

**§ 1075.100 Scope and purpose.**

Section 1017(d)(1) of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, Public Law 111-203, 124 Stat. 1978 (12 U.S.C. 5497(d)) (Dodd-Frank Act) establishes the “Consumer Financial Civil Penalty Fund.” This part describes the conditions under which victims will be eligible for payments from the Consumer Financial Civil Penalty Fund and the amounts of the payments they may receive. This part also establishes procedures and guidelines for allocating funds from the Consumer Financial Civil Penalty Fund to classes of victims and distributing such funds to individual victims, and for allocating funds to consumer education and financial literacy programs. This part also establishes reporting requirements.

**§ 1075.101 Definitions.**

For the purposes of this part, the following definitions apply:

*Bureau* means the Bureau of Consumer Financial Protection.

*Bureau enforcement action* means any judicial or administrative action or proceeding in which the Bureau has obtained relief with respect to a violation.

*Chief Financial Officer* means the Chief Financial Officer of the Bureau or any Bureau employee to whom that officer has delegated authority to act under this part. In the absence of a Chief Financial Officer of the Bureau, the Director shall designate an alternative official of the Bureau to perform the functions of the Chief Financial Officer under this part.

*Civil Penalty Fund* means the Consumer Financial Civil Penalty Fund established by 12 U.S.C. 5497(d).

*Civil Penalty Fund Governance Board* means the body, comprised of senior Bureau officials, established by the Director of the Bureau to advise on matters relating to the Civil Penalty Fund.

*Class of victims* means a group of similarly situated victims who suffered harm from the same or similar violations for which the Bureau obtained relief in a Bureau enforcement action.

*Defendant* means a party in a Bureau enforcement action that is found or alleged to have committed a violation.

*Final order* means a consent order or settlement issued by a court or by the Bureau, or an appealable order issued by a court or by the Bureau as to which the time for filing an appeal has expired and no appeals are pending. For purposes of this definition, “appeals” include petitions for reconsideration, review, rehearing, and certiorari.

*Person* means an individual, partnership, company, corporation, association (incorporated or unincorporated), trust, estate, cooperative organization, or other entity.

*Redress* means any amounts—including but not limited to restitution, refunds, and damages—that a final order requires a defendant:

- (1) To distribute, credit, or otherwise pay to those harmed by a violation; or
- (2) To pay to the Bureau or another intermediary for distribution to those harmed by the violation.

*Victim* means a person harmed as a result of a violation.

*Violation* means any act or omission that constitutes a violation of law for which the Bureau is authorized to obtain relief pursuant to 12 U.S.C. 5565(a).

**§ 1075.102 Fund administrator.**

(a) *In general.* There is established the position of Civil Penalty Fund Administrator (Fund Administrator). The Fund Administrator will report to the Chief Financial Officer. The Chief Financial Officer may, to the extent permitted by applicable law, relieve the Fund Administrator of the duties of that position without notice, without cause, and prior to the naming of a successor Fund Administrator.

(b) *Powers and duties.* The Fund Administrator will have the powers and duties assigned to that official in this part.

(c) *Interpretation of these regulations.*

(1) On its own initiative or at the Fund Administrator’s request, the Civil Penalty Fund Governance Board may advise or direct the Fund Administrator on the administration of the Civil Penalty Fund, including regarding the interpretation of this part and its application to particular facts and circumstances.

(2) The Fund Administrator must follow any written directions that the Civil Penalty Fund Governance Board

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provides pursuant to paragraph (c)(1) of this section.

(d) *Unavailability of the Fund Administrator.* If there is no Fund Administrator or if the Fund Administrator is otherwise unavailable, the Chief Financial Officer will perform the functions and duties of the Fund Administrator.

**§ 1075.103 Eligible victims.**

A victim is eligible for payment from the Civil Penalty Fund if a final order in a Bureau enforcement action imposed a civil penalty for the violation or violations that harmed the victim.

**§ 1075.104 Payments to victims.**

(a) *In general.* The Bureau will use funds in the Civil Penalty Fund for payments to compensate eligible victims' uncompensated harm, as described in to paragraph (b) of this section.

(b) *Victims' uncompensated harm.* (1) A victim's uncompensated harm is the victim's compensable harm, as described in paragraph (c) of this section, minus any compensation for that harm that the victim has received or is reasonably expected to receive.

(2) For purposes of paragraph (b)(1) of this section, a victim has received or is reasonably expected to receive compensation in the amount of:

(i) Any Civil Penalty Fund payment that the victim has previously received or will receive as a result of a previous allocation from the Civil Penalty Fund to the victim's class;

(ii) Any redress that a final order in a Bureau enforcement action orders to be distributed, credited, or otherwise paid to the victim, and that has not been suspended or waived and that the Chief Financial Officer has not determined to be uncollectible; and

(iii) Any other redress that the Bureau knows that has been distributed, credited, or otherwise paid to the victim, or has been paid to an intermediary for distribution to the victim, to the extent that:

(A) That redress compensates the victim for the same harm as would be compensated by a Civil Penalty Fund payment; and

(B) It is not unduly burdensome, in light of the amounts at stake, to determine the amount of that redress or the

extent to which it compensates the victim for the same harm as would be compensated by a Civil Penalty Fund payment.

(3) If the Fund Administrator deems it impracticable to assess the uncompensated harm of individual victims in a class, each individual victim's uncompensated harm will be the victim's share of the aggregate uncompensated harm of the victim's class.

(c) *Victims' compensable harm.* Victims' compensable harm for purposes of this part is as follows:

(1) If a final order in a Bureau enforcement action ordered redress for a class of victims, the compensable harm of each victim in the class is equal to that victim's share of the total redress ordered, including any amounts that are suspended or waived.

(2) If a final order in a Bureau enforcement action does not order redress for a class of victims, those victims' compensable harm is as follows:

(i) If the Bureau sought redress for a class of victims but a court or administrative tribunal denied that request for redress in the final order, the victims in that class have no compensable harm.

(ii) Except as provided in paragraph (c)(2)(i) of this section, if the final order in the Bureau enforcement action specifies the amount of the victims' harm, including by prescribing a formula for calculating that harm, each victim's compensable harm is equal to that victim's share of the amount specified.

(iii) Except as provided in paragraph (c)(2)(i) of this section, if the final order in the Bureau enforcement action does not specify the amount of the victims' harm, each victim's compensable harm is equal to the victim's out-of-pocket losses that resulted from the violation or violations for which a civil penalty was imposed, except to the extent such losses are impracticable to determine.

**§ 1075.105 Allocating funds from the Civil Penalty Fund—in general.**

(a) *In general.* The Fund Administrator will allocate Civil Penalty Fund funds specified in paragraph (c) of this section to classes of victims and to