

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Parts 1005 and 1026

**Rescission of Statement of Policy on Supervisory and Enforcement Practices Regarding
Bureau Information Collections for Credit Card and Prepaid Account Issuers**

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 Bureau Information Collections for Credit Card and Prepaid Account Issuers.

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 March 26, 2020, the Bureau issued a statement entitled, “Statement on Supervisory and Enforcement Practices Regarding Bureau Information Collections for Credit Card and Prepaid Account Issuers” (Statement), regarding the Bureau’s exercise of its supervisory and enforcement discretion under the Truth in Lending Act (TILA), Regulation Z, and Regulation E.¹ Specifically, the Statement provided that the Bureau, until further notice, did not intend to cite in an examination or initiate an enforcement action against any entity for failure to submit to the Bureau certain information collections relating to credit card and prepaid accounts required by TILA, Regulation Z, and

¹ https://files.consumerfinance.gov/f/documents/cfpb_data-collection-statement_covid-19_2020-03.pdf .

Regulation E.

The Bureau hereby rescinds, as of April 1, 2021, the Statement and provides guidance on how entities should now meet the following information collections requirements relating to credit card and prepaid accounts:

- Annual submission of certain information concerning agreements between credit card issuers and institutions of higher education (and certain affiliated organizations), as required by TILA, 15 U.S.C. 1637(r), and Regulation Z, 12 CFR 1026.57(d)(3);
- Quarterly submission of consumer credit card agreements, as required by TILA, 15 U.S.C. 1632(d)(2), and Regulation Z, 12 CFR 1026.58(c);
- Collection of certain credit card price and availability information from a sample of credit card issuers under TILA, 15 U.S.C 1646(b)(1) *et seq.*; and
- Submission of prepaid account agreements and related information required by Regulation E, 12 CFR 1005.19(b).

The Statement expressed the Bureau's recognition of the impact of the COVID-19 pandemic on consumers and the operations of many financial institutions, the critical role played by credit card and prepaid account issuers in ensuring that consumers have access to credit and other funds, as well as the critical importance of this access in light of the dramatic effects of the pandemic on the finances of consumers. The Bureau therefore believed it was necessary to provide credit card and prepaid account issuers with flexibility and reduce their administrative burden to allow them to focus their attention on making sure consumers have access to credit and other funds. The Bureau has concluded that this tradeoff is no longer necessary. Since March 2020 and over the course of the COVID-19 pandemic, financial institutions, including credit card and prepaid account issuers, have adjusted operations by, for example, shifting to a remote mode

of operation and adding more robust remote operational capabilities. As States and other jurisdictions have rescinded and modified stay-at-home orders over the course of the pandemic, the Bureau has learned that many financial services entities have resumed some level of in-person operations. In many instances, combined with more robust remote capabilities, financial entities have demonstrated improved business continuity. Based on the Bureau's market monitoring, the Bureau believes that companies, including credit card and prepaid account issuers, have had sufficient time to adapt to the pandemic and should now be able to respond to consumers' need to access credit and other funds while complying with the data submission obligations under TILA, Regulation Z, and Regulation E without the flexibility afforded under the Statement. The Statement noted that entities should maintain records sufficient to allow them to make such delayed submissions and that entities could continue making otherwise required submissions notwithstanding the flexibility extended under the Statement. The Bureau notes that most of the financial entities subject to the noted information collections requirements appear to be meeting them, choosing not to take advantage of the flexibility provided by the Statement. 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. The Bureau never intended the Statement to be permanent, and expressly noted in the Statement that at a later date, the Bureau would notify entities of when and how to submit information under these requirements and that entities should maintain records sufficient to allow them to make such delayed submissions pursuant to Bureau guidance. This Policy Statement provides that guidance.

The Bureau hereby rescinds, as of April 1, 2021, the Statement and instructs all financial institutions required to file to do so as follows:

Annual submission of certain information concerning agreements between credit card issuers and institutions of higher education (and certain affiliated organizations), as required by TILA, 15 U.S.C. 1637(r), and Regulation Z, 12 CFR 1026.57(d)(3)

Credit card issuers required to submit information pursuant to 15 U.S.C. 1637(r) and 12 CFR 1026.57(d)(3) relating to agreements in effect in calendar year 2020 should do so by March 31, 2021. Issuers should also submit all delayed submissions for agreements in effect in calendar year 2019. The Bureau does not intend to cite in an examination or initiate an enforcement action against any entity who submits requisite information relating to agreements in effect in calendar year 2019 and 2020 by April 30, 2021.

Quarterly submission of consumer credit card agreements, as required by TILA, 15 U.S.C. 1632(d)(2), and Regulation Z, 12 CFR 1026.58(c)

Credit card issuers required to submit information pursuant to 15 U.S.C. 1632(d)(2) and 12 CFR 1026.58(c) should do so by April 30, 2021 beginning with the submission relating to the first calendar quarter of 2021 and also include all delayed submissions from all cycles during which the Statement was in effect (i.e., all four quarters of 2020). The Bureau does not intend to cite in an examination or initiate an enforcement action against any entity who makes any requisite delayed submissions by April 30, 2021.

Collection of certain credit card price and availability information from a sample of credit card issuers under TILA, 15 U.S.C 1646(b)(1) et seq.

Credit card issuers required to submit information pursuant to 15 U.S.C 1646(b)(1) *et seq.* should do so as required by TILA beginning with the survey cycle that begins on July 31, 2021. The Bureau intends to provide affirmative confirmation to issuers included in the Bureau's sample for the survey cycles beginning July 31, 2020 and January 31, 2021 by April

30, 2021. The Bureau does not intend to cite in an examination or initiate an enforcement action against any entity who makes any requisite delayed submissions relating to the July 31, 2020 and January 31, 2021 cycles by August 13, 2021.

Submission of prepaid account agreements and related information required by Regulation E, 12 CFR 1005.19(b)

Prepaid account issuers required by Regulation E to submit agreements and related information should ensure, by April 30, 2021, that any such information on file with the Bureau is current and complete through March 31, 2021. Thereafter, issuers must resume making submissions on a rolling basis in accordance with the regulation. The Bureau does not intend to cite in an examination or initiate an enforcement action against any entity who makes any requisite submissions by 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.