
**Date:** Friday, March 3, 2023 4:21:13 PM

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Good afternoon, Vanessa – I spoke with my client, and they would like to request a rolling schedule for Interrogatory 3. This subpart of Interrogatory 3 will require bumping call information against the point-of-sale system/Cashwise. The systems are otherwise not connected, so they anticipate that some significant programming and queries will be needed to pull the necessary data. Therefore, they would request a rolling schedule to account for the lead time needed to begin the data collection process. Perhaps a second production date that aligns with the May production deadline for the remaining written report data?

Please let me know if you have any other questions we can answer.

Thank you and have a nice weekend.  
Sarah

**Sarah T. Reise**

Counsel

**troutman pepper**

Direct: 404.885.3803 | Mobile: 404.697.7117

[sarah.reise@troutman.com](mailto:sarah.reise@troutman.com)

Pronouns: she, her, hers

---

**From:** Assae-Bille, Vanessa (CFPB) <[Elisabeth.Assae-Bille@cfpb.gov](mailto:Elisabeth.Assae-Bille@cfpb.gov)>  
**Sent:** Thursday, March 2, 2023 3:46 PM  
**To:** Reise, Sarah T. <[Sarah.Reise@troutman.com](mailto:Sarah.Reise@troutman.com)>  
**Cc:** Marlow, John (CFPB) <[John.Marlow@cfpb.gov](mailto:John.Marlow@cfpb.gov)>; Morgan, Addison J. <[Addison.Morgan@troutman.com](mailto:Addison.Morgan@troutman.com)>; Cover, Jason M. <[Jason.Cover@troutman.com](mailto:Jason.Cover@troutman.com)>  
**Subject:** RE: Check City

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Ah, I see. Thank you for the clarification.

Best,  
Vanessa

**From:** Reise, Sarah T. <[Sarah.Reise@troutman.com](mailto:Sarah.Reise@troutman.com)>  
**Sent:** Thursday, March 2, 2023 3:44 PM  
**To:** Assae-Bille, Vanessa (CFPB) <[Elisabeth.Assae-Bille@cfpb.gov](mailto:Elisabeth.Assae-Bille@cfpb.gov)>  
**Cc:** Marlow, John (CFPB) <[John.Marlow@cfpb.gov](mailto:John.Marlow@cfpb.gov)>; Morgan, Addison J. <[Addison.Morgan@troutman.com](mailto:Addison.Morgan@troutman.com)>; Cover, Jason M. <[Jason.Cover@troutman.com](mailto:Jason.Cover@troutman.com)>  
**Subject:** RE: Check City

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Hi Vanessa. On the written reports, at this time, Check City is not asking for an extension the other tranches, just the first one. They are hoping to be able to produce the remaining on schedule, but we will certainly keep you informed.

I will double check on the Interrogatory. I believe it would be a complete response, but I need to confirm. I will reach out today and get back to you ASAP.

**Sarah T. Reise**

Counsel

**troutman pepper**

Direct: 404.885.3803 | Mobile: 404.697.7117

[sarah.reise@troutman.com](mailto:sarah.reise@troutman.com)

Pronouns: she, her, hers

**From:** Assae-Bille, Vanessa (CFPB) <[Elisabeth.Assae-Bille@cfpb.gov](mailto:Elisabeth.Assae-Bille@cfpb.gov)>  
**Sent:** Thursday, March 2, 2023 3:23 PM  
**To:** Reise, Sarah T. <[Sarah.Reise@troutman.com](mailto:Sarah.Reise@troutman.com)>  
**Cc:** Marlow, John (CFPB) <[John.Marlow@cfpb.gov](mailto:John.Marlow@cfpb.gov)>; Morgan, Addison J. <[Addison.Morgan@troutman.com](mailto:Addison.Morgan@troutman.com)>; Cover, Jason M. <[Jason.Cover@troutman.com](mailto:Jason.Cover@troutman.com)>  
**Subject:** RE: Check City

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Hi Sarah,

I want to make sure I understand the requests below. With respect to Interrogatory No. 3(i), is Check City asking for permission to produce a complete response on April 10 or is it asking for permission to produce the first tranche on that date? And with respect to the Requests for Written Reports, is Check City asking for permission to produce the first tranche on March 13 and for an extension for the remaining three tranches?



Thank you,  
Vanessa

**E. Vanessa Assae-Bille**  
Senior Litigation Counsel  
Office of Enforcement  
Consumer Financial Protection Bureau (CFPB)  
(o) 202.435.7688 | (c) 202.341.8722  
[Elisabeth.Assae-Bille@cfpb.gov](mailto:Elisabeth.Assae-Bille@cfpb.gov)  
[consumerfinance.gov](http://consumerfinance.gov)

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**From:** Assae-Bille, Vanessa (CFPB)  
**Sent:** Monday, February 27, 2023 1:26 PM  
**To:** Reise, Sarah T. <[Sarah.Reise@troutman.com](mailto:Sarah.Reise@troutman.com)>  
**Cc:** Marlow, John (CFPB) <[John.Marlow@cfpb.gov](mailto:John.Marlow@cfpb.gov)>; Morgan, Addison J. <[Addison.Morgan@troutman.com](mailto:Addison.Morgan@troutman.com)>; Cover, Jason M. <[Jason.Cover@troutman.com](mailto:Jason.Cover@troutman.com)>  
**Subject:** RE: Check City

Hi Sarah,

Thank you for the update on the production effort. We will take this request back.

Best,  
Vanessa

**E. Vanessa Assae-Bille**  
Senior Litigation Counsel  
Office of Enforcement  
Consumer Financial Protection Bureau (CFPB)  
(o) 202.435.7688 | (c) 202.341.8722  
[Elisabeth.Assae-Bille@cfpb.gov](mailto:Elisabeth.Assae-Bille@cfpb.gov)  
[consumerfinance.gov](http://consumerfinance.gov)

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**From:** Reise, Sarah T. <[Sarah.Reise@troutman.com](mailto:Sarah.Reise@troutman.com)>  
**Sent:** Friday, February 24, 2023 4:29 PM  
**To:** Assae-Bille, Vanessa (CFPB) <[Elisabeth.Assae-Bille@cfpb.gov](mailto:Elisabeth.Assae-Bille@cfpb.gov)>  
**Cc:** Marlow, John (CFPB) <[John.Marlow@cfpb.gov](mailto:John.Marlow@cfpb.gov)>; Morgan, Addison J. <[Addison.Morgan@troutman.com](mailto:Addison.Morgan@troutman.com)>; Cover, Jason M. <[Jason.Cover@troutman.com](mailto:Jason.Cover@troutman.com)>

**Subject:** Check City

**CAUTION:** This email originated from a non-government domain. DO NOT click links or open attachments unless you recognize and/or trust the sender. Contact Cybersecurity Incident Response Team (CSIRT) at 202-435-7200 or [report a suspicious email](#).

Good afternoon, Vanessa.

I just received an update from Check City regarding their production scheduled for this Monday, February 27, 2023. As a reminder, pursuant to the Bureau's modification letter, Check City is scheduled to provide the first tranches of data in response to Requests for Written Report 1-4 and Interrogatory 3(i).

As we described in our Modification Proposal, the work to draft these queries, run them against the servicing system, and QC the data to ensure accuracy, is substantial. Check City's data team, which is provided by CCI Financial, Inc., has been working diligently to complete this work. CCI is also performing the same work for FAMI's response to the data requested in its CID, the first tranches of which are due on March 13, 2023.

Despite their best efforts, the CCI data team is not yet finished drafting the queries. The drafting and testing process has been complex, given the number of unique scenarios to be addressed in Cashwise system, the number of products, and how the products have changed slightly over time. While significant progress has been made, the queries have not yet generated reliable data sets ready for QC review by the operations team. Given the importance of producing a complete and accurate data set to the Bureau in response to its request, Check City will not be able to produce its responses to Requests for Written Report 1-4 on Monday.

With respect to Interrogatory 3(i), Check City requires the CCI data team to merge call recording data with servicing date from the Cashwise system. However, given the ongoing work to perfect the queries needed to pull the written report data, the CCI team does not have the capacity to work on this task. Given the impending deadlines for the written reports, the current estimate is that work will begin on this task in mid-March.

For these reasons, Check City respectfully requests a further modification of the CID to extend Check City's deadline to provide these responses. With respect to the first tranches of data for Requests for Written Report 1-4, Check City asks that its time to respond be extended to March 13, 2023. Check City will commit to producing this data sooner, if at all possible. With respect to Interrogatory 3(i), Check City requests that the deadline to produce this information be extended to April 10, 2023 (the date on which its third tranche of written report data is due).

Please let me know if we can provide any more information related to this request, and as always, we appreciate the Bureau's consideration.

Thank you and have a nice weekend.  
Sarah

**Sarah T. Reise**  
Counsel



Direct: 404.885.3803 | Mobile: 404.697.7117  
[sarah.reise@troutman.com](mailto:sarah.reise@troutman.com)  
Pronouns: she, her, hers

---

**troutman pepper**

600 Peachtree Street, NE, Suite 3000  
Atlanta, GA 30308  
[troutman.com](http://troutman.com)

Troutman Pepper is a Mansfield Certified Plus Firm

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**Exhibit E**

Letter from Deborah Morris to Sarah Reise and Jason Cover  
(March 6, 2023)





1700 G Street NW, Washington, D.C. 20552

March 6, 2023

Via Email

Check City Partnership, LLC  
c/o Sarah Reise and Jason Cover  
Troutman Pepper Hamilton Sanders LLP  
600 Peachtree Street NE, Suite 3000  
Atlanta, GA 30308-2216

Re: Civil Investigative Demand served on Check City Partnership, LLC on December 16, 2022

Dear Ms. Reise and Mr. Cover:

This letter further modifies the terms for compliance with the Civil Investigative Demand (CID) issued to Check City Partnership, LLC (Check City) by the Consumer Financial Protection Bureau (Bureau), as permitted by 12 C.F.R. § 1080.6(d). This letter, along with the February 2, 2023 modification letter (Modification Letter 1), set forth the only modifications to the CID. The Bureau's willingness to approve these modifications is based, in part, on Check City's representations described or referred to below. The production of information and documents in accordance with the modifications described below constitutes compliance with the CID.

### **Timing of the Production**

Under the Bureau's Modification Letter 1, the CID requires Check City to comply fully by **May 8, 2023**.

#### Interrogatory No. 3(i)

Interrogatory No. 3(i) asks Check City to provide all notes or comments associated with all telephone call recordings between the Company's "Customer Service Group" and consumers, as stored in the Company's or its providers' databases. The Company's response to Interrogatory No. 3(i) was originally due on February 24, 2023. In Modification Letter 1, the Bureau extended the compliance date to allow Check City to produce this information in tandem with its

responses to Requests for Written Reports Nos. 1 through 4, which the Bureau modified to be due in three tranches, on February 27, 2023; March 20, 2023; and April 10, 2023.

In emails dated February 24, 2023, and March 3, 2023, Check City represents that its provider's data team must merge call recording data with servicing date from the Cashwise system to produce the response. However, this same team is performing extensive work to create the queries needed to respond to the Requests for Written Reports, and thus will not be able to begin working on Interrogatory No. 3(i) until mid-March 2023.

Accordingly, Check City seeks an extension of time to provide the first tranche of responsive information, from February 27, 2023 to April 10, 2023, and an extension of time to produce the remainder on a date that aligns with the May production deadline for the Requests for Written Reports.

Requests for Written Reports Nos. 1-4

Requests for Written Reports Nos. 1 through 4, and their subparts, seek borrower-level, loan-level, payment-level, and account-level information relating to certain loans originated by Check City originated through the date of the CID. The effective period begins on July 1, 2017, for Request for Written Reports No. 1; January 1, 2014, for Requests for Written Reports Nos. 2 and 3; and May 13, 2014, for Written Report No. 4.

In the February 24 Email, Check City represents that its drafting and testing process has been complex, given the number of unique scenarios to be addressed in its Cashwise system, the number of products, and slight changes to the products over time. Check City represents that it has made significant progress but that its queries have not yet generated reliable data sets ready for quality-control review.

Accordingly, Check City seeks an extension of time to March 13, 2023, to produce the first tranche of information responsive to Requests for Written Reports Nos. 1 through 4.

The Bureau agrees to extend Check City's compliance as follows:

January 26, 2023

- Interrogatory No. 1
- Interrogatory No. 2
- Request for Documents No. 2 – First Tranche (Jan. 1, 2020 – Dec. 16, 2022)
- Request for Documents No. 3
- Request for Documents No. 6
- Request for Documents No. 7
- Request for Documents No. 10 – First Tranche (Jan. 1, 2021 – Dec. 16, 2022)
- Request for Documents No. 13 – First Tranche (Jan. 1, 2021 – Dec. 16, 2022)



- Request for Documents No. 15 – First Tranche (Jan. 1, 2021 – Dec. 16, 2022)

February 13, 2023

- Interrogatory No. 3 (a-h, j)
- Interrogatory No. 4
- Request for Documents No. 5
- Request for Documents No. 12 – First Tranche (Jan. 1, 2020 – Dec. 16, 2022)
- Request for Documents No. 14 – First Tranche (Jan. 1, 2020 – Dec. 16, 2022)
- Request for Documents No. 16 – First Tranche (Jan. 1, 2021 – Dec. 16, 2022)
- Request for Documents No. 21

February 20, 2023

- Request for Documents No. 2 – Last Tranche (pre Jan. 1, 2020)
- Request for Documents No. 10 – Last Tranche (pre Jan. 1, 2021)
- Request for Documents No. 12 – Last Tranche (pre Jan. 1, 2020)
- Request for Documents No. 13 – Last Tranche (pre Jan. 1, 2021)
- Request for Documents No. 15 – Last Tranche (pre Jan. 1, 2021)
- Request for Documents No. 17 (excluding email templates)

March 6, 2023

- Request for Documents No. 11
- Request for Documents No. 19
- Request for Documents No. 14 – Last Tranche (pre Jan. 1, 2020)
- Request for Documents No. 16 – Last Tranche (pre Jan. 1, 2021)

March 13, 2023

- Request for Written Report No. 1 – First Tranche (Jan. 1, 2020 – Dec. 16, 2022)
- Request for Written Report No. 2 – First Tranche (Jan. 1, 2020 – Dec. 16, 2022)
- Request for Written Report No. 3 – First Tranche (Jan. 1, 2020 – Dec. 16, 2022)
- Request for Written Report No. 4 – First Tranche (Jan. 1, 2020 – Dec. 16, 2022)

March 20, 2023

- Request for Written Report No. 1 – Second Tranche (Jan. 1, 2018 – Dec. 31, 2019)
- Request for Written Report No. 2 – Second Tranche (Jan. 1, 2018 – Dec. 31, 2019)
- Request for Written Report No. 3 – Second Tranche (Jan. 1, 2018 – Dec. 31, 2019)
- Request for Written Report No. 4 – Second Tranche (Jan. 1, 2018 – Dec. 31, 2019)

March 27, 2023

- Interrogatory No. 6
- Requests for Documents No. 1
- Requests for Documents No. 4
- Requests for Documents No. 8
- Requests for Documents No. 9
- Request for Documents No. 17 (email templates)
- Requests for Documents No. 18
- Requests for Documents No. 20

April 10, 2023

- Request for Written Report No. 1 – Third Tranche (Jan. 1, 2016 – Dec. 31, 2017)
- Request for Written Report No. 2 – Third Tranche (Jan. 1, 2016 – Dec. 31, 2017)
- Request for Written Report No. 3 – Third Tranche (Jan. 1, 2016 – Dec. 31, 2017)
- Request for Written Report No. 4 – Third Tranche (Jan. 1, 2016 – Dec. 31, 2017)
- Interrogatory No. 3 (i) – First Tranche (Jan. 1, 2020 – Dec. 16, 2022)

May 1, 2023

- Request for Written Report No. 1 – Last Tranche (pre Jan. 1, 2016)
- Request for Written Report No. 2 – Last Tranche (pre Jan. 1, 2016)
- Request for Written Report No. 3 – Last Tranche (pre Jan. 1, 2016)
- Request for Written Report No. 4 – Last Tranche (pre Jan. 1, 2016)
- Interrogatory No. 3 (i) – Last Tranche (July 1, 2017 – Dec. 31, 2019)

May 8, 2023

- Interrogatory No. 5

Check City must fully comply with the modified CID by **May 8, 2023**.

If Check City withholds information responsive to the CID based on privilege, it must produce a privilege log in accordance with the procedures set forth in the Rules Relating to Investigations § 1080.8 (Withholding Requested Material). *See* 12 C.F.R. § 1080.8. If required, a privilege log is due by the final CID production date of **May 8, 2023**.

**Nature of the Modifications**

To assist in construing any terms of this letter, the definitions set forth in the CID are incorporated by reference. This letter does not change Check City's responsibilities described in the Document Retention instruction in the CID. Further, nothing in this letter precludes the Bureau from issuing additional CIDs to or seeking discovery from Check City.



If you have any questions regarding the terms outlined above, contact Enforcement Attorney E. Vanessa Assae-Bille at (202) 435-7688.

Sincerely,

*Deborah Morris*

Deborah M. Morris

Deputy Enforcement Director

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**Exhibit F**

Letter from Sarah Reise and Jason Cover to E. Vanessa Assae-Bille  
(March 10, 2023)



Troutman Pepper Hamilton Sanders LLP  
600 Peachtree Street NE, Suite 3000  
Atlanta, GA 30308-2216



troutman.com

**Sarah T Reise**  
sarah.reise@troutman.com

**Jason Miller Cover**  
jason.cover@troutman.com

March 10, 2023

**VIA EMAIL**

**CONFIDENTIAL TREATMENT REQUESTED - FOIA EXEMPTION (B)(4)**

Vanessa Assae-Bille  
Enforcement Attorney  
Consumer Financial Protection Bureau  
1700 G Street NW  
Washington, D.C. 20552  
Elisabeth.Assae-Bille@cfpb.gov

**Re: December 16, 2022 Civil Investigative Demands to FAMI, Inc. and Check City Partnership, LLC**

Dear Ms. Assae-Bille:

I am writing to provide an update and to make a further request for modification of the CIDs issued to both FAMI, Inc. ("FAMI") and Check City Partnership, LLC ("Check City") related to the Bureau's Requests for Written Report. Pursuant to the Bureau's February 2, 2023 Modification Letter (FAMI) and March 6, 2023 Modification Letter (Check City), FAMI and Check City's first tranches of data in response to the Bureau's Requests for Written Report are due to be produced March 13, 2023.

As we previously discussed in connection with FAMI and Check City's initial modification requests, CCI Financial, Inc. is the service provider that is working on drafting the queries and running the searches to create the requested reports for both entities. However, CCI's data team is staffed by two employees. Additionally, due to system and bandwidth limitations, CCI has been unable to run the necessary system queries during business hours, as it would create significant lag in the systems Check City and FAMI's storefronts depend upon to operate day-to-day. To avoid substantial and harmful interruptions of its business and ability to serve its customers, CCI has been able to run these queries only outside of business hours. For these reasons, FAMI and Check City proposed to respond to the Bureau's written reports on a rolling basis, beginning on March 26, 2023.

Despite these challenges, FAMI and Check City have been working diligently and in good faith to meet the Bureau's March 13, 2023 deadline. Despite their best efforts, however, the first production of written reports are not yet complete. As of March 9, 2023, CCI's Data Team has completed the initial data pull for FAMI. However, that data has not yet been reviewed for

Vanessa Assae-Bille  
March 10, 2023  
Page 2



quality and accuracy by FAMI's Operations team. In undersigned counsel's experience, initial written reports need significant review for quality and, in most cases, queries must be revised in order to address minor system or field changes over time, or to correct drafting errors that become apparent only when reviewing a larger set of data. Therefore, FAMI anticipates needing an additional two to three weeks to review and, if necessary, revise the data pull.

With respect to Check City, CCI estimates that the initial data pull for Check City will be complete in approximately one week. Check City's data collection is taking longer than FAMI's due to the staffing limitations described above, and the fact that the queries for Check City and FAMI are slightly different, which requires additional work. Specifically, there are differences between the products offered by Check City and FAMI, and Check City's CID requests additional data not included in FAMI's CID. Therefore, accounting for these differences in drafting the system queries has taking additional time.

Despite their best efforts, given that the initial data pulls are or will be only recently completed, FAMI and Check City must request an additional modification to the CIDs. Specifically, FAMI and Check City propose the following modification to the production schedule for responding to the requests for written report:

FAMI:

- April 3, 2023: Requests for Written Report 1-4 (first tranche)
- April 24, 2023: Requests for Written Report 1-4 (second tranche)
- May 15, 2023: Requests for Written Report 1-4 (third tranche)
- May 29, 2023: Requests for Written Report 1-4 (fourth tranche)

Check City:

- April 10, 2023: Requests for Written Report 1-4 (first tranche)
- May 1, 2023: Requests for Written Report 1-4 (second tranche)
- May 22, 2023: Requests for Written Report 1-4 (third tranche)
- June 5, 2023: Requests for Written Report 1-4 (fourth tranche)

Pursuant to the Bureau's Regulations (12 C.F.R. §§ 1070.20, 1070.36(b)(4) and (b)(7), 1070.41, and 1080.14(a)), we request that the Bureau maintain this letter and the enclosed information as confidential and not make any of it available in response to a FOIA request or subpoena without giving notice to the Company and Troutman Pepper, and provide the opportunity to object, as set forth in § 1070.20. We are cooperating with the Bureau during this investigation. This cooperation, however, should not be construed as, and is not intended to be, a waiver of any



Vanessa Assae-Bille  
March 10, 2023  
Page 3



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substantive or procedural rights or privileges.

We respectfully request that the Bureau permit FAMI Check City to respond to the Bureau's Requests for Written Reports on the time frame set forth in this letter. Jason Cover and I are available to discuss anything set forth in this letter at any time if the Bureau needs additional information.

Sincerely,

A handwritten signature in cursive script that reads "Sarah T. Reise".

Sarah T Reise

Jason Miller Cover

Enclosure

cc: Benjamin Clark (via email)  
John Marlow (via email)

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**Exhibit G**

Letter from Deborah Morris to Sarah Reise and Jason Cover  
(March 15, 2023)





1700 G Street NW, Washington, D.C. 20552

March 15, 2023

Via Email

Check City Partnership, LLC  
c/o Sarah Reise and Jason Cover  
Troutman Pepper Hamilton Sanders LLP  
600 Peachtree Street NE, Suite 3000  
Atlanta, GA 30308-2216

Re: Civil Investigative Demand served on Check City Partnership, LLC on December 16, 2022

Dear Ms. Reise and Mr. Cover:

This letter further modifies the terms for compliance with the Civil Investigative Demand (CID) issued to Check City Partnership, LLC (Check City) by the Consumer Financial Protection Bureau (Bureau), as permitted by 12 C.F.R. § 1080.6(d). This letter sets forth the only modifications to the CID. The Bureau's willingness to approve these modifications is based, in part, on Check City's representations described or referred to below. The production of information and documents in accordance with the modifications described below constitutes compliance with the CID.

### **Timing of the Production**

The Bureau last modified the CID in a letter dated March 6, 2023 (Bureau Modification Letter 2). Under Bureau Modification Letter 2, the CID requires Check City to comply fully by **May 8, 2023**.

### Requests for Written Reports Nos. 1-4

Requests for Written Reports Nos. 1 through 4, and their subparts, seek borrower-level, loan-level, payment-level, and account-level information relating to certain loans originated by Check City originated through the date of the CID. Bureau Modification Letter 2 extended the compliance date to allow Check City to respond to Requests for Written Reports Nos. 1 through 4 in four tranches, due on March 13, 2023; March 20, 2023; April 10, 2023; and May 1, 2023.

consumerfinance.gov

In a letter dated March 10, 2023 Check City represents that the initial data pull for Check City will be complete around March 17, 2023. Check City further represents due to staffing limitations, the Company needs a second extension of time to respond to these requests.

The Bureau agrees to extend Check City's compliance as follows:

January 26, 2023

- Interrogatory No. 1
- Interrogatory No. 2
- Request for Documents No. 2 – First Tranche (Jan. 1, 2020 – Dec. 16, 2022)
- Request for Documents No. 3
- Request for Documents No. 6
- Request for Documents No. 7
- Request for Documents No. 10 – First Tranche (Jan. 1, 2021 – Dec. 16, 2022)
- Request for Documents No. 13 – First Tranche (Jan. 1, 2021 – Dec. 16, 2022)
- Request for Documents No. 15 – First Tranche (Jan. 1, 2021 – Dec. 16, 2022)

February 13, 2023

- Interrogatory No. 3 (a-h, j)
- Interrogatory No. 4
- Request for Documents No. 5
- Request for Documents No. 12 – First Tranche (Jan. 1, 2020 – Dec. 16, 2022)
- Request for Documents No. 14 – First Tranche (Jan. 1, 2020 – Dec. 16, 2022)
- Request for Documents No. 16 – First Tranche (Jan. 1, 2021 – Dec. 16, 2022)
- Request for Documents No. 21

February 20, 2023

- Request for Documents No. 2 – Last Tranche (pre Jan. 1, 2020)
- Request for Documents No. 10 – Last Tranche (pre Jan. 1, 2021)
- Request for Documents No. 12 – Last Tranche (pre Jan. 1, 2020)
- Request for Documents No. 13 – Last Tranche (pre Jan. 1, 2021)
- Request for Documents No. 15 – Last Tranche (pre Jan. 1, 2021)
- Request for Documents No. 17 (excluding email templates)

March 6, 2023

- Request for Documents No. 11
- Request for Documents No. 19
- Request for Documents No. 14 – Last Tranche (pre Jan. 1, 2020)
- Request for Documents No. 16 – Last Tranche (pre Jan. 1, 2021)



March 27, 2023

- Interrogatory No. 6
- Requests for Documents No. 1
- Requests for Documents No. 4
- Requests for Documents No. 8
- Requests for Documents No. 9
- Request for Documents No. 17 (email templates)
- Requests for Documents No. 18
- Requests for Documents No. 20

April 10, 2023

- Request for Written Report No. 1 – First Tranche (Jan. 1, 2020 – Dec. 16, 2022)
- Request for Written Report No. 2 – First Tranche (Jan. 1, 2020 – Dec. 16, 2022)
- Request for Written Report No. 3 – First Tranche (Jan. 1, 2020 – Dec. 16, 2022)
- Request for Written Report No. 4 – First Tranche (Jan. 1, 2020 – Dec. 16, 2022)
- Interrogatory No. 3 (i) – First Tranche (Jan. 1, 2020 – Dec. 16, 2022)

May 1, 2023

- Request for Written Report No. 1 – Second Tranche (Jan. 1, 2018 – Dec. 31, 2019)
- Request for Written Report No. 2 – Second Tranche (Jan. 1, 2018 – Dec. 31, 2019)
- Request for Written Report No. 3 – Second Tranche (Jan. 1, 2018 – Dec. 31, 2019)
- Request for Written Report No. 4 – Second Tranche (Jan. 1, 2018 – Dec. 31, 2019)

May 8, 2023

- Interrogatory No. 5

May 22, 2023

- Request for Written Report No. 1 – Third Tranche (Jan. 1, 2016 – Dec. 31, 2017)
- Request for Written Report No. 2 – Third Tranche (Jan. 1, 2016 – Dec. 31, 2017)
- Request for Written Report No. 3 – Third Tranche (Jan. 1, 2016 – Dec. 31, 2017)
- Request for Written Report No. 4 – Third Tranche (Jan. 1, 2016 – Dec. 31, 2017)
- Interrogatory No. 3 (i) – Last Tranche (July 1, 2017 – Dec. 31, 2019)

June 5, 2023

- Request for Written Report No. 1 – Last Tranche (pre Jan. 1, 2016)
- Request for Written Report No. 2 – Last Tranche (pre Jan. 1, 2016)
- Request for Written Report No. 3 – Last Tranche (pre Jan. 1, 2016)
- Request for Written Report No. 4 – Last Tranche (pre Jan. 1, 2016)

Check City must fully comply with the modified CID by **June 5, 2023**.

If Check City withholds information responsive to the CID based on privilege, it must produce a privilege log in accordance with the procedures set forth in the Rules Relating to Investigations § 1080.8 (Withholding Requested Material). *See* 12 C.F.R. § 1080.8. If required, a privilege log is due by the final CID production date of **June 5, 2023**.

#### **Nature of the Modifications**

To assist in construing any terms of this letter, the definitions set forth in the CID are incorporated by reference. This letter does not change Check City's responsibilities described in the Document Retention instruction in the CID. Further, nothing in this letter precludes the Bureau from issuing additional CIDs to or seeking discovery from Check City.

If you have any questions regarding the terms outlined above, contact Enforcement Attorney E. Vanessa Assae-Bille at (202) 435-7688.

Sincerely,

*Deborah Morris*

Deborah M. Morris

Deputy Enforcement Director



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**Exhibit H**

Letters from Sarah Reise to E. Vanessa Assae-Bille  
(January 26, 2023; February 2, 2023; February 13, 2023;  
February 21, 2023; March 27, 2023)

Troutman Pepper Hamilton Sanders LLP  
600 Peachtree Street NE, Suite 3000  
Atlanta, GA 30308-2216



troutman.com

**Sarah T Reise**  
sarah.reise@troutman.com

January 26, 2023

**VIA EMAIL**

Vanessa Assae-Bille  
Enforcement Attorney  
Consumer Financial Protection Bureau  
1700 G Street NW  
Washington, D.C. 20552  
elisabeth.assae-bille@cfpb.gov

**Re: Production by Check City Partnership, LLC in response to the December 16, 2022  
Civil Investigative Demand**

Dear Vanessa:

Enclosed with this letter is Check City Partnership, LLC's ("Check City") first production of materials responsive to the Consumer Financial Protection Bureau's ("CFPB" or "Bureau") December 16, 2022 Civil Investigative Demand ("CID"), and as proposed in Check City's modification proposal dated January 18, 2023 ("Proposal"). This production contains documents bates labeled CC00003683 - CC00006112.

As discussed in the Proposal, Check City intended to include in this production certain documents for the period of 2020-2022, which are responsive to Request for Documents No. 12. However, these responses are delayed slightly as the collection process for these documents remains ongoing. Check City only has one auditor, and she is the only person who maintains documents responsive to this request. Check City has advised counsel that its auditor unexpectedly had to spend time in the hospital and this event impacted its auditor's ability to compile the necessary documents. Check City anticipates that it will complete its collection of the responsive documents for the period of 2020-2022 by early next week.

Also, as discussed in the Proposal, Check City intended to include in this production certain documents for the period of 2021-2022, which are responsive to Request for Documents No. 15. Although Check City's executive management team has been working to collect responsive documents for the period of 2021-2022, the collection process remains ongoing as preparing documents and responses to other requests (most notably Interrogatory 2) took longer than anticipated. Check City anticipates that it will complete its collection of the responsive documents for the period of 2021-2022 by early next week.



Vanessa Assae-Bille  
January 26, 2023  
Page 2



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As a result, after counsel reviews and processes both sets of documents discussed above, Check City expects that it will be able to produce each document set to the Bureau on February 2, 2023.

Certain facts and documents requested by the CID are highly sensitive, so Check City is asking for the maximum available protection from public disclosure of those facts and documents. Therefore, we have designated this entire production as being "Confidential – Subject to FOIA exemption (b)(4)." Pursuant to the Bureau's regulations (specifically, 12 C.F.R. §§ 1070.20, 1070.37(b)(4) and (b)(7), 1070.41, and 1080.14(a)), we request that the Bureau maintain these documents as confidential and not make them available in response to a FOIA request or subpoena without giving notice and the opportunity to object to Check City, as set forth in § 1070.20. In addition, Check City's responses and document production should not be construed as, and are not intended to be, a waiver of any substantive or procedural rights Check City may have, including the attorney-client privilege.

We appreciate the Bureau's flexibility in working with our client to make the process of production under the CIDs as manageable and efficient as possible. If you have any questions, please let me know.

Sincerely,

A handwritten signature in cursive script that reads "Sarah T. Reise".

Sarah T Reise

Troutman Pepper Hamilton Sanders LLP  
600 Peachtree Street NE, Suite 3000  
Atlanta, GA 30308-2216



troutman.com

---

**Sarah T Reise**  
sarah.reise@troutman.com

February 2, 2023

**VIA EMAIL**

Vanessa Assae-Bille  
Enforcement Attorney  
Consumer Financial Protection Bureau  
1700 G Street NW  
Washington, D.C. 20552  
elisabeth.assae-bille@cfpb.gov

**Re: Production by Check City Partnership, LLC in response to the December 16, 2022  
Civil Investigative Demand**

Dear Vanessa:

Enclosed with this letter is Check City Partnership, LLC's ("Check City") supplemental production of materials responsive to the Consumer Financial Protection Bureau's ("CFPB" of "Bureau") December 16, 2022 Civil Investigative Demand ("CID"), and as proposed in Check City's modification proposal dated January 18, 2023 ("Proposal"). This production contains documents bates labeled CC00006113- CC00006463, which relate to certain documents responsive to Request for Documents 12 for the period of 2020-2022, and certain documents responsive to Requests for Documents 15 for the period of 2021-2022.

Certain facts and documents requested by the CID are highly sensitive, so Check City is asking for the maximum available protection from public disclosure of those facts and documents. Therefore, we have designated this entire production as being "Confidential – Subject to FOIA exemption (b)(4)." Pursuant to the Bureau's regulations (specifically, 12 C.F.R. §§ 1070.20, 1070.37(b)(4) and (b)(7), 1070.41, and 1080.14(a)), we request that the Bureau maintain these documents as confidential and not make them available in response to a FOIA request or subpoena without giving notice and the opportunity to object to Check City, as set forth in § 1070.20. In addition, Check City's responses and document production should not be construed as, and are not intended to be, a waiver of any substantive or procedural rights Check City may have, including the attorney-client privilege.

We appreciate the Bureau's flexibility in working with our client to make the process of production under the CIDs as manageable and efficient as possible. If you have any questions, please let me know.



Vanessa Assae-Bille  
February 2, 2023  
Page 2



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Sincerely,

A handwritten signature in cursive script that reads "Sarah T. Reise".

Sarah T Reise

Troutman Pepper Hamilton Sanders LLP  
600 Peachtree Street NE, Suite 3000  
Atlanta, GA 30308-2216



troutman.com

---

**Sarah T Reise**  
sarah.reise@troutman.com

February 13, 2023

**VIA EMAIL**

Vanessa Assae-Bille  
Enforcement Attorney  
Consumer Financial Protection Bureau  
1700 G Street NW  
Washington, D.C. 20552  
elisabeth.assae-bille@cfpb.gov

**Re: Production by Check City Partnership, LLC in response to the December 16, 2022  
Civil Investigative Demand**

Dear Vanessa:

Enclosed with this letter is Check City Partnership, LLC's ("Check City") third production of materials responsive to the Consumer Financial Protection Bureau's ("CFPB" of "Bureau") December 16, 2022 Civil Investigative Demand ("CID"), pursuant to the Bureau's modification letter dated February 2, 2023. This production contains documents bates labeled CC00006464-CC00006861.

Pursuant to the Bureau's modification letter dated February 2, 2023, Check City was also scheduled to provide certain call recordings to the Bureau within this production in response to Document Request No. 21. However, as of February 13, 2023, Check City is unable to provide a definitive date regarding when the requested call recordings will be ready for production. Check City continues to work to collect the requested call recordings for production. Check City learned that its call center vendor's technical support team, who Check City must rely upon to process the production of relevant documents under this request, has been outsourced internationally. Additionally, the volume of relevant audio call recordings far exceeds any service request Check City has made of its vendor during the entirety of its relationship. The magnitude of this request is therefore creating unanticipated logistical challenges.

Check City understands and takes seriously its obligation to produce documents responsive to Document Request No. 21 as required under the Bureau's CID. Check City will provide the Bureau with updates as this situation progresses and will continue to work to produce these recordings as quickly as possible.

Certain facts and documents requested by the CID are highly sensitive, so Check City is asking for the maximum available protection from public disclosure of those facts and documents.



Vanessa Assae-Bille  
February 13, 2023  
Page 2



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Therefore, we have designated this entire production as being “Confidential – Subject to FOIA exemption (b)(4).” Pursuant to the Bureau’s regulations (specifically, 12 C.F.R. §§ 1070.20, 1070.37(b)(4) and (b)(7), 1070.41, and 1080.14(a)), we request that the Bureau maintain these documents as confidential and not make them available in response to a FOIA request or subpoena without giving notice and the opportunity to object to Check City, as set forth in § 1070.20. In addition, Check City’s responses and document production should not be construed as, and are not intended to be, a waiver of any substantive or procedural rights Check City may have, including the attorney-client privilege.

If you have any questions or issues accessing any part of Check City’s production, please do not hesitate to contact us.

Sincerely,

A handwritten signature in cursive script that reads "Sarah T. Reise".

Sarah T Reise

Troutman Pepper Hamilton Sanders LLP  
600 Peachtree Street NE, Suite 3000  
Atlanta, GA 30308-2216



troutman.com

---

**Sarah T Reise**  
sarah.reise@troutman.com

February 21, 2023

**VIA EMAIL**

Vanessa Assae-Bille  
Enforcement Attorney  
Consumer Financial Protection Bureau  
1700 G Street NW  
Washington, D.C. 20552  
elisabeth.assae-bille@cfpb.gov

**Re: Production by Check City Partnership, LLC in response to the December 16, 2022  
Civil Investigative Demand**

Dear Vanessa:

Enclosed with this letter is Check City Partnership, LLC's ("Check City") third production of materials responsive to the Consumer Financial Protection Bureau's ("CFPB" of "Bureau") December 16, 2022 Civil Investigative Demand ("CID"), pursuant to the Bureau's modification letter dated February 2, 2023. This production contains documents bates labeled CC00006862-CC00009236.

Certain facts and documents requested by the CID are highly sensitive, so Check City is asking for the maximum available protection from public disclosure of those facts and documents. Therefore, we have designated this entire production as being "Confidential – Subject to FOIA exemption (b)(4)." Pursuant to the Bureau's regulations (specifically, 12 C.F.R. §§ 1070.20, 1070.37(b)(4) and (b)(7), 1070.41, and 1080.14(a)), we request that the Bureau maintain these documents as confidential and not make them available in response to a FOIA request or subpoena without giving notice and the opportunity to object to Check City, as set forth in § 1070.20. In addition, Check City's responses and document production should not be construed as, and are not intended to be, a waiver of any substantive or procedural rights Check City may have, including the attorney-client privilege.



Vanessa Assae-Bille  
February 21, 2023  
Page 2



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If you have any questions or issues accessing any part of Check City's production, please do not hesitate to contact us.

Sincerely,

A handwritten signature in cursive script that reads "Sarah T. Reise".

Sarah T Reise

Troutman Pepper Hamilton Sanders LLP  
600 Peachtree Street NE, Suite 3000  
Atlanta, GA 30308-2216



troutman.com

---

**Sarah T Reise**  
sarah.reise@troutman.com

March 27, 2023

**VIA EMAIL**

Vanessa Assae-Bille  
Enforcement Attorney  
Consumer Financial Protection Bureau  
1700 G Street NW  
Washington, D.C. 20552  
elisabeth.assae-bille@cfpb.gov

**Re: Production by Check City Partnership, LLC in response to the December 16, 2022  
Civil Investigative Demand**

Dear Vanessa:

Enclosed with this letter is Check City Partnership, LLC's ("Check City") third production of materials responsive to the Consumer Financial Protection Bureau's ("CFPB" of "Bureau") December 16, 2022 Civil Investigative Demand ("CID"), pursuant to the Bureau's modification letter dated March 15, 2023. This production contains documents bates labeled CC00009237 - CC00009773.

With respect to Interrogatory No. 6, Check City is regrettably unable to adhere to its original estimated timeline for completion of this Request, which remains an onerous and highly manual task for Check City's single Compliance Officer. Check City's Compliance Officer is the sole employee in position to respond to this Request. In addition to assisting with responding to the CID, Check City's Compliance Officer has also been working to manage and respond to audits and examinations by Check City's banking partners and other third-party compliance reviews. Additionally, Check City launched two new products this year, which has required a lot of work to ensure that product development and implementation comply with all applicable laws and regulations. Check City anticipates that it will be able to respond to this Interrogatory on April 10, 2023 and apologizes for the delay.

With respect to Request for Document No. 18, which seeks the loan files for all loans originated in the store identified in Interrogatory No. 2, Check City remains unable to produce the documents responsive to this Request as drafted. In its response to Interrogatory No. 2, Check City ultimately identified every storefront location. Therefore, Request for Document No. 18 seeks the complete loan files of each loan that has been originated by the Company since 2017. For the reasons described in Check City's modification proposal dated January 18, 2023, producing loans files requires a laborious and highly manual procedure to locate and compile



Vanessa Assae-Bille  
March 27, 2023  
Page 2



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documents. Even with a smaller subset of storefront locations, collecting and imaging loans files for a nearly six-year period would have been extremely challenging and likely to take many, many months. However, on a Company-wide basis, this Request is simply impossible based on Check City's available resources and personnel. Given these issues, Check City renews its previous proposal that the parties collaborate on a sampling process so that Check City can produce a representative sample of loan files to the Bureau, consistent with the productions Check City regularly makes to its other regulators.

Finally, with respect to Request for Document No. 20, Check City is continuing to work on this Request, which involves the production of data already requested in a Written Report and email. First, in response to Written Report No. 4, Check City intends to provide to the Bureau all consumer-level loan account notes that coincide with each of the loans that have been originated at Check City's storefront locations since 2017. This data will be provided on a rolling basis pursuant to the Bureau's most recent modification letter dated March 15, 2023. Second, to the extent email communications exist that are responsive to this Request, Check City notes that CCI Financial, Inc. (CCI) is responsible for managing those communications. As CCI has limited resources at its disposal and is assisting both Check City and FAMI with production issues related to this CID, Check City is not yet able to provide a rolling production schedule for communications responsive to this Request. Check City will do so as soon as possible.

Certain facts and documents requested by the CID are highly sensitive, so Check City is asking for the maximum available protection from public disclosure of those facts and documents. Therefore, we have designated this entire production as being "Confidential – Subject to FOIA exemption (b)(4)." Pursuant to the Bureau's regulations (specifically, 12 C.F.R. §§ 1070.20, 1070.37(b)(4) and (b)(7), 1070.41, and 1080.14(a)), we request that the Bureau maintain these documents as confidential and not make them available in response to a FOIA request or subpoena without giving notice and the opportunity to object to Check City, as set forth in § 1070.20. In addition, Check City's responses and document production should not be construed as, and are not intended to be, a waiver of any substantive or procedural rights Check City may have, including the attorney-client privilege.

Vanessa Assae-Bille  
March 27, 2023  
Page 3



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If you have any questions or issues accessing any part of Check City's production, please do not hesitate to contact us.

Sincerely,

A handwritten signature in cursive script that reads "Sarah T. Reise".

Sarah T Reise



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**Exhibit I**

E-mail exchange between Sarah Reise and Benjamin Clark  
(May 9, 2023 to May 12, 2023)

**From:** [Reise, Sarah T.](#)  
**To:** [Clark, Benjamin \(CFPB\)](#); [Cover, Jason M.](#)  
**Cc:** [Assae-Bille, Vanessa \(CFPB\)](#)  
**Subject:** RE: FAMI and Check City CIDs  
**Date:** Friday, May 12, 2023 1:21:43 PM  
**Attachments:** [2021-05-12 Supplemental CID Responses - FAMI.pdf](#)

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Ben,

Thank you for bringing these issues to our attention. Below is a summary of our findings, which we hope is sufficient to resolve these open items.

*Document Request No. 11 - FAMI*

Document Request No. 11 seeks documents related to manual approval of loans by FAMI's store managers. In FAMI's narrative response dated January 26, 2023, we inadvertently asserted that FAMI had documents in its possession responsive to this request. However, because FAMI does not approve loans outside of its established underwriting parameters, FAMI does not have in its possession any documents that are responsive to this request. Attached is an updated, supplemental response that clarifies that no responsive documents exist.

*Interrogatory No. 4 - FAMI*

We inadvertently included a privileged comment in FAMI's narrative response to Interrogatory No. 4. Therefore, we request that the Bureau destroy, in its entirety, the narrative responses that FAMI provided to the Bureau on February 13, 2023. As required by 12 C.F.R. § 1080.8(a), below is a schedule related to the assertion of privilege. We are also attaching a final, non-privileged version of FAMI's narrative responses dated February 13, 2023 that also contains the response to Document Request 11 described above.

Document Type	Subject Matter	Date of Item	Name, Position, Organization, and Address of Author	Name, Position, Address, and Organization of Recipients	Privilege Claimed
Word Document	Narrative Response to CID	February 13, 2023	Sarah T. Reise Of Counsel Troutman Pepper LLP 600 Peachtree Street, N.E. Suite 3000 Atlanta, GA	N/A	Attorney-client privilege; attorney- work product

*Document Requests No. 11 and 19 - Check City*

Per the Bureau's Modification Letter dated February 2, 2023, Check City's responses to Document



Requests No. 11 and 19 became due for production on March 6, 2023. As previously explained however, the only documents Check City responsive to these requests are emails, which require a cumbersome and time-consuming process to collect, search, and review. As such, Check City had not yet been able to complete its response to this request. However, as discussed in its request to stay this investigation pending resolution of the U.S. Supreme Court's impending review of the Fifth Circuit's decision in *Consumer Financial Protection Bureau v. Law Offices of Crystal Moroney, P.C.*, Check City intends to complete its response to this Request pending the resolution of the CFSA appeal pending before the United States Supreme Court.

*Document Requests No. 14 and 16 - Check City*

Document Requests 14 and 16 (as well as Document Request 15) request documents related to specified agendas and minutes. Check City produced documents responsive to these Requests on January 26, 2023 and February 13, 2023. Check City was able to complete its production in February, and therefore, it had no additional responsive documents to produce in March.

Please let us know if you have any questions or would like to discuss.

Thanks, and have a nice weekend.

**Sarah T. Reise**

**Counsel**

**troutman pepper**

Direct: 404.885.3803 | Mobile: 404.697.7117

sarah.reise@troutman.com

Pronouns: she, her, hers

**From:** Clark, Benjamin (CFPB) <Benjamin.Clark@cfpb.gov>

**Sent:** Tuesday, May 9, 2023 9:18 AM

**To:** Reise, Sarah T. <Sarah.Reise@troutman.com>; Cover, Jason M. <Jason.Cover@troutman.com>

**Cc:** Assae-Bille, Vanessa (CFPB) <Elisabeth.Assae-Bille@cfpb.gov>

**Subject:** FAMI and Check City CIDs

CAUTION: This message came from outside the firm. DO NOT click links or open attachments unless you recognize this sender (look at the actual email address) and confirm the content is safe.

Dear Sarah and Jason,

I hope you've been well. As you may have noticed from my email last week, I have returned from parental leave. There are a few issues with productions from FAMI and Check City Partnership that we would like you to clarify for us by the end of the week.

First, with respect to FAMI:

- Responses to Document Request No. 11 were due on January 26, 2023. FAMI's response that day indicated that it had produced documents with "11" in the "DR\_11" metadata field, but

FAMI's production contained no such identifying metadata. Please indicate your intent to produce (or reproduce) documents responsive to Document Request No. 11.

- Second, FAMI's response to Interrogatory No. 4 was due on February 13, 2023. The response that FAMI provided then appears to be a draft. Consistent with 12 C.F.R. 1080.8(c), we have sequestered that information. Please indicate your intent to provide a non-draft response for Interrogatory No. 4.

Second, with respect to Check City Partnership, the company's responses to Document Request Nos. 11 and 19 were due on March 6, 2023, along with the last tranche of response to Document Request Nos. 14 and 16. We do not have a record of responses from March 6. Please indicate your intent to produce the information that was due on March 6.

Thank you.

Ben Clark  
Attorney | Office of Enforcement  
Telephone: (202) 281-8401  
Pronouns: he/him/his

Consumer Financial Protection Bureau  
**consumerfinance.gov**

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**Exhibit J**

E-mail exchange between Sarah Reise and E. Vanessa Assae-Bille  
(March 31, 2023 to April 3, 2023)

**From:** [Reise, Sarah T.](#)  
**To:** [Assae-Bille, Vanessa \(CFPB\)](#)  
**Cc:** [Clark, Benjamin \(CFPB\)](#); [Cover, Jason M.](#); [Marlow, John \(CFPB\)](#)  
**Subject:** RE: CIDs to Check City Partnership and FAMI, Inc.  
**Date:** Monday, April 3, 2023 4:59:33 PM

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Vanessa,

Thank you for the response. We understand the Bureau's position. However, given the growing cost and burden on FAMI and Check City on continuing to comply and the serious constitutional questions before the Supreme Court in the *CFSA* appeal, at this time, FAMI and Check City are declining to continue to make productions in response to the CIDs, pending the outcome of that appeal.

We remain open to a tolling agreement, as previously proposed, if you would like to send us a draft to discuss with our clients.

Thank you,  
Sarah

**Sarah T. Reise**

**Counsel**

**troutman pepper**

Direct: 404.885.3803 | Mobile: 404.697.7117

[sarah.reise@troutman.com](mailto:sarah.reise@troutman.com)

Pronouns: she, her, hers

**From:** Assae-Bille, Vanessa (CFPB) <[Elisabeth.Assae-Bille@cfpb.gov](mailto:Elisabeth.Assae-Bille@cfpb.gov)>  
**Sent:** Monday, April 3, 2023 12:38 PM  
**To:** Reise, Sarah T. <[Sarah.Reise@troutman.com](mailto:Sarah.Reise@troutman.com)>  
**Cc:** Clark, Benjamin (CFPB) <[Benjamin.Clark@cfpb.gov](mailto:Benjamin.Clark@cfpb.gov)>; Cover, Jason M. <[Jason.Cover@troutman.com](mailto:Jason.Cover@troutman.com)>; Marlow, John (CFPB) <[John.Marlow@cfpb.gov](mailto:John.Marlow@cfpb.gov)>  
**Subject:** RE: CIDs to Check City Partnership and FAMI, Inc.

**CAUTION:** This message came from outside the firm. DO NOT click links or open attachments unless you recognize this sender (look at the actual email address) and confirm the content is safe.

Good afternoon Sarah,

Thank you for the proposal in your email dated March 31, 2023. The Bureau is always open to discussing tolling agreements. However, the Bureau remains in disagreement with the Fifth Circuit's



interpretation of the Appropriations Clause. Accordingly, the Bureau does not agree to stay the ongoing investigations into Check City and FAMI pending a Supreme Court decision in *CFSA* (No. 21-50826, cert. granted on February 27, 2023). The Bureau expects Check City and FAMI to comply in full with the CID issued to each entity, pursuant to the schedule modifications in our letters dated March 15, 2023, which the Bureau granted in response to the requests for additional time that Check City and FAMI submitted on March 10, 2023.

At your earliest convenience, please confirm Check City and FAMI's intent to comply in full with the CIDs under the modified schedule.

Thank you,  
Vanessa

**E. Vanessa Assae-Bille**  
Senior Litigation Counsel  
Office of Enforcement  
Consumer Financial Protection Bureau (CFPB)  
(o) 202.435.7688 | (c) 202.341.8722  
[Elisabeth.Assae-Bille@cfpb.gov](mailto:Elisabeth.Assae-Bille@cfpb.gov)  
[consumerfinance.gov](http://consumerfinance.gov)

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**From:** Reise, Sarah T. <[Sarah.Reise@troutman.com](mailto:Sarah.Reise@troutman.com)>  
**Sent:** Friday, March 31, 2023 2:16 PM  
**To:** Assae-Bille, Vanessa (CFPB) <[Elisabeth.Assae-Bille@cfpb.gov](mailto:Elisabeth.Assae-Bille@cfpb.gov)>  
**Cc:** Clark, Benjamin (CFPB) <[Benjamin.Clark@cfpb.gov](mailto:Benjamin.Clark@cfpb.gov)>; Cover, Jason M. <[Jason.Cover@troutman.com](mailto:Jason.Cover@troutman.com)>  
**Subject:** CIDs to Check City Partnership and FAMI, Inc.

**CAUTION:** This email originated from a non-government domain. DO NOT click links or open attachments unless you recognize and/or trust the sender. Contact Cybersecurity Incident Response Team (CSIRT) at 202-435-7200 or [report a suspicious email](#).

Vanessa,

We have been continuing to confer with our clients FAMI, Inc. and Check City Partnership, LLC, regarding the pending Civil Investigative Demands and the Bureau's ongoing investigation.

As you know, the United States Supreme Court recently granted the Bureau's petition for certiorari seeking review of the Fifth Circuit's decision in *Community Financial Services Association of America v. Consumer Financial Protection Bureau*, No. 21-50826 (5th Cir. Oct. 19, 2022), which held that the Bureau's funding mechanism was unconstitutional and suggesting that any action taken by the Bureau using unconstitutionally appropriated funds

may be similarly unconstitutional. And just last week, the Second Circuit issued a decision disagreeing with the Fifth Circuit in *Consumer Financial Protection Bureau v. Law Offices of Crystal Moroney, P.C.*, Case No. 20-3471 (2d Cir. Mar. 23, 2023). As a result of the Second Circuit's decision, there is now a split of authority on this critical constitutional issue that will be decided during the Supreme Court's next term.

Given the pending constitutional questions related to the constitutionality of the Bureau's funding and this investigation, FAMI and Check City respectfully request that the Bureau's investigation be stayed pending resolution of the appeal of the *CFSA* appeal. If the *CFSA* decision stands, it could result in the Bureau's Civil Investigative Demand being deemed unconstitutional in its entirety. Such a decision could have a significant impact on this investigation, which justifies a stay. See, e.g., *CFPB v. MoneyGram Int'l, Inc.*, No. 22 Civ. 3256, 2022 U.S. Dist. LEXIS 223995 (S.D.N.Y. Dec. 9, 2022) (granting the defendant's motion to stay enforcement lawsuit pending resolution of petition for certiorari and/or appeal of *CFSA v. CFPB*). The Bureau also agreed to a stay of the *Ace Cash Express* case pending the outcome of the Supreme Court's consideration of the *CFSA* case.

Given that the Supreme Court has granted the Bureau's petition for certiorari and it will issue a decision during its next term, a stay will not unreasonably delay this investigation. Additionally, FAMI and Check City are willing to enter into a tolling agreement for the duration of any stay, further minimizing the risk of any prejudice to the Bureau.

Accordingly, FAMI and Check City respectfully request that the Bureau stay this investigation pending the resolution of the pending appeal in *CFSA v. CFPB*.

Can you please let us know the Bureau's position after consideration?

Thank you,  
Sarah

**Sarah T. Reise**

**Counsel**

Direct: 404.885.3803 | Mobile: 404.697.7117

[sarah.reise@troutman.com](mailto:sarah.reise@troutman.com)

Pronouns: she, her, hers

---

**troutman pepper**

600 Peachtree Street, NE, Suite 3000

Atlanta, GA 30308

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**CIVIL COVER SHEET**


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**I. (a) PLAINTIFFS**  
Consumer Financial Protection Bureau

(b) County of Residence of First Listed Plaintiff \_\_\_\_\_  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)  
(see attachment)

**DEFENDANTS**  
Check City Partnership, LLC

BY:  Deputy  
County of Residence of First Listed Defendant Clark  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF \_\_\_\_\_

2:23-ms-00035

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

1 U.S. Government Plaintiff

2 U.S. Government Defendant

3 Federal Question (U.S. Government Not a Party)

4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP** (For \_\_\_\_\_ una One box for Defendant)

Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act (Excludes Veterans) <input type="checkbox"/> 152 Recovery of Defaulted Student Loans <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

**V. ORIGIN** (Place an "X" in One Box Only)

1 Original Proceeding     2 Removed from State Court     3 Remanded from Appellate Court     4 Reinstated or Reopened     5 Transferred from Another District (specify)     6 Multidistrict Litigation


**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
12 U.S.C. 5562(e)(1)

Brief description of cause:  
Petition to Enforce Civil Investigative Demand

**VII. REQUESTED IN COMPLAINT:**     CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.    **DEMAND \$** \_\_\_\_\_    CHECK YES only if demanded in complaint  
**JURY DEMAND:**     Yes     No

**VIII. RELATED CASE(S) IF ANY** (See instructions):    JUDGE \_\_\_\_\_    DOCKET NUMBER \_\_\_\_\_

DATE 06/12/2023    SIGNATURE OF ATTORNEY OF RECORD 

FOR OFFICE USE ONLY    RECEIPT # \_\_\_\_\_    AMOUNT \_\_\_\_\_    APPLYING IFP \_\_\_\_\_    JUDGE \_\_\_\_\_    MAG. JUDGE \_\_\_\_\_



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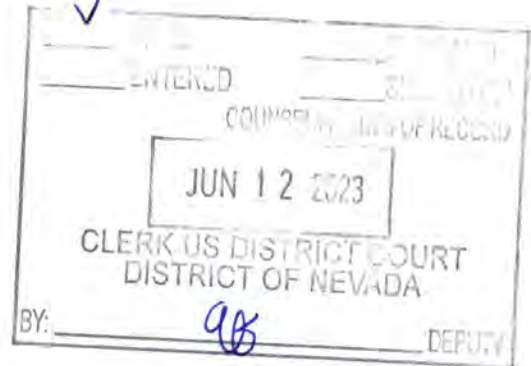
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7 *Attorneys for Petitioner*



8  
9 **UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

10  
11 CONSUMER FINANCIAL PROTECTION  
12 BUREAU,

13 Petitioner,

14 v.

15 CHECK CITY PARTNERSHIP, LLC,

16 Respondent.  
17

2:23-ms-00035

**DECLARATION OF**  
**E. VANESSA ASSAE-BILLE**

18  
19 I, E. Vanessa Assae-Bille, under 28 U.S.C. § 1746, declare as follows:

20 1. I am a Senior Litigation Counsel at the Consumer Financial Protection Bureau  
21 (Bureau), Office of Enforcement, and a counsel on this matter.

22 2. I am over 18 years of age and authorized to execute this declaration verifying  
23 the facts set forth in the Bureau's Petition to Enforce Civil Investigative Demand and  
24 Supporting Memorandum.

25 3. The facts set forth in this declaration are based on my personal knowledge or  
26 information made known to me in the course of my official duties.

27 4. I am an attorney on an ongoing Bureau investigation to determine whether  
28 short-term or small-dollar lenders or associated persons, in connection with providing short-



1 term, small-dollar, or installment loans, have: (1) improperly induced borrowers to take out,  
2 renew, or refinance loan products that harmed them; (2) misrepresented the full, long-term  
3 costs of serially rolling over, renewing or refinancing their loan products; or (3)  
4 misrepresented that their loans are short-term obligations despite being structured and  
5 serviced in a manner that renders them longer-term obligations for many borrowers, all in a  
6 manner that is unfair, deceptive, or abusive in violation of §§ 1031 and 1036 of the  
7 Consumer Financial Protection Act of 2010, 12 U.S.C. §§ 5531, 5536.

8 5. Check City Partnership, LLC (Check City) is a limited-liability company that  
9 provides short-term, small-dollar, and installment loans to consumers.

10 6. On December 16, 2022, a Deputy Assistant Director of the Office of  
11 Enforcement issued a civil investigative demand (CID) to Check City that was served on  
12 Check City's counsel via e-mail, with consent from Check City. As required by the CFPB,  
13 the CID contained a "Notification of Purpose" advising Check City of the purpose of the  
14 Bureau's investigation. Ex. A at 3. The CID required Check City to produce materials that  
15 may be relevant to the purpose of the Bureau's investigation by January 26, 2023. *Id.* at 4-12.  
16 Attached as Exhibit A to this declaration are true and correct copies of the e-mail from Check  
17 City counsel Sarah Reise to Bureau counsel Benjamin Clark, consenting to electronic service  
18 and copying me, dated December 16, 2022, and of the CID issued to Check City.

19 7. On December 29, 2022, January 6, 2023, and January 9, 2023, Check City  
20 counsel Sarah Reise and Jason Cover met and conferred with me to discuss Check City's  
21 compliance with the CID. During these three calls, Check City indicated an intent to comply  
22 with the CID.

23 8. By letter dated January 18, 2023, and by e-mail dated January 24, 2023,  
24 Check City counsel Sarah Reise requested modifications to the CID. Attached as Exhibit B to  
25 this declaration is a true and correct copy of Check City's requests for modifications to the  
26 CID, dated January 18, 2023 and January 24, 2023.

27 9. By letter dated February 2, 2023, the Bureau modified the CID to narrow  
28 certain requests and provide Check City extensions of time to respond to the CID, such that

1 responses relevant to this Petition to Enforce Civil Investigative Demand and Supporting  
2 Memorandum were due as follows:

3 February 13, 2023: Request for Documents No. 21

4 February 27, 2023: Requests for Written Report Nos. 1 – 4 (first tranche);  
5 Interrogatory No. 3(i) (first tranche)

6 March 6, 2023: Requests for Documents Nos. 11 and 19

7 March 27, 2023: Requests for Documents Nos. 18 and 20; Interrogatory  
8 No. 6

9 March 20, 2023: Requests for Written Report Nos. 1 – 4 (second  
10 tranche); Interrogatory No. 3(i) (second tranche)

11 April 3, 2023: Request for Documents 18 (third tranche)

12 April 10, 2023: Requests for Written Report Nos. 1 – 4 (third tranche);  
13 Interrogatory No. 3(i) (third tranche)

14 May 1, 2023: Requests for Written Report Nos. 1 – 4 (fourth tranche)  
15 Interrogatory No. 5

16 May 8, 2023: Interrogatory No. 5

17 Ex. C at 6-7. Attached as Exhibit C to this declaration is a true and correct copy of the  
18 Bureau's letter modifying the CID, dated February 2, 2023.

19 10. By e-mails dated February 24, 2023 and March 3, 2023, Check City requested  
20 to extend the February 27, 2023 production until March 13, 2023. Attached as Exhibit D to  
21 this declaration is a true and correct copy of the e-mail exchange between Check City  
22 counsel Sarah Reise and me, dated between February 24, 2023 and March 3, 2023. Check  
23 City represented that "significant progress has been made" on perfecting the queries needed  
24 to pull the data requested by the CID and stated: "Check City will commit to producing this  
25 data sooner, if at all possible." Ex. D at 4.

26 11. By letter dated March 6, 2023, the Bureau extended the due dates for Requests  
27 for Written Reports No. 1 and Interrogatory No. 3(i), according to the schedule proposed by  
28 Check City in its e-mails dated February 24, 2023 and March 3, 2023. Ex. E at 3-4. Attached



1 as Exhibit E to this declaration is a true and correct copy of the Bureau’s letter modifying the  
2 CID, dated March 6, 2023.

3 12. By letter dated March 10, 2023, Check City requested an additional extension  
4 of time to respond to Requests for Written Reports Nos. 1, 2, 3, and 4. Ex. F at 2.

5 Representing that “the initial data pull for Check City will be complete in approximately one  
6 week,” Check City sought permission to produce its responses in four tranches, on the  
7 following schedule:

8 April 10, 2023: Requests for Written Report Nos. 1 – 4 (first tranche)

9 May 1, 2023: Requests for Written Report Nos. 1 – 4 (second  
10 tranche)

11 May 22, 2023: Requests for Written Report Nos. 1 – 4 (third tranche)

12 June 5, 2023: Requests for Written Report Nos. 1 – 4 (fourth tranche)

13 *Id.* Attached as Exhibit F to this declaration is a true and correct copy of Check City’s request  
14 for modifications to the CID, dated March 10, 2023.

15 13. By letter dated March 15, 2023, the Bureau extended the due dates for  
16 Requests for Written Reports Nos. 1, 2, 3, and 4, according to the schedule proposed by  
17 Check City in its letter dated March 10, 2023. Ex. G at 3. Attached as Exhibit G to this  
18 declaration is a true and correct copy of the Bureau’s letter modifying the CID, dated March  
19 15, 2023.

20 14. Check City produced information to the Bureau on January 26, 2023;  
21 February 2, 2023; February 13, 2023; February 21, 2023; and March 27, 2023. Each  
22 production included a cover letter. Attached as Exhibit H to this declaration are true and  
23 correct copies of the cover letters that Check City sent with its responses to the CID, dated  
24 January 26, 2023; February 2, 2023; February 13, 2023; February 21, 2023; and March 27,  
25 2023.

26 15. On February 13, 2023, Check City made a production that failed to include  
27 responses to Request for Documents No. 21. Ex. H at 5. In the accompanying cover letter,  
28 Check City represented that it was “unable to provide a definitive date” for this production,

1 but assured the Bureau that it was “continu[ing] to work to collect the requested call  
2 recordings for production.” *Id.*

3 16. On March 6, 2023, Check City failed to produce any responses to Requests  
4 for Documents Nos. 11 and 19. By e-mail dated May 12, 2023, copying me, Check City  
5 counsel Sarah Reise stated: “[T]he only documents Check City responsive [sic] to these  
6 requests are e-mails, which require a cumbersome and time-consuming process to collect,  
7 search, and review. As such, Check City had [sic] not yet been able to complete its response  
8 to this request.” Ex. I at 2. Attached as Exhibit I to this declaration is a true and correct copy  
9 of the e-mail exchange between Check City counsel Sarah Reise and Bureau counsel  
10 Benjamin Clark, dated between May 9, 2023 and May 12, 2023.

11 17. On March 27, 2023, Check City made a production that failed to include  
12 responses to Requests for Documents Nos. 18 and 20, and Interrogatory No. 6. Ex. H at 9-10.  
13 In the accompanying cover letter, Check City represented that it cannot comply with  
14 Requests for Documents No. 18 on the basis that it is too burdensome and sought a  
15 modification that would allow for sampling of loan files. *Id.* Check City also represented that  
16 it was “continuing to work” on Document Request No. 20 and noted that it anticipated  
17 providing responses to Interrogatory No. 6 “on April 10, 2023.” Ex. H at 10.

18 18. By e-mail dated March 31, 2023, Check City counsel Sarah Reise asked the  
19 Bureau to halt its investigation of Check City until the U.S. Supreme Court decides the  
20 Bureau’s appeal in *Com. Fin. Servs Ass’n., et. al v. CFPB*, 51 F.4th 616 (5th Cir. 2022), *cert.*  
21 *granted*, No. 22-448 (U.S. Feb. 27, 2023) (hereinafter, *CFSA*). Ex. J at 2-3. On April 3, 2023,  
22 I informed Check City counsel that the Bureau did not agree to halt its investigation of Check  
23 City, and asked Check City to confirm its intent to comply with the CID under the modified  
24 schedule. *Id.* at 1-2. On April 3, 2023, Check City counsel confirmed that Check City would  
25 no longer comply with the modified CID. *Id.* at 1. Attached as Exhibit J to this declaration is  
26 a true and correct copy of the e-mail exchange between Check City counsel Sarah Reise and  
27 me, dated March 31, 2023 and April 3, 2023.

28



1           19. Before March 31, 2023, Check City had not raised *CFSA* or the specific issue  
2 at the center of the *CFSA* appeal—*i.e.*, the Bureau’s funding mechanism—with Bureau  
3 counsel.

4           20. Check City has not responded to the CID since March 27, 2023.

5           21. To date, Check City had failed to produce any responses Requests for Written  
6 Reports Nos. 1, 2, 3, and 4; Request for Documents Nos. 11, 18, 19, 20, and 21; and  
7 Interrogatory Nos. 3(i), 5, and 6.

8           22. Check City is therefore out of compliance with the modified CID.

9           23. The Consumer Financial Protection Act and the Bureau’s Rules Relating to  
10 Investigations provide CID recipients with an administrative procedure for petitioning the  
11 Bureau’s Director to set aside or modify the CID. This procedure permits the CID recipient  
12 to file such a petition within 20 calendar days of service of the CID, or if the return date is  
13 less than 20 calendar days after service, prior to the CID’s return date. 12 U.S.C. § 5562(f),  
14 12 C.F.R. § 1080.6(e). Check City received notice of these administrative procedures in the  
15 CID, as part of the CID’s instructions and the Rules of Investigation attached to the CID. *See*  
16 Ex. A at 15, 45-46.

17           24. Check City did not file a petition with the Bureau to modify or set aside the  
18 CID, nor did it request an extension of time to file a petition to modify or set aside the CID.  
19 I declare under penalty of perjury that the foregoing is true and correct.

20  
21 Executed on: June 12, 2023

/s/ E. Vanessa Assae-Bille  
E. VANESSA ASSAE-BILLE

Bureau of Consumer Financial Protection  
1700 G Street, NW  
Washington, D.C. 20552

*Attorney for Plaintiff*  
*Consumer Financial Protection Bureau*