

**“Responsible Business Conduct”  
From the CFPB’s Perspective  
By ADR Staff**

*Self-policing and self-reporting expected to “contribute significantly to the success of the Bureau’s mission.”*

The Consumer Financial Protection Bureau (CFPB) recently published a guidance document titled “Responsible Business Conduct: Self-Policing, Self-Reporting, Remediation, and Cooperation.” The guidance is directed at financial institutions subject to CFPB oversight, including BHPH dealers and their affiliated finance companies. It is being provided to inform covered entities that there are activities they can engage in that the Bureau MAY favorably consider when exercising its enforcement discretion and which MAY favorably affect the ultimate resolution of a Bureau enforcement investigation.

According to the document, the purpose of the guidance is to “encourage activity that has concrete and substantial benefits for consumers and contributes significantly to the success of the Bureau’s mission.” The Bureau anticipates such responsible conduct will support their purpose by:

- Improving the Bureau’s ability to promptly detect violations of the federal consumer protection laws;
- Increasing the effectiveness and efficiency of enforcement investigations;
- Enabling the Bureau to pursue a larger number of worthy investigations and cases; and
- Helping more consumers in more matters promptly receive financial redress and additional meaningful remedies for any harm they experienced.

Specifically, the Bureau’s definition of “responsible business conduct” now includes:

- Proactively self-policing for potential violations
- Promptly self-reporting to the Bureau when it identifies potential violations
- Quickly and completely remediating the harm resulting from violations
- Affirmatively cooperating with any Bureau investigation above and beyond what is required.

Detailed information regarding factors the Bureau will consider in determining whether and how much to take into account such activities is included in the article “CFPB Factors of Responsible Business Conduct” found elsewhere in this publication. In summary, factors the Bureau will consider include:

- The culture of compliance within the organization
- The timeliness of discovery and reporting of a violation
- The completeness of documentation regarding the violation
- The completeness of the documentation during reporting and subsequent investigations
- The adequacy of consumer remediation

The Bureau intends and expects that this guidance will encourage parties subject to the Bureau's enforcement authority to engage in more self-policing. When potential violations of the consumer financial laws arise, the Bureau intends and expects that parties will engage in more self-reporting to the Bureau, more prompt and complete remediation of harm to victimized consumers, and more cooperation with the Bureau in its enforcement investigations. Such an outcome, the Bureau believes, would benefit both consumers and providers of consumer financial products and services.

The Bureau is careful to point out, however, that the provided guidance and its description of activities that may warrant favorable consideration, is not adopting any rule or formula, or making a promise to any person about any specific case. The Bureau is not in any way limiting its discretion and responsibility to evaluate each case individually on its own facts and circumstances. There is no consistent formula that can be applied to all enforcement actions to accomplish the goal of protecting consumers. In short, the fact that a party may argue it has satisfied some or even all of the elements set forth in this guidance will not foreclose the Bureau from bringing any enforcement action or seeking any remedy if it believes such a course is necessary and appropriate.