



of Enforcement attempted to discuss ways to reduce the burden of the CID, including by proposing that Pacific Rim initially provide responses to only a small subset of requests, which would permit the Office of Enforcement to further tailor the remaining requests. In response, Pacific Rim said that it would not discuss any specific request. Instead, Pacific Rim requested that the Office of Enforcement withdraw the 2023 CID entirely or, in the alternative, indefinitely stay the time permitted for compliance with the 2023 CID. The Office of Enforcement declined that request, and, on January 25, 2023, Pacific Rim timely filed a petition to set aside the 2023 CID.

## II. LEGAL DETERMINATION

Pacific Rim argues that the 2023 CID should be set aside on several different grounds. First, Pacific Rim contends that the CID is overly broad because it seeks an excessive amount of information in light of its stated purpose. Second, Pacific Rim asserts that the CID is unduly burdensome because (i) complying with the CID would be too costly for the company in light of its financial condition; (ii) the CID seeks information that does not exist or that the Bureau already possesses; and (iii) the CID does not seek a narrower scope of information than was sought in a prior CID.<sup>2</sup>

For the reasons set forth below, the petition is denied.

**1. Pacific Rim did not meaningfully engage in the meet-and-confer process as required by Bureau rules.** As an initial matter, the merits of Pacific Rim’s arguments need not be addressed because Pacific Rim did not “meaningfully engage[.]” in the meet-and-confer

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<sup>2</sup> As part of its request for relief, Pacific Rim also asserts that the CID should be withdrawn pending the Supreme Court’s review of a case involving the constitutionality of the Bureau’s statutory funding mechanism. Pet. at 12. That request is denied. The Bureau will continue to carry out the important duties Congress charged it with performing, including investigating possible violations of federal consumer financial law.

process as required by 12 C.F.R. § 1080.6(c)(3). By regulation, the Bureau will not consider a petition to set aside a CID where the petitioner does not first attempt to resolve any objections it has through good-faith negotiation with the Bureau’s investigators. 12 C.F.R. § 1080.6(c)(3). The Bureau has also previously noted the “heightened importance” of that negotiation process “when CID recipients seek to raise fact-bound arguments about the practical burdens imposed by CID requests.” *In re Golden Valley Lending, Inc., et al.*, 2019-MISC-HPUL Entities-0001 (Feb. 18, 2020),<sup>3</sup> at 5.

Here, Pacific Rim did not negotiate in good faith. During the meet-and-confer, Pacific Rim refused to provide any information or material requested by the CID. It also refused to propose any modifications to the CID or identify search parameters that would reduce the burden on the company while still providing the information the Bureau needs. Instead, when the Office of Enforcement attempted to discuss potential methods to minimize the burden of the CID by, *inter alia*, offering to permit Pacific Rim to respond initially to a very small subset of requests, the company said that it would not engage in any detailed discussion about any specific request in the CID. Pacific Rim instead requested only that the CID be withdrawn. Pet., App. A at 1; Ex. 3 at 7. Simply insisting that a CID be entirely withdrawn does not amount to “meaningful[] engage[ment]” in the type of good-faith negotiation that is necessary for a meet-and-confer to be productive. This refusal to meaningfully engage in the meet-and-confer process would be reason alone to deny the petition. However, the merits of the petition’s arguments are nonetheless addressed below.

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<sup>3</sup> Available at [https://files.consumerfinance.gov/f/documents/cfpb\\_hpul-entities\\_decision-and-order-on-petition.pdf](https://files.consumerfinance.gov/f/documents/cfpb_hpul-entities_decision-and-order-on-petition.pdf).

**2. The CID is not overly broad.** Pacific Rim argues that the 2023 CID “is so broad that there is no reasonable correlation to a lawful purpose.” Pet. at 8. But, as the CID itself states, the Bureau seeks information to determine whether short-term or small-dollar lenders (i) improperly induced borrowers to take out, renew, or refinance loan products that harmed them; (ii) misrepresented the full, long-term costs of serially rolling over, renewing, or refinancing their loan products; or (iii) 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. Pacific Rim (correctly) does not dispute that this purpose is lawful. Accordingly, the CID is not overly broad so long as the information it seeks is “reasonably relevant” to that lawful purpose. *See United States v. Morton Salt Co.*, 338 U.S. 632, 652 (1950).

The CID’s information requests easily meet that standard. They seek information about Pacific Rim’s business practices as a short-term and small-dollar lender, the identity of company employees who may have relevant information about those practices, performance metrics for the company’s employees, or the consumers who received short-term and small-dollar loans. Such information is plainly relevant to the Bureau’s investigation into Pacific Rim’s lending practices and, for the most part, Pacific Rim does not contend otherwise.

Rather, Pacific Rim raises only one specific challenge to the relevance of the information sought in the CID; namely, that the CID includes requests for information about servicing and collections, which Pacific Rim contends is irrelevant to an investigation into whether it “misrepresent[ed] loan terms” or “improperly induce[d] consumers to take out or renew loans.” Pet. at 7–8. That is mistaken. Pacific Rim’s servicing and collection practices shed light on whether the representations it made about the nature and true costs of the loans were deceptive

and whether the company improperly induced consumers to renew loans. The CID’s requests for information relating to servicing and collections thus are relevant to the CID’s stated purpose.

**3. Pacific Rim has not established that the CID imposes an undue burden.** Pacific Rim next asserts, but fails to establish, that the CID imposes an undue burden. In considering burden, courts “weigh the likely relevance of the requested material to the investigation against the burden . . . of producing the material.” *Walsh v. Alight Sols., LLC*, 44 F.4th 716, 724 (7th Cir. 2022). Further, the recipient of a CID bears the burden to show that a request is unduly burdensome. Where, as here, “the agency’s inquiry is pursuant to lawful purpose and the requested documents are relevant to that purpose,” *see supra* at 4–5, courts will not “modify investigative subpoenas” on the basis of burden “unless compliance threatens to unduly disrupt or seriously hinder normal operations of a business.” *FTC v. Texaco, Inc.*, 555 F.2d 862, 882 (D.C. Cir. 1977) (en banc). Pacific Rim has not made that showing.

*Pacific Rim has not established that the financial cost of complying with the CID would be excessive.* Pacific Rim has not substantiated its claim that complying with the CID would “threaten to put the Company out of business altogether,” Pet. at 8, with a declaration or other evidence. Critically, Pacific Rim says that it spent approximately \$82,500 to comply with the prior 2022 CID, *id.*, Ex. 1 ¶ 7, but provides no estimate of its expected cost to comply with the 2023 CID. Nor has it otherwise adequately “detailed how compliance with the CID . . . would ‘unduly disrupt’ its business operations.” *See CFPB v. Ctr. for Excellence in Higher Educ.*, 2022 U.S. Dist. LEXIS 166461, at \*18 (D. Utah Sept. 13, 2022); *see also FDIC v. Garner*, 126 F.3d 1138, 1143 (9th Cir. 1997) (“the subpoena should be enforced unless the party being investigated *proves* the inquiry is unreasonable because it is overly broad or unduly burdensome” (emphasis added)).

For instance, Pacific Rim asserts that responding to the CID “would require the Company to undertake an unreasonably expensive review of its emails.” *Id.* at 7. But merely stating that Pacific Rim’s e-mail server contains 730 gigabytes of data, *id.*, is inadequate to demonstrate that searching for certain e-mails is unduly burdensome, especially since Pacific Rim has declined to discuss possible search parameters that would substantially reduce the burden of any review, *see supra* at 3–4. Pacific Rim’s recitation of the number of loans, stores, or employees potentially at issue, Pet. Ex. 1 ¶¶ 3, 4, 9, is similarly insufficient to establish that the cost of providing the requested materials and information would be excessive, particularly in light of Pacific Rim’s assertion (addressed further below) that much of the requested information does not exist or was already provided in response to the 2022 CID, *id.* at 8–10. The limited information Pacific Rim relies upon to attempt to show undue burden is particularly insufficient in light of its refusal to meaningfully meet and confer with the Office of Enforcement about this CID: if Pacific Rim truly believes that the cost of compliance poses an existential threat to its business operations, it is unclear why the company has refused to engage in the good-faith negotiation that could substantially reduce its compliance burden.<sup>4</sup>

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<sup>4</sup> The information Pacific Rim provides about the size of its e-mail server and the number of loans, stores, and employees implicated by the CID is, however, sufficient to demonstrate the fallacy of Pacific Rim’s assertion that “there is no correlation between the size and scope of the Company’s business and the size and scope of the 2023 CID’s demands.” Pet. at 8. For instance, Pacific Rim asserts that the information requested about the company’s loans would be burdensome to provide because the company “originated **1.8 million loans**” during the relevant time period. *Id.* at 7 (emphasis in original). Pacific Rim similarly complains about the burden to provide certain information about some of its stores, but the objected-to burden merely reflects the “very large number of stores” that the company operated during the relevant time period. *Id.* at 6. Accordingly, “the breadth [Pacific Rim] complain[s] of is in large part attributable to the magnitude of the [company’s] business operations.” *See id.* at 8 n.31 (quoting *Texaco, Inc.*, 555 F.2d at 882).

*Requests that seek to verify and supplement information the Bureau obtained through a prior CID do not impose an undue burden.* Pacific Rim is also incorrect to argue that the CID is “unduly burdensome” because it includes requests that “do not apply to the Company or to which the Company has already responded.” Pet. at 10. Most importantly, the company does not explain why responding to those requests would impose undue, rather than minimal, burden. Beyond that, Pacific Rim also exaggerates the extent to which the CID poses requests “to which the Company has already responded” in producing information in response to a CID issued in 2022 (“2022 CID”). *Id.* The 2023 CID covers a longer time period than the 2022 CID, Pet. at 1 n.2, so even requests that overlap with requests in the prior CID appropriately seek supplementation of Pacific Rim’s prior responses and productions.<sup>5</sup>

Pacific Rim also argues that its representative’s prior oral testimony “addressed” some of the requests in the CID, such that the Bureau has already obtained the information it seeks or been informed that it does not exist. *Id.* at 8–10. But testimony can be inaccurate or incomplete, so requests that seek to verify or supplement prior testimony do not make a CID unduly burdensome or otherwise improper. Indeed, Pacific Rim’s counsel argued during Pacific Rim’s meet-and-confer with the Office of Enforcement that the need for “due diligence” means the company could face substantial costs just to respond to requests that seek information or material that Pacific Rim’s representative testified did not exist. That Pacific Rim or its counsel are

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<sup>5</sup> As discussed below, it is entirely proper for a later CID to seek information for a longer time period than was applicable to an initial CID. Expanding the relevant period of inquiry is often particularly appropriate where, as here, the investigation includes inherently long-term issues, such as whether and how consumers were deceived into “serially rolling over, renewing, or refinancing” loan products (and especially when a global pandemic severely disrupted normal business operations during the relevant time frame).

apparently unsure whether the relevant testimony is accurate further confirms that requests seeking to verify that testimony are entirely proper.

*Whether the 2023 CID is broader than the 2022 CID is irrelevant.* Finally, Pacific Rim argues that the 2023 CID “does not reflect any narrowing of the Bureau’s focus from its 2022 CID,” Pet. at 6, but that also provides no grounds to set aside the CID. Although Pacific Rim asserts that “a subsequent CID ought to demonstrate the Bureau’s narrowing focus based on what it discovered in the initial phases of its investigation,” *id.*, nothing requires the Bureau to conduct its investigations that way. It is proper and prudent for an agency to first seek limited, targeted information specifically to determine areas for further, broader inquiry. That is the approach the Office of Enforcement has taken here, and there is no basis to set aside this CID and thereby require Enforcement to take a different tack.

### III. CONCLUSION

For the foregoing reasons, the petition to set aside the CID is **DENIED**. Pacific Rim is directed to comply with the CID within fourteen days from the date this Order is served by email on counsel for Pacific Rim. Pacific Rim is welcome to engage in discussions with the Office of Enforcement regarding potential modifications to the CID to minimize its burden on the company, which may be adopted by the Assistant Director or Deputy Assistant Director of the Office of Enforcement, as appropriate.

**IT IS SO ORDERED.** Dated: March 23, 2023

*Rohit Chopra*

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Rohit Chopra  
Director