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BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1091

[Docket No. CFPB–2022–0024]

Supervisory Authority Over Certain Nonbank Covered Persons Based on Risk Determination; Public Release of Decisions and Orders

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Final rule.

SUMMARY: The Consumer Financial Protection Bureau (Bureau) has procedures for establishing supervisory authority over a nonbank covered person based on a risk determination, which the Bureau recently amended in April 2022 (Updated Procedural Rule). The Updated Procedural Rule added a new process to the procedures, for the Bureau to consider making final decisions and orders in these proceedings public, in whole or in part. While the Bureau strongly believes in supervisory confidentiality, these particular decisions and orders present unique circumstances that implicate important public interests in transparency. The Updated Procedural Rule did not affect the confidentiality of supervisory examinations or other aspects of the supervisory process. The Bureau is making specific changes to that rule in response to comments, in order to clarify the standard that will govern whether a decision or order will be publicly released, as well as to give respondents in proceedings additional time to provide input on that issue.

DATES: This rule is effective on [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Christopher Shelton, Senior Counsel, Legal Division, at 202-435-7700. If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov*.

SUPPLEMENTARY INFORMATION:

I. Overview

Among other sources of supervisory authority, the Bureau can supervise a nonbank covered person that the Bureau "has reasonable cause to determine, by order, after notice to the covered person and a reasonable opportunity for such covered person to respond . . . is engaging, or has engaged, in conduct that poses risks to consumers with regard to the offering or provision of consumer financial products or services."[1] The Bureau issued a procedural rule in 2013 to govern these proceedings, which is codified at 12 CFR part 1091.[2] Under the original procedures, the Director's final decision or order in the proceeding generally could not be publicly released.

The Updated Procedural Rule that the Bureau issued in April 2022 amended these procedures, creating a process for the Director to consider whether to publicly release a final decision or order.[3] The Updated Procedural Rule was exempt from the notice-and-comment requirements of the Administrative Procedure Act (APA), because it was a rule of agency organization, procedure, and practice. Consequently, it was effective upon publication. However, the Bureau invited the public to submit comments.

The Bureau received nineteen comments. Many of the comments raised substantive issues regarding the entities that commenters believe the Bureau should designate, or how the

[1] 12 U.S.C. 5514(a)(1)(C). The Bureau must base such reasonable-cause determinations on complaints collected by the Bureau under 12 U.S.C. 5493(b)(3), or on information collected from other sources. *Id.*

[2] 78 FR 40351 (July 3, 2013); *see also* 85 FR 75194 (Nov. 24, 2020) (updating certain cross-references to 12 CFR part 1070). The 2013 procedural rule discussed the background and legal authority for 12 CFR part 1091 in more detail.

[3] 87 FR 25397 (Apr. 29, 2022).

Bureau should approach the "risks to consumers" standard. These comments are welcome, but the Bureau is not addressing those substantive issues in this procedural rulemaking.

After considering the comments on the Updated Procedural Rule, the Bureau is making two changes. First, as urged by several commenters, the Bureau is codifying a standard in the rule to govern the determination of whether to publicly release a decision or order. Second, at the request of one commenter, the Bureau is extending the time period that the rule gives to respondents to file a submission on the issue of public release. Part II of this preamble discusses in more detail the significant comments that the Bureau received.

II. Discussion

A. General comments on public release of decisions and orders

The preamble to the Updated Procedural Rule explained that a central principle of the supervisory process is confidentiality. At the same time, final decisions and orders in part 1091 proceedings present unique considerations compared to other supervisory activity. There is a public interest in transparency when it comes to these potentially significant rulings by the Director as head of the agency. Also, if a decision or order is publicly released, it would be available as a precedent in future proceedings. Accordingly, the Bureau found that there should be a procedural mechanism to determine whether all or part of a decision or order should be publicly released.

Several trade associations and a credit union supported this approach. One association stated that public release would benefit all financial institutions by providing more clear examples of the types of acts and practices that pose risks to consumers. Another association noted that it was opposed to any erosion of confidentiality in the supervisory process itself, but it agreed with the Bureau that public release in this unique context could be insightful for both the

public and other stakeholders. Similarly, a third association supported the change but emphasized that examinations should be confidential.

Other trade associations, a law firm, and an individual opposed any public release. One trade association expressed concern that public release would harm the Bureau's subsequent supervisory relationship with respondents. Several comments argued that public release would harm the reputations of companies. Relatedly, some commenters argued that the Bureau's risk determinations would be based on incomplete information about the respondent's practices, so there may be uncertainty about what specific practices the Bureau would find unlawful after a full investigation. According to these commenters, this could create uncertainty in the market and discourage lawful conduct and/or products that are beneficial to consumers. One comment also argued that the possibility of public release of the final decision could discourage the respondent from being candid when responding to a notice of reasonable cause issued by the Bureau. Some comments asserted that the approach the Updated Procedural Rule takes to respondents in risk-designation proceedings is inconsistent with the approach the Bureau takes to other supervised entities. Finally, some commenters argued that the rule was inconsistent with the approach of other financial regulators, although these comments did not cite specific examples.

After considering these comments, the Bureau continues to believe that there should be a process to publicly release final decisions and orders, in whole or in part, under appropriate circumstances. As the preamble to the Updated Procedural Rule explained, the public has an interest in understanding these consequential decisions. It can also be important for both the Bureau and the respondent in a risk-determination proceeding to be able to cite publicly available precedents from previous proceedings and assess whether or not they are analogous. This

promotes consistency and predictability.[4] And the Bureau is not persuaded that public release—subject to the Director's authority to withhold or redact information when appropriate—would be harmful, for the reasons explained below.

First, public release of decisions and orders should generally cause no harm to the supervisory process, and those situations where there is a risk of harm can be addressed on a case-specific basis by withholding or redacting the relevant details. As background, the D.C. Circuit has explained that supervisory examinations are an informal process, where "bank management must be open and forthcoming in response to the inquiries of bank examiners, and the examiners must in turn be frank in expressing their concerns about the bank."[5] That informal give and take requires confidentiality. However, a final decision or order by the Bureau's Director, which requires a respondent to submit to supervision, is very different in character from the collaborative back-and-forth between examiners and company employees that is the heart of the supervisory process.

Nonetheless, after considering the comments, the Bureau does foresee one circumstance where the need for supervisory confidentiality could potentially counsel against releasing information. Hypothetically, if the Director's decision or order were to include information about specific potential violations of law by the respondent, or specific potential compliance management deficiencies, and if that information were not otherwise publicly available (such as in a prior enforcement action by the Bureau or another regulator), that could be a situation where the risk of harm to the supervisory process potentially outweighs the public interest in

[4] One trade association asserted that the relevant decisions or orders have no precedential value because they would not be binding in a future proceeding, and also that each case is unique. The Bureau disagrees that precedents are only relevant when they are binding. The Bureau agrees that cases may or may not be analogous to one another, and some cases may turn on unique facts, but that can be true in any body of precedent.

[5] *In re Subpoena Served upon the Comptroller of the Currency*, 967 F.2d 630, 634 (D.C. Cir. 1992).

transparency. That is because publicly revealing this information might signal the specific focus of subsequent confidential examinations. Accordingly, redactions may be warranted in that circumstance, as discussed further in part II.C of this preamble, below.

At the same time, the Bureau notes that Congress authorized the Bureau to make a risk designation when it has "reasonable cause to determine" that there are "risks to consumers."[6] Congress did not require the Bureau to make findings that a respondent has violated the law or has compliance management deficiencies—instead, that is part of the purpose of subsequent examinations of the respondent.

The Bureau's risk-designation authority gives the Bureau's supervision program the ability to move as quickly as the marketplace. For instance, fast-growing companies in nontraditional areas of the consumer finance market may be engaged in novel activities that warrant supervisory attention because of their risks to consumers. And there can also be supervisory gaps in more traditional areas of the market that ought to be filled. Through the supervisory process, CFPB examiners can work with the company in question to fully understand and manage its risks. This preferably would occur before there has been any violation of law or consumer harm, rather than after.

Accordingly, the Bureau does not anticipate that most decisions and orders would include the kind of specific information about potential violations of law or compliance management deficiencies that warrant redactions.

With respect to commenters' concerns about reputational harm, there is no reason to believe that proceedings under part 1091—which provide a fair opportunity for the respondent to present its position to the agency and which are subject to judicial review—are more likely than

[6] 12 U.S.C. 5514(a)(1)(C).

any other legal proceeding to result in inaccurate findings the release of which would unfairly harm the respondent's reputation. In addition, to the extent the Bureau redacts nonpublic information about specific potential violations of law or specific potential compliance management deficiencies, for the supervisory reasons discussed above and in part II.C below, any reputational concerns would be attenuated.[7]

The Bureau emphasizes that the mere fact that the Bureau designates a nonbank covered person for supervision is not an allegation of wrongdoing. As a comparison, Congress decided that insured depository institutions and insured credit unions with more than $10 billion in assets would be subject to Bureau supervision, and the Bureau has published a list of those institutions on its website, for informational purposes, since the transfer of authority to the Bureau in 2011.[8] The fact that those depository institutions and credit unions are subject to Bureau supervision does not mean that they are engaged in violations of law. Similarly, an order designating a nonbank covered person for supervision only means that the Bureau believes that supervision is warranted, based on the statutory standard for those designations. Like with all institutions that it supervises, the Bureau will then use the confidential supervisory process to, among other things, assess the nonbank covered person's compliance with Federal consumer financial law.

The Bureau is also not persuaded by the comments arguing that public release would create uncertainty in the market. These comments assume that market participants would misunderstand the nature of the Bureau's findings, and so they would be better off having no

[7] Relatedly, a law firm argued that respondents would have to expend substantial resources preparing for and addressing the reputational impact of public release. The Bureau agrees that respondents may choose to incur some public-relations-management and other costs to publicly respond to a public decision or order, but that is true of any adverse government decision and not an appropriate rationale, in itself, for keeping such decisions secret from the public.

[8] *See* Institutions Subject to the Bureau's Supervisory Authority, https://www.consumerfinance.gov/compliance/supervision-examinations/institutions/.

information about the Bureau's views. But the comments do not explain why market participants cannot be trusted to read the Bureau's decisions for themselves, to assess what significance those decisions may or may not have. It seems doubtful that a regulated entity would achieve greater certainty by remaining uninformed of its regulator's activities, or that the market as a whole functions more effectively when it has to guess about the market regulator's activities.[9]

The Bureau also does not believe that it is necessary, as a general matter, for the final order to be confidential in order for the initiating official to formulate a notice of reasonable cause under part 1091 and for a respondent to effectively respond to that notice. It is conceivable that a complete guarantee of confidentiality might result in respondents providing some amount of additional information in their responses. But a proceeding under part 1091 does not depend to the same degree as an examination on complete confidentiality. The Bureau believes that the public interest in transparency regarding the Director's decision or order will generally outweigh this consideration.

There is also no inconsistency between the approach that the Bureau is taking to respondents in risk-designation proceedings compared to other supervised entities. As noted above, the Bureau publicly releases a list of the insured depository institutions and insured credit unions that meet the $10 billion asset threshold to be subject to its supervisory authority. The Bureau does not currently publish such a list for the categories of nonbank covered persons that fall under its supervisory authority by statute or rule. A principal reason is that there is no

[9] On a similar note, a trade-association comment expressed concern that public release could inspire private lawsuits against respondents. It is true that Congress has chosen to make several of the laws that the Bureau administers privately enforceable by consumers. Such litigation may be meritorious or non-meritorious. There is no reason to believe that the Bureau's considered findings, informed by a fair administrative process, will increase the proportion of non-meritorious litigation.

available process to definitely establish whether a nonbank covered person engages in business activities that bring the nonbank covered person within those categories, other than when the Bureau initiates a specific confidential examination. That difficulty does not arise when the Bureau's Director has issued a final decision or order in a part 1091 proceeding. The Bureau emphasizes that it is committed to protecting examination confidentiality for all categories of entities that it supervises, in accordance with its confidentiality rules.[10]

Finally, there is no inconsistency between the Bureau and other financial regulators in this context. Generally, the prudential regulators supervise institutions based on their status as banks or credit unions, so the role that Congress assigned to the Bureau in extending supervision to nonbank covered persons based on their risks to consumers is unique. A roughly analogous situation is when the Secretary of the Treasury, the Chair of the Federal Reserve Board, the Director of the Bureau, and the other members of the Financial Stability Oversight Council make a determination that a nonbank financial company will become subject to Federal Reserve supervision, because that company "could pose a threat to the financial stability of the United States."[11] The Council normally publishes a detailed explanation of its reasons. Any member of the public can read those reasons on the Council's webpage.[12]

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[10] 12 CFR part 1070. In a related vein, one trade association argued that the Bureau's approach to final orders in risk-designation proceedings is inconsistent with the fact that it treats civil investigative demands (CIDs) issued by the Office of Enforcement as generally confidential. This objection overlooks the fact that when the Director as head of the agency rules on petitions to modify or set aside CIDs, the Bureau normally posts the Director's orders on its website in the interest of transparency. 12 C.F.R. 1080.6(g).

[11] 12 U.S.C. 5323(a)(1), (b)(1).

[12] Financial Stability Oversight Council, Designations, https://home.treasury.gov/policy-issues/financial-markets-financial-institutions-and-fiscal-service/fsoc/designations. Of course, many features of the Council's determinations are dissimilar to the Bureau's risk determinations because of differences between the financial-stability and consumer-protection contexts, so the Bureau does not intend to suggest they are analogous in all respects. The Bureau further notes that, even if the Bureau's approach were different from other agencies (which it is not), the Bureau is free to pursue the approach that best achieves its view of its own statutory mission.

In summary, the Bureau is not persuaded by these commenters' arguments that public release of decisions and orders, in appropriate circumstances, would be harmful. However, as discussed in part II.C below, the Director will consider arguments that there are reasons why a particular decision or order should be withheld or redacted.[13]

B. Alternatives to public release proposed by commenters

Some commenters who opposed public release advocated for alternatives. These included: releasing only the names of supervised nonbanks but not the final decisions and orders themselves; relying on potential lawsuits seeking judicial review of decisions and orders to make information about them publicly available; adding anonymized summaries of decisions and orders to the Bureau's *Supervisory Highlights* publication; or including anonymized findings from subsequent exams of designated entities in *Supervisory Highlights*.

Ultimately, these alternatives would be inadequate to meet the goals of the Updated Procedural Rule. Releasing only the names of designated entities, or allowing only those proceedings that are challenged in court to enter the public domain, would provide the public with much less insight into the Bureau's use of its risk-designation authority and much less in the way of precedents to inform future risk-designation proceedings. Similarly, summarizing the Director's decisions and orders in an anonymized form in *Supervisory Highlights* would involve removing all potentially identifying information, which would likely deprive the public of information and context to understand the Director's decision regarding whether the individual entity satisfies the statutory standard for risk designation.

[13] A trade association argued that a decision highlighting a respondent's need to enhance cybersecurity could invite cybercrime. This kind of case-specific concern is properly analyzed on a case-by-case basis, under the standard discussed later in this preamble.

The Bureau does agree with commenters that significant findings from exams of designated entities, like significant findings from other Bureau exams, will be eligible for potential inclusion in *Supervisory Highlights* if that is appropriate under the circumstances and can be done while maintaining the entities' anonymity. Anonymity is important in that circumstance, because exam findings for an individual entity are part of the collaborative back-and-forth of the supervisory process and do not represent a final Director decision. The Director's final decision and order is different, for the reasons explained above. And although using *Supervisory Highlights* to release public summaries of significant exam findings is valuable, doing so would provide no direct insight into the Director's original decision to make a risk designation, so it is not a substitute for releasing the decision.

C. Standard for when the Bureau would publicly release a decision or order

In the preamble to Updated Procedural Rule, the Bureau noted that rule did not codify a standard to govern public release. However, the preamble explained that the Bureau generally anticipated applying Exemptions 4 and 6 of the Freedom of Information Act to information submitted by respondents that is reflected in final decisions and orders.[14] Exemption 4 applies to "trade secrets and commercial or financial information obtained from a person and privileged or confidential," while Exemption 6 applies to "personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy."[15] The Bureau stated that it would also consider (in the context of making individual determinations regarding public release) whether there are other reasons to not publicly release the decision or order, in whole or in part.

[14] 5 U.S.C. 552(b)(4), (b)(6).

[15] *Id.*

The Bureau specifically invited comments on whether it should amend the rule to codify a standard for determinations regarding public release. Commenters generally supported doing so, although there was disagreement among commenters about the best standard. One trade association stated that FOIA Exemptions 4 and 6 could reasonably apply to a wide variety of sensitive information and would give respondents ample means to limit the contents of a public order. Other commenters argued that FOIA Exemptions 4 and 6 are too limited, might not cover certain sensitive data, and are uncertain in scope.

After considering the comments, the Bureau is codifying a standard in the rule, which is that the Director will not release information in a decision or order to the extent it would be exempt from disclosure under FOIA Exemptions 4 and 6 or the Director determines there is other good cause. This standard is similar to the approach that the Bureau articulated in the preamble to the Updated Procedural Rule and requested comment upon. This approach will provide assurance to respondents that the Bureau will protect the categories of information included in those two FOIA exemptions, while not foreclosing respondents from raising, or the Director from invoking, other grounds that may arise. The Bureau disagrees with some commenters that the scope of Exemptions 4 and 6 is too uncertain, given that these exemptions are routinely applied by agencies and courts, or that the exemptions are too narrow, given that they are the method Congress has chosen to protect commercial interests and personal privacy interests in the FOIA context.[16] However, the standard adopted by the Bureau does not foreclose

[16] A law firm argued that the Bureau should add FOIA Exemption 3 to the list of exemptions, but the Bureau concludes that would create confusion. Exemption 3 resolves potential conflicts between FOIA disclosure and certain other federal statutes. 5 U.S.C. 552(b)(3). It contains requirements that may not be appropriate in a non-FOIA context. For instance, if a federal statute is "enacted after the date of enactment of the OPEN FOIA Act of 2009," such a statute can only provide a basis for withholding records from a FOIA requester under Exemption 3 if it "specifically cites to" Exemption 3. 5 U.S.C. 552(b)(3)(B). But placing such a condition on applicable statutes is not necessarily appropriate in this non-FOIA context. Any statutory requirements are best addressed within the

respondents from arguing that information not within those exemptions ought to be withheld for "good cause."

A potential example of "good cause" is the supervisory considerations noted in part II.A above. The Bureau generally expects to redact information about specific potential violations of law, or specific potential compliance management deficiencies, where the information is not otherwise publicly available, and where the Bureau concludes there is a risk of harm to the supervisory process that outweighs the public interest in transparency.

D. Input by respondents into the determination regarding public release

Section 1091.115(c)(2) of the Updated Procedural Rule provided that, within seven business days[17] of service of the decision or order, the respondent had the option of filing a submission on the issue of public release, and then the Director would determine whether the decision or order would be released on the Bureau's website, in whole or in part.[18]

A law firm argued that the Bureau should conduct a formal adjudicatory process when deciding whether to publicly release a decision or order—separate from and in addition to the substantive part 1091 proceeding—in which a decisionmaker other than the Director would conduct a hearing. The Bureau believes that the process established by the rule provides

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category of "good cause," since compliance with an applicable statute would necessarily be "good cause," rather than by relying on Exemption 3.

[17] Under the general rule for counting days in part 1091, the seven-day interval does not include intermediate Saturdays, Sundays, and Federal holidays. 12 C.F.R. 1091.114(a). This preamble uses the term "business days" for convenience.

[18] The preamble to the Updated Procedural Rule also noted two other features of how § 1091.115(c)(2) operates. First, the Director's authority regarding public release can be delegated to a designee of the Director under existing § 1091.101. Second, the Updated Procedural Rule did not extend the staff separation-of-functions requirement in § 1091.109(c), which applies to the Director's final decision and order, to the Director's subsequent determination regarding public release. Doing so would not be required by law, and the routine determination of whether to post material on the Bureau's website is not sufficiently significant to warrant doing so. The Bureau did not receive comments opposing these two features of the rule, and the Bureau is retaining them. Some commenters, although not appearing to oppose the latter feature, disputed the description of the determination as routine. However, it is routine for federal agencies to decide whether to release or withhold information regarding regulated entities.

respondents with a full opportunity to raise any concerns regarding public release. The process proposed by the law firm would be cumbersome and disproportionate, resulting in excessive delay, unnecessary costs for the government, and additional legal fees for respondents.[19]

The law firm argued, in the alternative, that the seven-business-day interval for respondents to file their submissions regarding public release should be extended. The law firm cited some examples where other agencies provide companies with ten business days to address confidentiality issues in those agencies' programs. While the Bureau believes that the burden on a respondent to assess whether the text of a single decision or order contains confidential information is likely to be limited, it will err on the side of caution by extending the interval to ten business days.

E. Discussion of impacts of the rule

The preamble to the Updated Procedural Rule explained that it will have limited effects on the public. Nonbank covered persons that are respondents may incur incidental costs, if they choose to prepare submissions on the issue of public release. The preamble stated that the rule itself did not trigger public release of decisions and orders, since it simply established a procedure to consider that issue. It further noted that, if the Bureau does ultimately decide to release a decision or order, that should generally benefit covered persons, consumers, and other members of the public by giving them a better understanding of the Bureau's decisionmaking. This discussion from the Updated Procedural Rule remains applicable to this rule, which adds a

[19] The same comment cites examples of other agencies' practice that appear to be inconsistent with its argument that a formal adjudicatory process with a hearing is necessary. The comment cites, with approval, three agencies' processes for deciding whether to release business information under FOIA. Under those three agencies' FOIA regulations, like the Bureau's FOIA regulations, the agency generally provides notice to the submitter of the business information and an opportunity for the submitter to file an objection to the potential FOIA disclosure, and the regulations do not reference any trial-type hearing. 29 CFR 1610.19; 31 CFR 1.5; 45 CFR 5.42; 12 CFR 1070.20.

standard for making the determination on public release and extends the interval for respondents to make submissions on that issue.

One trade association responded to the Bureau's observation that the Updated Procedural Rule did not itself trigger public release of decisions and orders, arguing that the Bureau was ignoring the consequences of the rule. However, the statement with which this trade association took issue is accurate: the Updated Procedural Rule did not cause public release by itself. The Bureau agrees that the procedures in that rule and this rule enable public release, and in both rules the Bureau has considered the consequences of such public release.

Other comments that relate to the impacts of public release of decisions and orders are addressed in part II.A above.

F. Interagency consultation

In formulating both the Updated Procedural Rule and this rule, the Bureau has consulted the prudential regulators and the Federal Trade Commission.

III. Regulatory Requirements

The preamble to the Updated Procedural Rule explained that, as a rule of agency organization, procedure, or practice, it was exempt from the notice-and-comment rulemaking requirements of the APA.[20]

Because no notice of proposed rulemaking was required, the Regulatory Flexibility Act does not require an initial or final regulatory flexibility analysis.[21] Moreover, the Bureau's Director certifies that this rule will not have a significant economic impact on a substantial

[20] 5 U.S.C. 553(b).

[21] 5 U.S.C. 603, 604.

number of small entities. Therefore, an analysis is also not required for that reason.[22] As a result of the rule, respondents in the relevant proceedings may choose to make submissions on the issue of public release. Some of these respondents may be small entities under the Regulatory Flexibility Act, but they would represent a very small fraction of small entities in consumer financial services markets. Accordingly, the number of small entities affected is not substantial.

The Bureau has also determined that this rule does not impose any new or revise any existing recordkeeping, reporting, or disclosure requirements on covered entities or members of the public that would be collections of information requiring approval by the Office of Management and Budget under the Paperwork Reduction Act.[23]

List of Subjects in 12 CFR Part 1091

Administrative practice and procedure, Consumer protection, Credit, Trade practices.

Authority and Issuance

Accordingly, the procedural rule; request for public comment that amended 12 CFR part 1091, which was published at 87 FR 25397 on April 29, 2022, is adopted as final with the following changes:

PART 1091 – PROCEDURAL RULE TO ESTABLISH SUPERVISORY AUTHORITY OVER CERTAIN NONBANK COVERED PERSONS BASED ON RISK DETERMINATION

1. The authority citation for part 1091 continues to read as follows:

   Authority: 12 U.S.C. 5512(b)(1), 5514(a)(1)(C), 5514(b)(7).

2. In § 1091.115, revise paragraph (c)(2) to read as follows:

[22] 5 U.S.C. 605(b).

[23] 44 U.S.C. 3501-3521.

§ 1091.115 Change of time limits and confidentiality of proceedings.

* * * * *

(c) * * *

(2) *Publication of final decisions and orders by the Director*. The Director will make a determination regarding whether a decision or order under § 1091.103(b)(2), § 1091.109(a), or § 1091.113(e) will be publicly released on the Bureau's website, in whole or in part. The respondent may file a submission regarding that issue, within ten days after service of the decision or order. The Director will not release information in a decision or order to the extent it would be exempt from disclosure under 5 U.S.C. 552(b)(4) or (b)(6) or the Director determines there is other good cause. The Director may also decide that the determination regarding public release will itself be released on the website, in whole or in part. Section 1091.109(c) is not applicable to determinations under this paragraph.

/*s*/ Rohit Chopra

Rohit Chopra,

Director, Consumer Financial Protection Bureau.