

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1010

Rescission of Statement of Policy on Supervisory and Enforcement Practices Regarding Certain Filing Requirements Under the Interstate Land Sales Full Disclosure Act and Regulation J

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Rescission of statement of policy.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau) is rescinding the Statement on Supervisory and Enforcement Practices Regarding Certain Filing Requirements Under the Interstate Land Sales Full Disclosure Act and Regulation J.

DATES: This rescission is applicable on April 1, 2021.

FOR FURTHER INFORMATION CONTACT: Zixta Q. Martinez, Division of Supervision, Enforcement, and Fair Lending, at (202) 435-7204. If you require this document in an alternative electronic format, please contact CFPB_Accessibility@cfpb.gov.

SUPPLEMENTARY INFORMATION: On April 27, 2020, the Bureau issued a statement entitled, “Statement on Supervisory and Enforcement Practices Regarding Certain Filing Requirements Under the Interstate Land Sales Full Disclosure Act and Regulation J” (Statement), regarding the Bureau’s exercise of its supervisory and enforcement discretion in connection to certain annual reports of activity and financial statements by land developers who are subject to the Interstate Land Sales Full Disclosure Act (ILSA), 15

U.S.C. 1701, *et seq.*, as implemented by Regulation J (10 CFR part 1010).¹

Specifically, the Statement provided that the Bureau, until further notice, did not intend to take supervisory or enforcement action against land developers subject to ILSA and Regulation J for:

- Delays in filing annual reports of activity with the Bureau, which Regulation J requires within 30 days of the annual anniversary of the effective date of a developer's initial statement of record (12 CFR 1010.310), provided that developers are making good faith efforts to file these reports within a reasonable time; and
- Delays in filing financial statements with the Bureau, which Regulation J requires within 120 days of the close of a developer's fiscal year (12 CFR 1010.212(d)), provided that developers are making good faith efforts to file these reports within a reasonable time.

The Bureau hereby rescinds, as of April 1, 2021, the Statement and provides guidance as to how land developers should now meet this obligation.

The Statement expressed the Bureau's recognition of the serious impact of the COVID-19 pandemic on consumers and on the operations of many entities, including land developers subject to ILSA. The Bureau issued the Statement to provide land developers with flexibility and reduce administrative burden. With regard to the filing of the noted annual reports of activity and financial statements, the Bureau believes that land developers have had sufficient time to adapt to the pandemic and should now be able to file annual reports of activity and financial statements without the flexibility afforded under the Statement. The Bureau notes that immediately following the stay-at-home orders issued by States and other jurisdictions, there was

¹ https://files.consumerfinance.gov/f/documents/cfpb_ilsa_relief-statement-covid-19_2020-04.pdf.

a drop-off in ILSA filings with the Bureau. As States and other jurisdictions have rescinded and modified stay-at-home orders over the course of the pandemic, the Bureau notes that land developers have resumed filing of annual reports of activity and financial statements without significant delays. In addition, because the Statement did not create binding legal obligations on the Bureau or create or confer any substantive rights on external parties, it did not create any reasonable reliance interests for industry participants. Additionally, the Bureau never intended the Statement to be permanent.

The Bureau rescinds the Statement and reminds land developers subject to ILSA and Regulation J to resume:

- Filing annual reports of activity with the Bureau, which Regulation J requires within 30 days of the annual anniversary of the effective date of a developer's initial statement of record (12 CFR 1010.310), and
- Filing financial statements with the Bureau, which Regulation J requires within 120 days of the close of a developer's fiscal year (12 CFR 1010.212(d)).

The Bureau does not intend to take supervisory or enforcement action against land developers subject to ILSA for delays in filing annual reports of activity or financial statements with the Bureau, who make any such delayed submission by April 30, 2021 for the time period that the Statement was in effect beginning April 27, 2020 through April 30, 2021.

Regulatory Requirements

The Statement constituted a general statement of policy exempt from the notice and comment rulemaking requirements of the Administrative Procedure Act (APA). It was intended to provide information regarding the Bureau's general plans to exercise its supervisory and enforcement discretion and did not impose any legal requirements on external parties, nor did it

create or confer any substantive rights on external parties that could be enforceable in any administrative or civil proceeding. This rescission likewise is a general statement of policy exempt from the notice and comment rulemaking requirements of the APA. It is intended to provide information regarding the Bureau's general plans to exercise its supervision and enforcement discretion and does not impose any legal requirements on external parties or create or confer any substantive rights on external parties that could be enforceable in any administrative or civil proceedings. No notice of proposed rulemaking was originally required in issuing the Statement, and it is not required in issuing this rescission. The Regulatory Flexibility Act also does not require an initial or final regulatory flexibility analysis for this rescission. The Bureau has also determined that the rescission of the Statement does not impose any new or revise any existing recordkeeping, reporting, or disclosure requirements on covered entities or members of the public that would be collections of information requiring approval by the Office of Management and Budget under the Paperwork Reduction Act.

Dated: March 29, 2021.

/s/ David Uejio

David Uejio,

Acting Director, Bureau of Consumer Financial Protection