

not limited to, a subpoena or discovery request or a request made pursuant to the Freedom of Information Act, 5 U.S.C. 552, the Privacy Act of 1974, 5 U.S.C. 552a, or any state analogue to such statutes) should:

(i) Inform the General Counsel of such request or demand in writing and provide the General Counsel with a copy of such request or demand as soon as practicable after receiving it;

(ii) In the case of a request made pursuant to the Freedom of Information Act, 5 U.S.C. 552, the Privacy Act, 5 U.S.C. 552a, or any state analogue to such statutes, advise the requester that:

(A) The confidential information sought may not be disclosed insofar as it is the property of the CFPB; and

(B) Any request for the disclosure of such confidential information is properly directed to the CFPB pursuant to its regulations set forth in this part.

(iii) In the case of all other types of requests or demands, consult with the General Counsel before complying with the request or demand, and to the extent applicable:

(A) Give the CFPB a reasonable opportunity to respond to the demand or request;

(B) Assert all reasonable and appropriate legal exemptions or privileges that the CFPB may request be asserted on its behalf; and

(C) Consent to a motion by the CFPB to intervene in any action for the purpose of asserting and preserving any claims of confidentiality with respect to any confidential information.

(4) Nothing in this section shall prevent a supervised financial institution, federal or state agency, any officer, director, employee or agent thereof, or any other person to whom the information is made available under this subpart from complying with a legally valid and enforceable United States federal court order compelling production of the CFPB's confidential information or, if compliance is deemed compulsory, with a request or demand from either House of the Congress or a duly authorized committee of the Congress. To the extent that compulsory disclosure of confidential information occurs as set forth in this paragraph, the producing party shall use its best

efforts to ensure that the requestor secures an appropriate protective order or, if the requestor is a legislative body, use its best efforts to obtain the commitment or agreement of the legislative body that it will maintain the confidentiality of the confidential information.

(5) No person obtaining access to confidential information pursuant to this subpart may make a personal copy of any such information, and no person may remove confidential information from the premises of the institution or agency in possession of such information except as permitted by specific language in this regulation or by the CFPB.

(b) *Additional conditions and limitations.* The CFPB may impose any additional conditions or limitations on disclosure or use under this subpart that it determines are necessary.

(c) *Non-waiver.* (1) *In general.* The CFPB shall not be deemed to have waived any privilege applicable to any information by transferring that information to, or permitting that information to be used by, any Federal or State agency.

(2) *Rule of construction.* Paragraph (c)(1) of this section shall not be construed as implying that any person waives any privilege applicable to any information because paragraph (c)(1) does not apply to the transfer or use of that information.

[76 FR 45377, July 28, 2011, as amended at 77 FR 39623, July 5, 2012]

**§ 1070.48 Privileges not affected by disclosure to the CFPB.**

(a) *In general.* The submission by any person of any information to the CFPB for any purpose in the course of any supervisory or regulatory process of the CFPB shall not be construed as waiving, destroying, or otherwise affecting any privilege such person may claim with respect to such information under Federal or State law as to any person or entity other than the CFPB.

(b) *Rule of construction.* Paragraph (a) of this section shall not be construed as implying or establishing that—

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(1) Any person waives any privilege applicable to information that is submitted or transferred under circumstances to which paragraph (a) of this section does not apply; or

(2) Any person would waive any privilege applicable to any information by submitting the information to the CFPB but for this section.

[77 FR 39623, July 5, 2012]

### Subpart E—The Privacy Act

#### § 1070.50 Purpose and scope; definitions.

(a) This subpart implements the provisions of the Privacy Act of 1974, 5 U.S.C. 552a (the “Privacy Act”). The regulations apply to all records maintained by the CFPB and which are retrieved by an individual’s name or personal identifier. The regulations set forth the procedures for requests for access to, or amendment of, records concerning individuals that are contained in systems of records maintained by the CFPB. These regulations should be read in conjunction with the Privacy Act, which provides additional information about this topic.

(b) For purposes of this subpart, the following definitions apply:

(1) The term *Chief Privacy Officer* means the Chief Information Officer of the CFPB or any CFPB employee to whom the Chief Information Officer has delegated authority to act under this part;

(2) The term *guardian* means the parent of a minor, or the legal guardian of any individual who has been declared to be incompetent due to physical or mental incapacity or age by a court of competent jurisdiction;

(3) *Individual* means a citizen of the United States or an alien lawfully admitted for permanent residence;

(4) *Maintain* includes maintain, collect, use, or disseminate;

(5) *Record* means any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, his education, financial transactions, medical history, and criminal or employment history and that contains his name or the identifying number, symbol, or other identifying particular as-

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signed to the individual, such as a finger or voiceprint or a photograph;

(6) *Routine use* means the disclosure of a record that is compatible with the purpose for which it was collected;

(7) *System of records* means a group of any records under the control of an agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual; and

(8) *Statistical record* means a record in a system of records maintained for statistical research or reporting purposes only and not used in whole or in part in making any determination about an identifiable individual, except as provided by 13 U.S.C. 8.

#### § 1070.51 Authority and responsibilities of the Chief Privacy Officer.

The Chief Privacy Officer is authorized to:

(a) Respond to requests for access to, accounting of, or amendment of records contained in a system of records maintained by the CFPB;

(b) Approve the publication of new systems of records and amend existing systems of record; and

(c) File any necessary reports related to the Privacy Act.

#### § 1070.52 Fees.

(a) *Copies of records.* The CFPB shall provide the requester with copies of records requested pursuant to section 1070.53 of this subpart at the same cost charged for duplication of records under § 1070.22 of this part.

(b) *No fee.* The CFPB will not charge a fee if:

(1) Total charges associated with a request are less than \$5, or

(2) The requester is a CFPB employee or former employee, or an applicant for employment with the CFPB, and request pertains to that employee, former employee, or applicant.

#### § 1070.53 Request for access to records.

(a) *Procedures for making a request for access to records.* An individual’s requests for access to records that pertain to that individual (or to the individual for whom the requester serves as guardian) may be submitted to the