(b) If judicial review is not obtained, the action of the TSOB Review Panel is final and binding on the parties for the purpose of resolving the particular decision under review.

§ 126.31 Administration of proceedings.

(a) A TSOB Review Panel has authority to govern the conduct of its proceedings and internal operations by establishing any additional rules or procedures that are not inconsistent with this part.

(b) If TSA withdraws its Determination of Security Threat at any time after a notice of appeal has been filed pursuant to § 126.13(a), the proceedings before the TSOB Review Panel are rendered moot and closed. TSA must file a notice of withdrawal of the Determination of Security Threat with the TSOB Docket Clerk within five calendar days of such withdrawal.

(c) TSOB Review Panel proceedings will generally be closed to the public. A TSOB Review Panel may, in its discretion, open its proceedings to the public. Classified information, SSI, or other protected information shall not be disclosed during administrative proceedings, in accordance with § 126.25(d).

Alejandro Mayorkas,

Secretary, U.S. Department of Homeland Security.

[FR Doc. 2024–05131 Filed 3–8–24; 11:15 am]

BILLING CODE 9110–9B–P

CONSUMER FINANCIAL PROTECTION BUREAU

12 CFR Part X

Consumer Financial Protection Circular 2024–01: Preferencing and Steering Practices by Digital Intermediaries for Consumer Financial Products or Services

AGENCY: Consumer Financial Protection Bureau.

ACTION: Consumer financial protection circular.

SUMMARY: The Consumer Financial Protection Bureau (Bureau or CFPB) has issued Consumer Financial Protection Circular 2024–01, titled, ''Preferencing and steering practices by digital intermediaries for consumer financial products or services.'' In this circular, the Bureau responds to the question, ''Can operators of digital comparison-shopping tools or lead generators violate the Consumer Financial Protection Act (CFPA) by preferencing products or services based on financial or other benefits to the operator?''

DATES: The Bureau released this circular on its website on February 29, 2024.

ADDRESSES: Enforcers, and the broader public, can provide feedback and comments to *Circulars@cfpb.gov.*

FOR FURTHER INFORMATION CONTACT: George Karithanom, Regulatory Implementation & Guidance Program Analyst, Office of Regulations, at 202–435–7700 or at: *https://www.reginquiries.consumerfinance.gov/*. If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.*

SUPPLEMENTARY INFORMATION:

Question Presented

Can operators of digital comparison-shopping tools or lead generators violate the Consumer Financial Protection Act (CFPA) by preferencing products or services based on financial or other benefits to the operator?

Response

Yes. Operators of digital comparison-shopping tools can violate the prohibition on abusive acts or practices if they distort the shopping experience by steering consumers to certain products or services based on remuneration to the operator. Similarly, lead generators can violate the prohibition on abusive practices if they steer consumers to one participating financial services provider instead of another based on compensation received. Where consumers reasonably rely on an operator of a digital comparison-shopping tool or a lead generator to act in their interests, the operator or lead generator can take unreasonable advantage of that reliance by giving preferential treatment to their own or other products or services through steering or enhanced product placement, for financial or other benefits.

Background

For many households, the process of shopping for a financial product or service now includes interactions with digital intermediaries. These intermediaries include websites, applications, or chatbots that operate as comparison-shopping tools, which consumers turn to for help with researching, comparing, and selecting consumer financial products or services. Offering a comparison-shopping tool for consumers and generating leads for financial companies can and sometimes do operate as distinct business models, and for the purposes of this circular, comparison-shopping tools and lead generators are discussed separately. However, consumers often interact with them in similar ways and many digital intermediaries operate as both, presenting themselves as consumer-serving comparison-shopping tools while simultaneously increasing profits by directing leads based on financial benefit. Digital intermediaries commonly receive remuneration or other benefits, sometimes referred to as ''bounties'' by market participants.

Digital Comparison-Shopping Tools

Consumers are increasingly using digital comparison-shopping tools to find consumer financial products or services that fit their interests.[1] These tools facilitate comparison shopping by presenting information about the costs, features, or other terms for a set of comparable financial products or services, such as credit cards, student loans, and savings accounts, offered by different providers. In addition to presenting options offered by third-party providers of financial products and services, some operators of digital comparison-shopping tools offer their own financial products and services and include their own options in the comparison-shopping tool.

Comparison-shopping information can be presented in a static or interactive format. In the latter case, some operators allow people who use the tool to sort options based on different criteria or to otherwise customize the presentation of information and options (sometimes after a default presentation). Also, some operators collect information from consumers and then purport to provide a list of options tailored to the consumers' particular circumstances or preferences. In other cases, operators just present an ordered list of recommended providers. Increasingly,

[1] As used in this circular, the term ''digital comparison-shopping tools'' includes both tools that overtly recommend certain products as well as tools that have the effect of affirmatively influencing consumers' likelihood of selecting or engaging with information about various consumer financial products and services. The term encompasses ''Digital Mortgage Comparison-Shopping Platforms,'' which are addressed in a recent advisory opinion regarding the Real Estate Settlement Procedures Act. *See* Digital Mortgage Comparison-Shopping Platforms and Related Payments to Operators, 88 FR 9162 (Feb. 13, 2023). The term also encompasses some ''digital marketing providers,'' which are discussed in a recent interpretive rule regarding the CFPA definition of ''service providers.'' *See* Limited Applicability of Consumer Financial Protection Act's ''Time or Space'' Exception with Respect to Digital Marketing Providers, 87 FR 50556 (Aug. 17, 2022). The scope of this circular, however, is different than the scope of either of those prior documents. This circular addresses all digital comparison-shopping tools that provide recommendations for or comparisons among any consumer financial products or services and addresses potential violations under the abusive prong of the CFPA.

digital comparison-shopping tools are using algorithms that order recommendations or ranking lists based on multiple variables, such as consumer characteristics, product features, consumer ratings, the likelihood a consumer would be approved, various click-through and application completion or approval rates, and provider compensation or bids.

Operators of digital comparison-shopping tools enter various types of commercial arrangements with providers of consumer financial products and services that participate in a comparison-shopping tool. Some operators receive revenue in exchange for the provision of time or space for advertising that is clearly set apart from the content of the comparison-shopping tool, like banner ads or pop-up advertisements.[2] This kind of advertising is not at issue in this circular.

Instead, this circular focuses on compensation arrangements from providers for preferential treatment by an operator of a digital comparison-shopping tool. Operators are sometimes paid by product providers on a fee-per-action basis—for example, by receiving fees per click, per application, per conversion, per offer, or per sale. Often, operators allow firms to bid against each other for advantageous placement by paying bounties, which can be targeted at customers fitting the characteristics a provider wants to acquire or aimed at meeting certain volume goals. The degree to which these bounties affect product placement depends on the operator's business model and the weight given to provider compensation over other factors.

Lead Generation

Lead generators in lending markets sell information about prospective customers to lenders. Lead generators sometimes perform this function without making any contact with the consumer—selling data on consumers as a specialty data broker. But these entities also collect data directly from consumers by advertising websites that present themselves as helping consumers get a loan or connect with lenders.[3]

When consumers submit their information to a lead generator indicating an interest in obtaining a loan, the lead generator sells the consumer's information to lenders to complete a loan transaction. Lead generators decide which lender obtains a lead based on a variety of criteria depending on the firm. They sometimes deploy algorithms to use many variables simultaneously to make these automated decisions, similar to digital comparison-shopping tools. Sometimes lead generators collect more information from consumers to assist lenders in determining whether to purchase a lead, and lead generators sometimes perform underwriting or origination tasks on behalf of partner lenders. In fact, in some cases the automated decision on which a lender obtains a lead can be so quick that the consumer's user experience between navigating to a lead generator's website and obtaining a loan can be continuous.

Similar to compensation agreements for operators of digital shopping tools, lead generators are paid by participating lenders using a variety of pricing models. Payments can similarly be charged as a fee-per-action, such as for each lead, or each completed application. Lenders sometimes pay for a number of leads, or a number of leads meeting certain criteria. And, similarly, some lead generators send leads to providers who bid the highest for a specific type of lead.[4]

Analysis and Findings

The CFPA prohibits covered persons or service providers from engaging in any unfair, deceptive, or abusive act or practice.[5] An act or practice in connection with the provision of a consumer financial product or service is abusive if it ''takes unreasonable advantage'' of certain circumstances, including ''the reasonable reliance by the consumer on a covered person to act in the interests of the consumer.''[6]

Protecting and facilitating people's ability to effectively compare and choose among options for consumer financial products or services is among the core statutory objectives of the CFPB.[7]

Below, this circular first addresses how an operator of a digital comparison-shopping tool or a lead generator might leverage consumer reliance to take unreasonable advantage of consumers where the operator or lead generator preferences particular providers or products over others in exchange for financial or other benefits to the operator, as opposed to making presentation or lead distribution decisions using other factors not relating to the operator or lead generator's relative compensation from different providers. The circular then provides examples of potentially abusive acts or practices by digital comparison-shopping tool operators.

CFPA Section 1031(d)(2)(C) Elements

Reasonable Reliance by the Consumer on a Covered Person To Act in the Interests of the Consumer

Digital comparison-shopping tool operators and lead generators can qualify as ''covered persons'' under CFPA section 1031(d)(2)(C). An operator or lead generator is a ''covered person'' if it offers or provides consumer financial products or services or is an affiliate of a person that offers or provides consumer financial products or services and acts as a service provider by including those products in the tool or providing leads.[8] Depending on the role that a digital comparison-shopping tool or lead generator plays in a consumer's shopping experience, it may be extending or brokering the credit products that consumers ultimately receive.[9] In addition, some digital comparison-shopping tools and lead generators may be providing financial

[2] Factors that inform whether advertisements are separate from the content of a comparison-shopping tool include whether content is completely visually separate from the presentation of product recommendations or results, such that paid content is not embedded or intertwined with a tool's presentation of product rankings or recommendations, and whether paid content is presented as a recommendation from the comparison-tool operator. However, the question of whether advertising content is separate from a comparison-shopping tool is fact specific and will often include consideration of other factors.

[3] *See, e.g.,* Compl., *FTC* v. *ITMedia Sols. LLC,* No. 2:22–cv–00073 (C.D. Cal. Jan. 5, 2022) (alleging that lead generator unlawfully used a ''loan application'' form to collect consumers' information by deceptively presenting itself as connecting consumers with lenders).

[4] *See, e.g.,* Am. Compl., *CFPB* v. *D & D Marketing, Inc.,* No. 2:15–cv–09692 (C.D. Cal. June 30, 2016) (alleging unfair and abusive acts or practices where lead aggregator ordered sales based primarily on the price providers would pay for leads).

[5] Although this circular focuses on the reasonable-reliance prong of the abusive prohibition, conduct discussed in this circular can also violate other prongs of the abusive prohibition under 12 U.S.C. 5531(d), 12 U.S.C. 5531 and 5536(a)(1)(B)'s prohibitions against unfair or deceptive acts or practices, or other Federal, State, or local laws.

[6] 12 U.S.C. 5531(d)(2)(C). *See generally* CFPB, *Policy Statement on Abusive Acts or Practices,* at 17–18 (April 3, 2023), *https://files.consumerfinance.gov/f/documents/cfpb_policy-statement-of-abusiveness_2023-03.pdf* (discussing reasonable-reliance abusive prong).

[7] Under the CFPA, a central purpose of the CFPB is to promote ''fair, transparent, and competitive'' markets. 12 U.S.C. 5511(a). Moreover, CFPA legislative history highlights that an important purpose of the CFPB is to ensure that ''a consumer can shop and compare products based on quality, price, and convenience without having to worry about getting trapped by the fine print into an abusive deal.'' S. Rep. No. 111–176, at 11, 229 (2010).

[8] *See* 12 U.S.C. 5481(6) (defining ''covered person''); 12 U.S.C. 5481(26) (defining ''service provider'').

[9] *See* 12 U.S.C. 5481(5), (15)(A)(i).

advisory services to consumers as well.[10]

Additionally, some operators or lead generators offer their own version of the consumer financial product or service that consumers seek to compare using the digital comparison-shopping tool or for which leads are generated—for example, where an operator of a credit-card digital comparison-shopping tool offers its own card on the tool. Other operators or lead generators offer consumer financial products or services of a different type from what consumers are using a tool to compare or for which leads are generated—for example, an operator of a credit-card digital comparison-shopping tool might use pop-up advertisements to promote credit-counseling or credit-repair services offered by itself or an affiliate.

Reasonable Reliance

Consumers sometimes reasonably rely on digital comparison-shopping tool operators or lead generators to act in their interests. Operators of digital comparison-shopping tools and lead generators can engender reasonable consumer reliance by virtue of playing the role of helping people select providers. They can also engender reasonable consumer reliance by virtue of their explicit and implicit representations and communications.

In particular, reasonable consumer reliance can exist because of a digital comparison-shopping tool's function in a market, such as when a tool operator assumes the role of acting on behalf of consumers or helping them to select products or services based on the consumer's interests.[11] The nature of people's interactions with the tool informs an evaluation of the digital comparison-shopping tool's function in the market. For example, consumers may reasonably rely on a tool that functions by ''matching'' people with consumer financial products or services, *i.e.,* providing curated recommendations based partly on information provided by the consumer.

In addition, if an operator explicitly or implicitly holds its tool out as presenting information based on the interests of the consumer, it may be reasonable for consumers to rely on the tool to function accordingly. A tool operator sometimes explicitly holds itself out as presenting information based on the interests of the consumer by directly stating so, such as by, for example, claiming its recommendations are objective.

An operator can also implicitly hold itself out as presenting information based on the interests of the consumer even if it does not explicitly claim to make objective recommendations. For example, the operator may emphasize its ''expertise'' in helping consumers evaluate options; describe its tool as providing ''research-based'' rankings of options for consumers; state to consumers that it will ''help you today'' to ''achieve your financial goals''; purport to match consumers with the ''best'' or ''right'' offers; or claim to ''put consumers first'' or to provide a ''one stop shop'' with all the information consumers need to make informed selections among potential providers.

In some contexts, background conditions, such as an association with a trusted institution, could factor into consumers' reasonable reliance on a digital comparison-shopping tool (*e.g.,* a financial aid and student loan advisory website that is associated with a college or university).[12] Other factors, such as evidence that consumers using the tool tend to not understand that elements of the tool's rankings or recommendations are influenced by financial considerations, also contribute to establishing the existence of reasonable consumer reliance.

Relatedly, consumer-facing lead generators can engender reasonable consumer reliance within the meaning of CFPA section 1031(d)(2)(C) through their role as intermediating between consumers and lenders and their explicit or implicit communications to consumers. In particular, when lead generators conceal their real role in the market and present themselves as a tool for consumers to connect with trusted lenders or receive the best available terms for a consumer financial product or service, given the consumer's individual circumstances, a consumer would likely be reasonable in relying on the entity to act in the consumer's interests.[13]

Interests of the Consumer

Adjusting a digital comparison-shopping tool's presentation of consumer financial products and services based on fees or other benefits to tool operators will often not be in the interests of the consumer. In many cases where consumers use digital comparison-shopping tools, consumers have an interest in navigating a complex financial market to obtain products that are best for them. Consumer interests are not served when they are steered toward more expensive or less favorable products because those products are offered by the tool operator or its affiliates or because those products generate more revenue for the tool operator.

Similarly, consumer interests are not served when consumers are steered to more expensive or less favorable products by lead generators because one provider is bidding more for the lead than another.[14]

Unreasonable Advantage

A digital comparison-shopping tool operator or lead generator can take unreasonable advantage of the reasonable consumer reliance described above when they operate a business model that gives preferential treatment, such as through steering, to particular consumer financial products or services to increase financial or other benefits to the tool operator. For example, the operator may be taking unreasonable advantage of the consumer's reasonable reliance if the operator is able to generate more interest in its own financial products or services or is able to increase fees charged to third-party providers because the tool functions in a way that engenders the consumer's reasonable, but misguided, reliance on the tool to present information in a manner consistent with the interests of the consumer. In addition, benefits that accrue to the operator or lead generator include direct financial compensation or indirect or non-financial benefits, such as the ability to gather data that indirectly increases the operator's or lead generator's ability to obtain financial or other benefits.[15]

[10] *See* 12 U.S.C. 5481(5), (15)(A)(viii).

[11] *See generally* CFPB, *Policy Statement on Abusive Acts or Practices,* at 17–18 (April 3, 2023), *https://files.consumerfinance.gov/f/documents/cfpb_policy-statement-of-abusiveness_2023-03.pdf.*

[12] Additionally, a comparison-shopping site operator or lead generator can also attempt to generate trust and reliance by falsely presenting a relationship with a trusted institution. *See, e.g.,* CFPB, *Consumer Financial Protection Circular 2022–02: Deceptive representations involving the FDIC's name or logo or deposit insurance* (May 17, 2022), *https://www.consumerfinance.gov/compliance/circulars/circular-2022-02-deception-representations-involving-the-fdics-name-or-logo-or-deposit-insurance/* (CFPB circular addressing deceptive misuse of the FDIC logo in representations about deposit insurance); Compl., *FTC* v. *Career Education Corporation,* No. 1:19–cv–05739 (N.D. Ill. Aug. 27, 2019) (Career Education Corporation purchased sales from lead generators that falsely represented they were affiliated with the U.S. military).

[13] *See, e.g.,* Compl., *FTC* v. *ITMedia Sols. LLC.*

[14] *See, e.g.,* Compl., *FTC* v. *Blue Global, LLC,* No. 2:17–cv–2117 (D. Ariz. July 3, 2017) (Blue Global collected loan applications and promised to match consumers with loans that had the best interest rates, finance charges, and repayment periods when, in fact, they indiscriminately sold leads.).

[15] *See* CFPB, *Policy Statement on Abusive Acts or Practices,* at 8 (April 3, 2023), *https://files.consumerfinance.gov/f/documents/cfpb_policy-statement-of-abusiveness_2023-03.pdf* (discussing monetary and

Enforcers should closely examine the specific details of bounty or bidding schemes when making a determination of abusive conduct. If a digital comparison-shopping tool operator or lead generator requires providers to bid or set bounties for leads, and that compensation scheme increases overall revenue while impacting placement on a comparison-shopping website or mobile app or impacting who receives leads, that can suggest that the operator or lead generator is violating the prohibition on abusive acts or practices. The reason is commonsensical: if the tool operator or lead generator receives a higher fee from one provider than another and provides preferential treatment as a result, this can suggest that the lead generator or operator is making decisions based on its own benefit and not in consumers' interests. This concern may be somewhat mitigated when a comparison-shopping tool operator or lead generator receives compensation from providers, but does not consider such compensation in its decisions regarding placement or, similarly, regarding which providers receive a lead.[16]

Unreasonable advantage-taking can also occur where the operator benefits by steering consumers toward products or services—including its own or those of its affiliates—that are more costly or otherwise less desirable than what consumers might otherwise prefer.[17] In addition, it can occur where an operator leverages an affiliation or informal connection with a trusted institution, such as a college or university, to increase the operator's revenue while making recommendations not based on factors likely to be consistent with consumer interests.

non-monetary advantages, including ''increased market share, revenue, cost savings, profits, reputational benefits, and other operational benefits'').

[16] A digital comparison-shopping tool operator or lead generator can face greater risk that the exclusion of non-paying providers from its service would constitute an abusive act or practice if a very low number of providers is included within a service. Similarly, in the context of digital mortgage comparison-shopping platforms, the CFPB has advised that, all other things being equal, ''presenting a greater number of comparison options rather than fewer'' generally reduces the risk of a violation of section 8 of the Real Estate Settlement Procedures Act. 88 FR 9162, 9167 (Feb. 13, 2023).

[17] While evidence of harm to consumers can bolster a determination that an entity is taking unreasonable advantage of consumers, the text of CFPA section 1031(d)(2)—in contrast to the definition of ''unfairness'' in CFPA section 1031(c)(1)—does not require ''substantial injury'' to consumers as a prerequisite for establishing abusive conduct. *Compare* 12 U.S.C. 5531(c)(1)(A), *with* 12 U.S.C. 5531(d)(2).

Examples of Preferencing or Steering Arrangements

The following is a non-exhaustive list of examples that illustrate arrangements where an operator of a digital comparison-shopping tool or a lead generator steers consumers to certain consumer financial products or services in exchange for financial or other benefits to the operator or lead generator, regardless of the interests of the consumer. These arrangements can be abusive if the operator or lead generator takes unreasonable advantage of the consumer's reasonable reliance on the operator or lead generator to act in the interests of the consumer.

- A tool operator presents a product (or set of products) that is preferred because of financial considerations in a placement that is more likely to be seen, reflects a preferential ordering, has more dynamic design features, requires fewer clicks to access product information, or otherwise increases the likelihood that a consumer will consider or select the preferred product.[18] This can include self-preferencing where the digital comparison-shopping tool promotes the products or services of the tool operator.
- A tool operator presents certain options as ''featured'' because they are provided by the operator or a third-party provider that paid for enhanced placement.[19]
- A tool operator directs consumers to the products that pay higher fees within a product category—for example, an operator routinely matches consumers with a loan provider because it pays the highest fee per application.
- A tool operator receives different payment based on whether the digital comparison-shopping tool meets a certain threshold volume allocation of leads generated within a set period of time, and uses steering practices to increase the likelihood the operator will satisfy volume allocation requirements. For example, in a 14-day period, a provider pays fees only if at least 1,000 applications are generated, and, on day 13, the operator is more likely to steer consumers to that provider's products until the allocation is met.
- A tool operator or lead generator uses dynamic bidding or a bounty system to determine which offers are presented to consumers with certain demographic or other characteristics.
- A tool operator expressly or implicitly presents the total set of options featured on the tool as relatively comprehensive or based on criteria such as price, terms, quality of service, or security, when in fact the operator determines which options to include based on financial or other benefits obtained by the operator. For example, a set of lenders jointly establish a comparison-shopping tool that appears to present options based on criteria that further the consumer's interests but that actually presents only a subset of products that are offered or provided by those lenders. Some sites preference certain products while also including other products, but with design features that ensure that only the preferred products receive preferred placement, regardless of whether that is in the interests of the consumer.
- A tool operator presents a preferred product as a ''match'' that is not the participating product that is most consistent with the expressed interests of a consumer. A comparison tool can prompt users to input information about their preferences through a survey, filtering options, or interactions with a chatbot. By eliciting input on consumer preferences, the operator creates the impression that results will be presented based on an objective evaluation of those preferences. However, the operator actually presents results based on financial or other benefits to the operator.
- A lead generator guarantees a certain number and quality of leads to multiple participating lenders and divides customers meeting those criteria up without regard to the fact that consumers with similar characteristics are receiving different offers.

[18] *See generally* FTC, *Bringing Dark Patterns to Light,* at 2 (Sept. 2022) (discussing ''design practices that trick or manipulate users into making choices they would not otherwise have made and that may cause harm'').

[19] Consumers may be less likely to have the impression that a product is being presented as being in the consumer's interest if a tool operator presents sponsored or other advertising content that is completely visually separate from the presentation of product recommendations or results and the advertisement itself is not presented as a recommendation.

About Consumer Financial Protection Circulars

Consumer Financial Protection Circulars are issued to all parties with authority to enforce Federal consumer financial law. The CFPB is the principal Federal regulator responsible for administering Federal consumer financial law, *see* 12 U.S.C. 5511, including the Consumer Financial Protection Act's prohibition on unfair, deceptive, and abusive acts or practices, 12 U.S.C. 5536(a)(1)(B), and 18 other ''enumerated consumer laws,'' 12 U.S.C. 5481(12). However, these laws are also enforced by State attorneys general and State regulators, 12 U.S.C. 5552, and prudential regulators including the Federal Deposit Insurance Corporation, the Office of the Comptroller of the

Currency, the Board of Governors of the Federal Reserve System, and the National Credit Union Administration. *See, e.g.,* 12 U.S.C. 5516(d), 5581(c)(2) (exclusive enforcement authority for banks and credit unions with $10 billion or less in assets). Some Federal consumer financial laws are also enforceable by other Federal agencies, including the Department of Justice and the Federal Trade Commission, the Farm Credit Administration, the Department of Transportation, and the Department of Agriculture. In addition, some of these laws provide for private enforcement.

Consumer Financial Protection Circulars are intended to promote consistency in approach across the various enforcement agencies and parties, pursuant to the CFPB's statutory objective to ensure Federal consumer financial law is enforced consistently. 12 U.S.C. 5511(b)(4).

Consumer Financial Protection Circulars are also intended to provide transparency to partner agencies regarding the CFPB's intended approach when cooperating in enforcement actions. *See, e.g.,* 12 U.S.C. 5552(b) (consultation with CFPB by State attorneys general and regulators); 12 U.S.C. 5562(a) (joint investigatory work between CFPB and other agencies).

Consumer Financial Protection Circulars are general statements of policy under the Administrative Procedure Act. 5 U.S.C. 553(b). They provide background information about applicable law, articulate considerations relevant to the Bureau's exercise of its authorities, and, in the interest of maintaining consistency, advise other parties with authority to enforce Federal consumer financial law. They do not restrict the Bureau's exercise of its authorities, impose any legal requirements on external parties, or create or confer any rights on external parties that could be enforceable in any administrative or civil proceeding. The CFPB Director is instructing CFPB staff as described herein, and the CFPB will then make final decisions on individual matters based on an assessment of the factual record, applicable law, and factors relevant to prosecutorial discretion.

Rohit Chopra,

Director, Consumer Financial Protection Bureau.

[FR Doc. 2024–05141 Filed 3–11–24; 8:45 am]

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DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 34

[Docket ID OCC–2024–0002]

FEDERAL RESERVE SYSTEM

12 CFR Part 225

[Docket No. OP–1829]

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 323

RIN 3064–ZA41

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 722 and 741

Temporary Exceptions to FIRREA Appraisal Requirements in Maui County as Affected by Hawaii Wildfires

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury; Board of Governors of the Federal Reserve System (Board); Federal Deposit Insurance Corporation (FDIC); and National Credit Union Administration (NCUA), collectively referred to as the agencies.

ACTION: Statement and order; temporary exceptions.

SUMMARY: The Depository Institutions Disaster Relief Act of 1992 (DIDRA) authorizes the agencies to make exceptions to statutory and regulatory appraisal requirements under Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) relating to transactions involving real property located within an area in a state or territory declared to be a major disaster by the President. In this statement and order, the agencies exercise their authority to grant temporary exceptions to the FIRREA appraisal requirements for real estate-related financial transactions, provided certain criteria are met, in an area in the State of Hawaii following the major disaster declared by President Biden as a result of wildfires. The expiration date for the exceptions is August 10, 2026, which is three years after the date the President declared the major disaster.

DATES: This order is effective on March 12, 2024 and expires three years after the date the President declared the relevant area a major disaster, which is August 10, 2026.

FOR FURTHER INFORMATION CONTACT:

OCC: Kevin Lawton, Appraiser, Real Estate Specialist, Bank Supervision Policy, at (202) 649–7152; or Mitchell Plave, Special Counsel, Chief Counsel's Office, at (202) 649–6285. If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

Board: Devyn Jeffereis, Senior Financial Institution Policy Analyst II, Division of Supervision and Regulation at (202) 452–2729; Matthew Suntag, Senior Counsel, Legal Division, at (202) 452–3694; or David Imhoff, Senior Attorney, Legal Division, at (202) 452–2249; For users of TTY–TRS, please call 711 from any telephone, anywhere in the United States.

FDIC: Patrick J. Mancoske, Senior Examination Specialist, Division of Risk Management and Supervision, at (202) 898–7032, *PMancoske@FDIC.gov;* Mark Mellon, Counsel, Legal Division, at (202) 898–3884, *MMellon@FDIC.gov;* Lauren Whitaker, Counsel, Legal Division at (202) 898–3872, *lwhitaker@fdic.gov;* Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

NCUA: Simon Hermann, Senior Credit Specialist, Office of Examination and Insurance, at (703) 518–6360; Robert Leonard, Compliance Officer, Office of General Counsel, (703) 518–1143; Rachel Ackmann, Senior Staff Attorney, Office of General Counsel, at (703) 548–2601; National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314.

SUPPLEMENTARY INFORMATION:

Statement

Section 2 of DIDRA, which added section 1123 to Title XI of FIRREA,[1] authorizes the agencies to make exceptions to statutory and regulatory appraisal requirements for certain transactions. These exceptions are available for transactions involving real property located in an area in which the President has determined a major disaster exists, pursuant to 42 U.S.C. 5170, provided that the exception would facilitate recovery from the major disaster and is consistent with safety and soundness.

On August 10, 2023, the President declared that a major disaster existed in the State of Hawaii [2] due to damage resulting from wildfires beginning on August 8, 2023. The agencies have determined that granting relief from the appraisal requirements set forth in Title

[1] 12 U.S.C. 3352.

[2] Press Release, The White House (August 10, 2023), available at *https://www.whitehouse.gov/briefing-room/presidential-actions/2023/08/10/president-joseph-r-biden-jr-approves-hawaii-disaster-declaration-3/.*