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CFPB's Office of Enforcement Issues a Bulletin Describing Its Definition of "Responsible Business Conduct"

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On June 25, the Consumer Financial Protection Bureau's Office of Enforcement issued a **bulletin** outlining four factors that comprise what the Bureau calls "responsible business conduct," and noting that these factors might favorably influence the Bureau when it exercises its enforcement jurisdiction. The Bulletin explains that the "purpose of this 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 four factors are as follows:

- **Self-policing:** Proactive self-policing for "potential violations" of the consumer financial laws. The Bulletin explains that the Bureau might favorably consider any company-wide compliance management system, the relative robustness of this system, and whether there is a "culture of compliance" at the company that is the subject of an investigation.
- **Self-reporting:** Voluntarily alerting the Bureau about the existence of a violation of law. The Bulletin especially emphasizes the importance of self-reporting explaining that it is worthy of "special mention," as it "represents concrete evidence of a party's commitment to responsibly address the conduct at issue." The Bulletin stresses that any self-reporting should be prompt, proactive and not caused by external events, such as related litigation or public company reporting requirements.
- **Remediating Harm:** "Quickly and completely" remediating harm that results from any violation of these laws. The Bulletin explains that the Bureau might favorably consider the actions that a company took "upon learning of the misconduct," any "consequences imposed" on company actors involved with the misconduct, and "assurances" that the "misconduct is unlikely to recur."
- **Cooperating during an Investigation:** "Affirmatively" cooperating with the Bureau during any investigation and taking "substantial and material steps above and beyond what the law requires in its interactions with the Bureau." The Bulletin notes that "cooperation relates to the quality of a party's interactions with the Bureau" during any investigation or enforcement action.

The Bulletin explains that enforcement discretion entails a "wide range of options available to properly account" for what it calls "responsible conduct." Here, the Bureau also explains that although it will consider whether any one of the four factors showing "responsible business conduct" are present, the presence of these factors in no way means that the Bureau is committing to any form of leniency in its handling of an enforcement matter. The Bulletin states "there may be circumstances where the misconduct is so egregious, or the harm inflicted so great, that no amount of cooperation or other mitigating conduct could justify a decision not to bring an enforcement action, or even to forego seeking the imposition of a civil money penalty."

Click here to view a copy of the Bulletin.