

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. 2022-12728 Filed 6-13-22; 8:45 am]

**BILLING CODE 4810-AM-P**

## **BUREAU OF CONSUMER FINANCIAL PROTECTION**

### **12 CFR Chapter X**

#### **Consumer Financial Protection Circular 2022-01: System of Consumer Financial Protection Circulars to Agencies Enforcing Federal Consumer Financial Law**

**AGENCY:** Bureau of Consumer Financial Protection.

**ACTION:** Consumer financial protection circular.

**SUMMARY:** The Consumer Financial Protection Bureau (Bureau or CFPB) has issued Consumer Financial Protection Circular 2022-01, titled, "System of Consumer Financial Protection Circulars to Agencies Enforcing Federal Consumer Financial Law." In this circular, the Bureau outlines its efforts to promote consistency among enforcers and fair competition in the market by launching a new system to provide guidance to other agencies with consumer financial protection responsibilities on how the CFPB intends to enforce Federal consumer financial law.

**DATES:** The Bureau released this circular on its website on May 16, 2022.

**ADDRESSES:** Enforcers, and the broader public, can provide feedback and comments to [Circulars@cfpb.gov](mailto:Circulars@cfpb.gov).

**FOR FURTHER INFORMATION CONTACT:** Brian Shearer, Senior Advisor, Office of the Director; Brad Lipton, Senior Counsel, Legal Division, at (202) 435-7700. If you require this document in an alternative electronic format, please contact [CFPB\\_Accessibility@cfpb.gov](mailto:CFPB_Accessibility@cfpb.gov).

**SUPPLEMENTARY INFORMATION:** The CFPB will issue *Consumer Financial Protection Circulars* to the broad set of government agencies responsible for enforcing Federal consumer financial law.

The CFPB is the principal Federal regulator responsible for administering the Federal consumer financial laws, *see* 12 U.S.C. 5511, including the Consumer Financial Protection Act's prohibition on unfair, deceptive, and abusive acts or practices,<sup>1</sup> and eighteen other "enumerated consumer laws."<sup>2</sup> However, the CFPB is not the only enforcer of these laws; enforcement responsibility is spread among a large set of State and Federal government agencies. This includes, most notably, State attorneys general and State regulators<sup>3</sup> and prudential regulators

such as 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.<sup>4</sup> Some Federal consumer financial laws are also enforceable by other Federal agencies, including the Department of Justice, 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.

Given the broad variety of agencies responsible for enforcing Federal consumer financial law, there is a risk that companies might encounter inconsistent enforcement strategies and approaches. One of the CFPB's five statutory objectives is to ensure Federal consumer financial law is enforced consistently regardless of the status of a person as a chartered bank or nonbank.<sup>5</sup> Many entities are subject to the jurisdiction of multiple agencies, and to maintain certainty of expectations for those companies with multiple regulators, it is important for State and Federal government agencies to consistently enforce the laws that the CFPB administers. Consistency is also imperative to creating a level playing field between companies that compete in the same market but are subject to the jurisdiction of different enforcers and *Consumer Financial Protection Circulars* will provide transparency to partner agencies regarding the CFPB's intended approach when cooperating in enforcement actions.

As described more fully below, *Consumer Financial Protection Circulars* will be policy statements under the Administrative Procedure Act and will be released publicly to increase transparency for the benefit of the public and regulated entities. *Consumer Financial Protection Circulars* will provide background information about applicable law, articulate considerations relevant to the CFPB's exercise of its authorities and advise other parties with authority to enforce Federal consumer financial law. The Director of the CFPB will authorize issuance of each *Consumer Financial Protection Circular*, and the CFPB will publish them on its website and in the **Federal Register**.

The CFPB is beginning to identify a number of issues that would benefit from clear and consistent enforcement, and the CFPB intends to issue new *Consumer Financial Protection Circulars* to advance these goals. The

<sup>1</sup> 12 U.S.C. 5536(a)(1)(B).

<sup>2</sup> 12 U.S.C. 5481(12).

<sup>3</sup> 12 U.S.C. 5552.

<sup>4</sup> *See, e.g.*, 12 U.S.C. 5516(d), 5581(c)(2).

<sup>5</sup> 12 U.S.C. 5511(b)(4).

CFPB strongly encourages enforcers of Federal consumer financial law to contact the CFPB with suggestions for new *Consumer Financial Protection Circulars*. The CFPB is also interested in receiving feedback on any *Consumer Financial Protection Circulars* it issues. Enforcers, and the broader public, can also provide feedback and comments to [Circulars@cfpb.gov](mailto:Circulars@cfpb.gov).

#### 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.*

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## SMALL BUSINESS ADMINISTRATION

### 13 CFR Part 121

**RIN 3245-AH10**

#### Small Business Size Standards: Wholesale Trade and Retail Trade

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Final rule.

**SUMMARY:** The U.S. Small Business Administration (SBA) is increasing its receipts-based and employee-based small business size definitions (commonly referred to as "size standards") for North American Industry Classification System (NAICS) sectors related to Wholesale Trade and Retail Trade. Specifically, SBA is increasing size standards for 57 industries in those sectors, including 22 industries in NAICS Sector 42 (Wholesale Trade) and 35 industries in NAICS Sector 44-45 (Retail Trade).

**DATES:** This rule is effective July 14, 2022.

**FOR FURTHER INFORMATION CONTACT:** Samuel Castilla, Economist, Office of Size Standards, (202) 619-0389 or [sizestandards@sba.gov](mailto:sizestandards@sba.gov).

#### SUPPLEMENTARY INFORMATION:

##### Discussion of Size Standards

To determine eligibility for Federal small business assistance, SBA establishes small business size definitions (usually referred to as "size standards") for private sector industries

in the United States. SBA uses two primary measures of business size for size standards purposes: average annual receipts and average number of employees. SBA uses financial assets for certain financial industries and refining capacity, in addition to employees, for the petroleum refining industry to measure business size. In addition, SBA's Small Business Investment Company (SBIC), Certified Development Company (CDC/504), and 7(a) Loan Programs use either the industry-based size standards or tangible net worth and net income-based alternative size standards to determine eligibility for those programs.

In September 2010, Congress passed the Small Business Jobs Act of 2010 (Pub. L. 111-240, 124 Stat. 2504, September 27, 2010) ("Jobs Act"), requiring SBA to review all size standards every five years and make necessary adjustments to reflect current industry and market conditions. In accordance with the Jobs Act, in early 2016, SBA completed the first five-year review of all size standards—except those for agricultural enterprises for which size standards were previously set by Congress—and made appropriate adjustments to size standards for a number of industries to reflect current industry and Federal market conditions. SBA also adjusts its monetary-based size standards for inflation at least once every five years. An interim final rule on SBA's latest inflation adjustment to size standards, effective August 19, 2019, was published in the **Federal Register** on July 18, 2019 (84 FR 34261). SBA also updates its size standards every five years to adopt the Office of Management and Budget's (OMB) quinquennial North American Industry Classification System (NAICS) revisions to its table of small business size standards. Effective October 1, 2017, SBA adopted the OMB's 2017 NAICS revisions to its size standards (82 FR 44886 (September 27, 2017)).<sup>1</sup>

This final rule is one of a series of final rules that will revise size standards of industries grouped by various NAICS sectors. Rather than revise all size standards at one time, SBA is revising size standards by grouping industries

<sup>1</sup> On December 21, 2021, the U.S. Office of Management and Budget (OMB) published its "Notice of NAICS 2022 Final Decisions . . ." (86 FR 72277), accepting the Economic Classification Policy Committee (ECPC) recommendations, as outlined in the July 2, 2021, **Federal Register** notice (86 FR 35350), for the 2022 revisions to the North American Industry Classification System (NAICS), . . . . In the near future, SBA will issue a proposed rule to adopt the OMB's NAICS 2022 revisions for its table of size standards. SBA anticipates updating its size standards with the NAICS 2022 revisions, effective October 1, 2022.