

§ 1732.7

an Enterprise, as appropriate, consistent with their respective roles and responsibilities to the Enterprise.

§ 1732.7 Record hold.

(a) *Definition.* For purposes of this part, the term “record hold” means a requirement, an order, or a directive from an Enterprise or OFHEO that the Enterprise is to retain records relating to a particular issue in connection with an actual or a potential OFHEO examination, investigation, enforcement proceeding, or litigation of which the Enterprise has received notice from OFHEO.

(b) *Notification by Enterprise.* The record retention program of an Enterprise shall:

(1) Address how employees and, as appropriate, how agents or independent contractors consistent with their respective roles and responsibilities to the Enterprise, will receive prompt notification of a record hold;

(2) Designate an individual to communicate specific requirements and instructions, including, when necessary, the instruction to cease immediately any otherwise permissible destruction of records; and,

(3) Provide that any employee and, as appropriate, any agent or independent contractor consistent with his or her respective role and responsibility to the Enterprise, who has received notice of a potential investigation, enforcement proceeding, or litigation by OFHEO involving the Enterprise or an employee, or otherwise has actual knowledge that an issue is subject to such an investigation, enforcement proceeding or litigation, shall notify immediately the legal department of the Enterprise and shall retain any records that may be relevant in any way to such investigation, enforcement proceeding, or litigation.

(c) *Method of record retention.* The record retention program of an Enterprise shall address the method by which the Enterprise will retain records during a record hold. Specifically, the program shall describe the method for the continued preservation of electronic records, including e-mails, and the conversion of records from paper to electronic format as well as any alternative storage method.

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(d) *Access to and retrieval of records.* The record retention program of an Enterprise shall ensure access to and retrieval of records by the Enterprise and access, upon request, by OFHEO, during a record hold. Such access shall be by reasonable means, consistent with the nature and availability of the records and existing information technology.

§§ 1732.8–1732.9 [Reserved]

Subpart C—Supervisory Action

§ 1732.10 Supervisory action.

(a) *Supervisory action.* Failure by an Enterprise to comply with this part may subject the Enterprise or the board members, officers, or employees thereof to supervisory action by OFHEO under the Act, including but not limited to cease-and-desist proceedings, temporary cease-and-desist proceedings, and civil money penalties.

(b) *No limitation of authority.* This part does not limit or restrict the authority of OFHEO to act under its safety and soundness mandate, in accordance with the Act. Such authority includes, but is not limited to, conducting examinations, requiring reports and disclosures, and enforcing compliance with applicable laws, rules, and regulations.

PART 1750—CAPITAL

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