

BUREAU OF CONSUMER FINANCIAL PROTECTION

[Docket No. CFPB-2018-0003]

Request for Information Regarding Bureau Enforcement Processes

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice and request for information.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau) is seeking comments and information from interested parties to assist the Bureau in assessing the overall efficiency and effectiveness of its processes related to the enforcement of Federal consumer financial law, and, consistent with the law, considering whether any changes to these processes would be appropriate.

DATES: Comments must be received by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: You may submit responsive information and other comments, identified by Docket No. CFPB-2018-0003, by any of the following methods:

- *Electronic:* Go to <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Email:* FederalRegisterComments@cfpb.gov. Include Docket No. CFPB-2018-0003 in the subject line of the message.
- *Mail:* Monica Jackson, Office of the Executive Secretary, Consumer Financial Protection Bureau, 1700 G Street NW, Washington, DC 20552.
- *Hand Delivery/Courier:* Monica Jackson Office of the Executive Secretary, Consumer Financial Protection Bureau, 1700 G Street NW, Washington, DC 20552.

INSTRUCTIONS: The Bureau encourages the early submission of comments. All submissions must include the document title and docket number. Please note the number of the topic on which you are commenting at the top of each response (you do not need to address all topics). Because paper mail in the Washington, DC area and at the Bureau is subject to delay, commenters are encouraged to submit comments electronically. In general, all comments received will be posted without change to <http://www.regulations.gov>. In addition, comments will be available for public inspection and copying at 1700 G St. NW, Washington, DC 20552, on official business days between the hours of 10 a.m. and 5 p.m. eastern standard time. You can make an appointment to inspect the documents by telephoning 202-435-7275.

All submissions in response to this request for information, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. Sensitive personal information, such as account numbers or Social Security numbers, or names of other individuals, should not be included. Submissions will not be edited to remove any identifying or contact information.

FOR FURTHER INFORMATION CONTACT: For general inquiries and submission process questions, please call Mark Samburg, Counsel, at (202) 435-9710.

SUPPLEMENTARY INFORMATION: In the course of its enforcement work, and as authorized by 12 U.S.C. 5561-5565 and further governed by 12 CFR parts 1080 and 1081, the Bureau may investigate whether any person is or has been engaged in any conduct that is a violation of Federal consumer financial law. These investigations may include requiring witnesses to give oral testimony. The Bureau is also authorized to commence legal proceedings for alleged violations of federal consumer financial law through either administrative adjudication proceedings or civil actions in federal district court. Regardless of forum, in these

actions and proceedings the Bureau may seek appropriate legal and equitable relief as permitted by law, including appropriate civil money penalties. The Bureau is, as described below, issuing this request for information seeking public comment on how best to achieve meaningful burden reduction or other improvement to the processes used by the Bureau to enforce Federal consumer financial law (enforcement processes) while continuing to meet the Bureau's statutory objectives and ensuring a fair and transparent process for parties subject to enforcement authority.

Overview of This Request for Information

The Bureau is using this request for information to seek public input regarding its enforcement processes. The Bureau encourages comments from all interested members of the public. The Bureau anticipates that the responding public may include entities that have been subject to Bureau enforcement actions or similar actions from other agencies, members of the bar who represent these entities, individual consumers, consumer advocates, regulators, and researchers, or members of academia.

Suggested Topics for Commenters

To allow the Bureau to evaluate suggestions more effectively, the Bureau requests that, where possible, comments include:

- Specific suggestions regarding any potential updates or modifications to the Bureau's enforcement processes, consistent with the Bureau's statutory objectives, and including, in as much detail as possible, the potential update or modification, supporting data or other information on impacts and costs, or information concerning alignment with the processes of other agencies; and
- Specific identification of any aspects of the Bureau's enforcement processes that should not be modified, consistent with the Bureau's statutory objectives, and

including supporting data or other information on impacts and costs, or information concerning alignment with the processes of other agencies.

The following list of general areas represents a preliminary attempt by the Bureau to identify elements of its enforcement processes that may be deserving of more immediate focus. This non-exhaustive list is meant to assist in the formulation of comments and is not intended to restrict the issues that may be addressed. In addressing these topics or others, the Bureau requests that commenters identify with specificity the Bureau regulations or practices at issue, providing legal citations where appropriate and available. Please feel free to comment on some or all of the topics below, but please be sure to indicate on which area you are commenting. To provide comments specifically on the Bureau's Civil Investigative Demand (CID) processes, please respond to the specific Request for Information on that topic, Docket No. 2018-CFPB-0001, 83 FR 3686 (Jan. 26, 2018). To provide comments specifically on the Bureau's rules of practice for adjudication proceedings, please respond to the specific Request for Information on that topic, Docket No. 2018-CFPB-0002, 83 FR 5055 (Feb. 5, 2018).

The Bureau is seeking feedback on all aspects of its enforcement processes, including but not limited to:

1. Communication between the Bureau and the subjects of investigations, including the timing and frequency of those communications, and information provided by the Bureau on the status of its investigation;
2. The length of Bureau investigations;
3. The Bureau's Notice and Opportunity to Respond and Advise process, including:
 - a. CFPB Bulletin 2011-04, Notice and Opportunity to Respond and Advise (NORA), issued November 7, 2011 (updated January 18, 2012) and available

at <http://files.consumerfinance.gov/f/2012/01/Bulletin10.pdf>, including whether invocation of the NORA process should be mandatory rather than discretionary; and

- b. The information contained in the letters that the Bureau may send to subjects of potential enforcement actions pursuant to the NORA process, as exemplified by the sample letter available at

<http://www.consumerfinance.gov/wp-content/uploads/2012/01/NORA-Letter1.pdf>;

4. Whether the Bureau should afford subjects of potential enforcement actions the right to make an in-person presentation to Bureau personnel prior to the Bureau determining whether it should initiate legal proceedings;
5. The calculation of civil money penalties, consistent with the penalty amounts and mitigating factors set out in 12 U.S.C. 5565(c), including whether the Bureau should adopt a civil money penalty matrix, and, if it does adopt such a matrix, what that matrix should include;
6. The standard provisions in Bureau consent orders, including conduct, compliance, monetary relief, and administrative provisions; and
7. The manner and extent to which the Bureau can and should coordinate its enforcement activity with other Federal and/or State agencies that may have overlapping jurisdiction.

AUTHORITY: 12 U.S.C. 5511(c).

[THIS SIGNATURE PAGE PERTAINS TO THE REQUEST FOR INFORMATION
TITLED “REQUEST FOR INFORMATION REGARDING BUREAU ENFORCEMENT
PROCESSES”]

Dated: February 6, 2018.



Mick Mulvaney,

Acting Director, Bureau of Consumer Financial Protection.