
Investigator’s Desk Aid to the Consumer Financial Protection Act of 2010 (CFPA) Whistleblower Protection Provision

Section 1057 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, 12 U.S.C. 5567

TABLE OF CONTENTS

I. CFPA in a Nutshell.....	2
A. Coverage: Covered Persons, Service Providers, and Covered Employees	2
B. Protected Activity	5
II. Procedures for Handling CFPA Whistleblower Complaints	8
A. Complaint.....	8
B. Investigation.....	9
C. Administrative & Judicial Review	10
D. Kickout Provision	10
III. Miscellaneous Issues	10
A. Predispute Arbitration Agreements.....	10
B. Overlap Between the CFPA and Sarbanes-Oxley Act (SOX) Whistleblower Protection Provisions.....	11
IV. Resources.....	11
Attachment 1: Laws Enforced by the CFPB.....	12
Attachment 2: Regulations Enforced by the CFPB.....	17
Attachment 3: Optional Worksheet: Analyzing CFPA Whistleblower Complaints.....	18

This Desk Aid represents OSHA’s summary of the scope of coverage and protected activity and the procedures for investigating and adjudicating retaliation complaints under the Consumer Financial Protection Act of 2010 as of the “last revised” date listed below. This guide is intended for OSHA’s use and the guidance herein is subject to change at any time. Furthermore, there may be a delay between the publication of significant decisions or other authority under this statute and modification of the Desk Aid. The Federal Register and the Code of Federal Regulations remain the official source for regulatory information published by OSHA. No duties, rights, or benefits, substantive or procedural, are created or implied by this Desk Aid and its contents are not enforceable by any person or entity against the Department of Labor or the United States. The contents of this Desk Aid do not constitute interpretations of the Bureau of Consumer Financial Protection.

Abbreviations Used in this Desk Aid:

CFPA	Consumer Financial Protection Act (Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), codified at 12 U.S.C. 5481 et seq., including the CFPA whistleblower protection provision at 12 U.S.C. 5567)
------	--

CFPB	Consumer Financial Protection Bureau
OSHA	Occupational Safety and Health Administration
SEC	Securities and Exchange Commission
SOX	Sarbanes-Oxley Act

I. CFPA In A Nutshell:

Under the CFPA whistleblower protection provision, no covered person or service provider may discharge or otherwise retaliate against a covered employee or authorized representative for engaging in any protected activity. CFPA protects employees from retaliation for, among other things, making complaints about potential violations of any law, rule, order, standard, or prohibition under the CFPB's jurisdiction.

The CFPA whistleblower protection provision can be found at 12 U.S.C. 5567. The procedures for the investigation and resolution of CFPA whistleblower complaints can be found at 29 CFR Part 1985. Most of the definitions relevant to CFPA whistleblower complaints can be found at 12 U.S.C. 5481 and 29 CFR 1985.101.

A. Coverage: Covered Persons, Service Providers, and Covered Employees

CFPA prohibits retaliation by any **covered person**. A **covered person** is a person that engages in offering or providing a consumer financial product or service and certain affiliates.

CFPA also prohibits retaliation by any **service provider**. A **service provider** is a person that provides a material service to a **covered person** in connection with the covered person's offering or provision of a consumer financial product or service.

CFPA protects **covered employees** and authorized representatives. A **covered employee** is any individual performing tasks related to the offering or provision of a consumer financial product or service. Authorized representative is not defined.

What is a consumer financial product or service?

A **consumer financial product or service** is a financial product or service that is offered or provided for use by consumers primarily for personal, family, or household purposes, and certain financial products or services delivered, offered, or provided in connection with a consumer financial product or service.

Below is a simplified list of the consumer financial products and services defined in the statute, along with a non-exclusive list of examples of entities that may provide each product or service. If questions arise about whether a respondent is covered by CFPA, consult with the Directorate of Whistleblower Protection Programs, the Office of the Solicitor, or the CFPB:

- **Extending credit and servicing loans**, including acquiring, purchasing, selling, brokering, or other extensions of credit (other than solely extending commercial credit to a person who originates consumer credit transactions). *Examples include banks and other loan originators, such as payday lenders, and may include other businesses such as tax services or for-profit universities to the extent that they are involved in extending or servicing credit to consumers.*
- Extending or brokering certain types of **leases** of personal or real property that are the functional equivalent of purchase finance arrangements. *Examples include banks, secured lenders, issuers of auto leases¹ that result in the consumer having the right to purchase the car at the end of the lease, and “rent to own” companies (e.g., for furniture). Note that typical apartment or house rentals that do not transfer ownership of the property to the lessee are not covered by this section.*
- Providing **real estate settlement services** or performing **appraisals** of real estate or personal property. *Examples include appraisal firms, mortgage brokers and servicers, and companies that provide real estate settlement services.*
- Engaging in **deposit-taking activities, transmitting or exchanging funds**, or otherwise acting as a **custodian of funds or any financial instrument** used by a consumer or for a consumer. *Examples include banks, credit unions, payday lenders, and remittance services.*
- Selling, providing, or issuing **stored value or payment instruments, such as prepaid cards or debit cards**. *Examples include banks and card issuers and some digital wallet services.*
- Providing **check cashing, check collection, or check guaranty services**. *Examples include check-cashing operations.*
- Providing **payments or other financial data processing products or services** to a consumer by any technological means. *Examples include banks and digital wallet services.*
- Providing **financial advisory services** to consumers on individual financial matters or relating to proprietary financial products or services, including providing **credit counseling** to any consumer; and providing services to assist a consumer with **debt management or debt settlement, modifying credit terms, or avoiding foreclosure**. Note that for purposes of CFPA, services related to **securities** provided by a person regulated by the Securities and Exchange Commission (SEC) or a state securities commission are not consumer financial products or services. *Examples of covered persons that offer financial advisory services include banks, credit counseling services, and entities that provide credit counseling as part of their business.*

¹ See also 12 C.F.R. § 1001.2(a). If questions arise regarding whether a certain employer is covered under the CFPA whistleblower provision because it is a motor vehicle dealer, please contact the Directorate of Whistleblower Protection Programs or the Office of the Solicitor for further guidance.

- Collecting, analyzing, maintaining, or providing **consumer report information or other account information**, including information relating to the **credit history of consumers**, used or expected to be used in connection with decisions regarding the offering or provision of a consumer financial product or service. *Examples include banks, credit reporting agencies, and lenders.*
- **Collecting debt** related to consumer financial products or services. *Examples include debt collectors (whether or not subject to the Fair Debt Collection Practices Act).*
- The CFPB also may identify additional financial products or services by regulation.

What is not a consumer financial product or service?

Under CFPA, a consumer financial product or service does not include:

- **The business of insurance** (*Examples include writing life, home, health or auto insurance policies*),
- **Electronic conduit services** (*Examples include a cloud service. The exclusion only applies where CFPA's technical definition of electronic conduit services in 12 U.S.C. 5481(11) is met*), or
- **Commercial/business financial products or financial services.** (CFPA covers **consumer** financial products and services—i.e., financial products for use by consumers primarily for personal, family, or household purposes. Products aimed at commercial/business consumers are not covered. *Examples include business loans*).

B. Protected Activity

Protected Activity:

A covered employee is protected from retaliation under CFPA for having:

1. Provided, caused to be provided, or being about to provide or cause to be provided to the employer, the CFPB, or any other state, local, or federal government authority or law enforcement agency information relating to any violation or any conduct that the employee reasonably believes is a violation of any provision of law (including the CFPA) that is subject to the jurisdiction of the CFPB, or any rule, order, standard, or prohibition prescribed by the CFPB;
2. Testified or will testify in a proceeding concerning such violation;
3. Filed, instituted, or caused to be filed or instituted, any proceeding under any Federal consumer financial law; or
4. Objected to, or refused to participate in, any activity, policy, practice, or assigned task that the employee reasonably believes violates any law, rule, order, standard, or prohibition subject to the jurisdiction of or enforceable by the CFPB.

Complaints to whom?

Complaints to an employer, the CFPB, and any other federal, state, or local government authority or law enforcement agency may be protected. The employee's complaint can take any form—it can be in person, on the phone, in an email, etc.

Complaints about what?

Generally, an employee is protected from retaliation for providing information about, testifying in a proceeding concerning, objecting to, or refusing to participate in any activity that is, or that the employee reasonably believes to be, a violation of **CFPA or any other provision of law subject to the jurisdiction of**, or enforceable by, **the CFPB, or any rule, order, standard, or prohibition prescribed by the CFPB.**

Collectively, the laws implemented and enforced by the CFPB are generally referred to as the **“Federal consumer financial laws.”**² They include CFPA (Title X of the Dodd-Frank Act), as well as eighteen other enumerated consumer laws, other laws for which authorities transferred to the CFPB under certain provisions of CFPA, and rules and orders prescribed by the CFPB under CFPA, the enumerated consumer laws, or authorities transferred. **Attachment 1** describes each of the laws enforced by the CFPB. **Attachment 2** contains a non-exhaustive list of regulations enforced or enforceable by the CFPB. The laws and regulations enforced by CFPB generally fall

² See CFPA section 1002(14).

into five buckets. Refer to Attachment 1 if the conduct at issue in the whistleblower complaint falls into any of the five buckets.

CFPA Protected Activity Generally Comes in Five Buckets:



Protecting Against Unfair, Deceptive, or Abusive Practices Against Consumers	Protecting Consumer Mortgages / Real Estate Transactions	Protecting Consumer Credit, Lending, Leasing, Borrowing, and Savings	Protecting the Privacy of Consumer Financial Information	Protecting Consumer Electronic Fund Transfers
--	--	--	--	---

The statutes and regulations enforced by the CFPB share a common goal. Each seeks to protect consumers of financial products and services from acts or practices that may harm them. The CFPB has broad jurisdiction to promote fairness and transparency for mortgages, credit cards, loans, bank accounts, and other consumer financial products and services. Protected activity relates to *any* violation of the laws mentioned above.

Protection for complaints regarding unfair, deceptive, or abusive acts or practices:

CFPA (Title X of the Dodd-Frank Act) prohibits covered persons and service providers from **engaging in unfair, deceptive, or abusive acts or practices (UDAAP)** with respect to any consumer financial product or service. Reports of conduct that a covered employee reasonably believes is **unfair, deceptive, or abusive** are a prime example of protected activity under CFPA.

- An act or practice is **unfair** if the act or practice causes or is likely to cause substantial injury to consumers, which is not reasonably avoidable by consumers, and which is not outweighed by countervailing benefits to consumers or competition.
- A representation, omission, act, or practice is **deceptive** if it misleads or is likely to mislead the consumer; if the consumer’s interpretation of the representation, omission, act, or practice is reasonable under the circumstances; and if the representation, omission, act, or practice is material.

- A practice is **abusive** if it materially interferes with the ability of a consumer to understand a term or condition of a consumer financial product or service or if it takes unreasonable advantage of: a lack of understanding on the part of the consumer of the material risks, costs, or conditions of the product or service; the inability of the consumer to protect his own interests in selecting or using the product or service; or the reasonable reliance by the consumer on a covered person or service provider to act in the interests of the consumer.

CFPA protects covered employees from retaliation for reporting conduct they reasonably believe is **unfair, deceptive, or abusive** related to a consumer financial product or service.

More information about CFPA’s prohibition on unfair, deceptive, or abusive acts or practices, as well as examples of conduct that the CFPB regards as violating these prohibitions, can be found on the CFPB’s website, <https://www.consumerfinance.gov/>, including in the CFPB’s Supervision and Examination Manual, updated June 2017, available at: <https://www.consumerfinance.gov/policy-compliance/guidance/supervision-examinations/> and the 2012 UDAAP examinations procedures chapter, which can be found at: https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/102012_cfpb_unfair-deceptive-abusive-acts-practices-udaaps_procedures.pdf

What is a reasonable belief that a violation has occurred?

CFPA requires that a complaint be about a violation or something that the employee “reasonably believes” to be a violation of any law, rule, order, standard, or prohibition under the jurisdiction of or enforced by the CFPB. Courts and the Department of Labor’s Administrative Review Board have held under the CFPA whistleblower provision and other OSHA-enforced whistleblower laws that to have a “reasonable belief,” an employee must have a *subjective belief* (i.e., actually believe that a violation has occurred, is occurring, or is likely to occur), *and* the belief must be *objectively reasonable* (i.e., it must be possible that a reasonable person in the employee’s position would share this belief).

In determining whether these two requirements are met, courts and the Department of Labor’s Administrative Review Board have held that the employee’s training, experience, and educational background are relevant. The employee need not expressly refer to any law at all in communicating concerns to the employer, regulatory agencies, or law enforcement. Relatedly, the employee also does not have to be correct that the information the employee provided relates to an *actual* violation. The complainant will be protected so long as a reasonable person with the same training and experience could believe that the relevant activity constitutes a violation. A reasonable but mistaken belief is protected.

The following are examples of situations that could involve CFPA coverage and protected activity (but should not be read to suggest the conduct described could only violate the one specific law referenced in each example):

- A branch manager at a bank that offers consumer loans complains to his district manager that a loan officer under his supervision failed to provide a three-day right of rescission on a consumer credit transaction and that standard procedures within the bank make it likely that the three-day right of rescission has repeatedly not been provided to consumers

in violation of the Truth in Lending Act. The bank is a covered employer because it offers consumer loans. The district manager is a covered employee because he supervises the employees who provide those loans to consumers. The branch manager's complaint is protected as long as he reasonably believed the conduct violated the Truth in Lending Act, one of the laws subject to the jurisdiction of the CFPB.

- A new manager at a bank is concerned about high numbers of new checking account customers opting into unusually costly overdraft protection services. After reviewing the account application and promotional materials, he believes that those materials obscure the fees and make the optional overdraft protection services seem mandatory for new customers. He reports his concerns to his supervisor. The bank is a covered employer because it is engaging in deposit-taking activities for consumers. The manager is a covered employee because he is supervising the employees who help consumers open checking accounts. The manager's complaint is protected as long as he reasonably believed that the conduct he reported was unfair, deceptive, or abusive to consumers in violation of the CFPB, one of the laws subject to the jurisdiction of the CFPB.
- A customer service representative works for a company that issues credit cards to consumers. It also offers convenience checks that customers can use for cash advances against their credit cards. Customers can call the company to request checks. The employee's supervisor says, "Don't send any checks to customers who sound Black or Hispanic on the phone." The employee complains to the corporate ethics hotline that his boss is denying services based on race and national origin. The company is a covered employer because it offers credit cards to consumers. The customer service representative is a covered employee because he fills orders for convenience checks to customers. The employee's report to the corporate ethics hotline is protected because the employee reported concerns that he reasonably believed violate the Equal Credit Opportunity Act, one of the laws subject to the jurisdiction of the CFPB.

II. Procedures for Handling CFPA Whistleblower Complaints

Procedures for handling CFPA whistleblower complaints are set forth in [29 C.F.R. Part 1985](#). Below is a summary of the procedural provisions most relevant to the OSHA investigation. More information is also available in the [What to expect during an OSHA Whistleblower Investigation](#) section of OSHA's website, OSHA's [Filing Whistleblower Complaints under the Consumer Financial Protection Act](#) fact sheet, and in the [OSHA Whistleblower Investigations Manual](#).

A. Complaint

Who may file: An employee who believes that he or she has been retaliated against in violation of CFPA may file a complaint with OSHA. The employee may also have a representative file on the employee's behalf.

Form: The complaint need not be in any particular form. Oral or written complaints are acceptable, including OSHA's [Online Complaint form](#). If the complainant cannot make a complaint in English, OSHA will accept a complaint in any language.

Timing: The complaint must be filed within 180 days of when the alleged adverse action took place or when the complainant learned of the adverse action. Equitable tolling principles may extend the time for filing in limited circumstances, consistent with the guidance in OSHA’s Whistleblower Investigations Manual.

Distribution of complaints and findings to partner agencies: Complaints and findings in CFPA cases should be sent to the CFPB and the DOJ Civil Frauds section. If the CFPA complaint allegations also involve protected activity under SOX, complaints and findings should also be sent to the SEC. (See Section III B on pg. 11 for more information on the overlap between CFPA and SOX.)

B. Investigation

Upon OSHA receiving a complaint, OSHA will evaluate the complaint to determine whether the complaint contains a prima facie allegation of retaliation. In other words, the complaint, supplemented as appropriate with interviews of the complainant, must allege that:

1. The employee engaged in CFPA-protected activity;
2. The respondent knew or suspected that the employee engaged in CFPA-protected activity;
3. The employee suffered an adverse action;³ and
4. The circumstances were sufficient to raise the inference that the protected activity was a contributing factor in the adverse action.

If the complaint contains a prima facie allegation of retaliation, OSHA will ask for a position statement from the respondent and proceed with the investigation. If it does not, and the complainant does not agree to administrative closure of the complaint, OSHA will dismiss the complaint with notice to the complainant and the respondent of the right to request a hearing before a Department of Labor administrative law judge (ALJ).

The CFPA whistleblower provision uses a “contributing factor” standard. Thus, following the investigation, OSHA will find that retaliation occurred if it determines that there is reasonable cause to believe that CFPA-protected activity was a contributing factor in the decision to take adverse action against the complainant and the respondent has not shown by clear and convincing evidence that it would have taken the same action in the absence of the protected activity. A contributing factor is a factor which, alone or with other factors, in any way affects the outcome of a decision.

If OSHA finds reasonable cause to believe that retaliation occurred, it will issue findings and a preliminary order stating the relief to be provided. The relief may include reinstatement, backpay, compensatory damages, other remedies for the retaliation (such as a neutral reference), and reasonable attorney fees and costs.

³ Courts have held under analogous OSHA-enforced whistleblower protection laws that an adverse action is an action that might dissuade a reasonable employee from engaging in protected activity. Examples of adverse actions include (but are not limited to) firing, demoting, denying overtime or a promotion, or disciplining the employee.

If OSHA does not find reasonable cause to believe that retaliation occurred, it will issue findings dismissing the complaint.

If the complainant and respondent agree to settle the case during the investigation, they must submit the settlement agreement for OSHA's review and approval.

C. Administrative and Judicial Review

Either the complainant or the respondent may object to OSHA's findings within 30 days and request a hearing before an ALJ. Filing objections will stay OSHA's order for all relief except reinstatement, which is *not* automatically stayed. If no objections are filed, OSHA's findings become the final order of the Secretary of Labor not subject to review.

The ALJ proceeding is a *de novo*, adversarial proceeding in which both the complainant and the respondent have the opportunity to seek documents and information from each other in discovery and to introduce evidence and testimony into the hearing record. OSHA does not typically participate in the ALJ proceeding. Documents and other information submitted to OSHA during the investigation do not automatically become part of the record in the ALJ proceeding. However, both the complainant and the respondent may introduce evidence that they obtained or used during OSHA's investigation into the ALJ proceeding. The ALJ may hold a hearing or dismiss the case without a hearing if appropriate. Either the complainant or respondent may appeal the ALJ's decision in the case to the Department of Labor's Administrative Review Board (ARB), which may either accept or reject the case for review. A complainant or respondent may obtain review of an ARB decision or an ALJ decision which the ARB has declined to review by the appropriate U.S. Court of Appeals.

D. Kickout Provision

CFPA permits a complainant to bring a *de novo* CFPA action in federal district court if the Department of Labor has not reached a final decision on the complainant's CFPA claim within 210 days of the filing of the complaint with OSHA and the delay is not due to the bad faith of the complainant, or within 90 days after receiving OSHA's findings.

III. Miscellaneous Issues

A. Predispute Arbitration Agreements

The CFPA whistleblower provision generally prohibits the enforcement of predispute arbitration agreements with respect to alleged violations of the provision, and such agreements cannot be used to waive any rights or remedies that the complainant has under the CFPA whistleblower provision. Therefore, an arbitration agreement that the complainant and respondent entered into before the adverse action (e.g., in the employment agreement between the complainant and the respondent or in the respondent's employee handbook) cannot preclude OSHA from investigating a complainant's CFPA claim.

B. Overlap Between the CFPA and Sarbanes-Oxley Act (SOX) Whistleblower Protection Provisions

Whistleblower complaints filed under CFPA may also allege violations of the whistleblower protection provision of SOX, 18 U.S.C. 1514A. The SOX whistleblower protection provision, among other things, prohibits publicly traded companies and others from discharging or otherwise retaliating against an employee for reporting conduct that the employee reasonably believes constitutes mail, wire, bank, or securities fraud, a violation of any SEC rule or regulation, or a violation of a provision of federal law relating to fraud against shareholders. For more information on SOX, see OSHA's [Filing Whistleblower Complaints Under the Sarbanes-Oxley Act](#) fact sheet and other resources available on OSHA's website.

IV. Resources

The [CFPB's website](#) contains a wide variety of resources that may be helpful to OSHA investigators in evaluating whether the coverage and protected activity requirements of the CFPA whistleblower provision are met in a particular case. One helpful resource is the CFPB's [Supervision and Examination Manual](#), which is the CFPB's guide for examiners to use in overseeing certain banks, credit unions, and other companies that engage in offering or providing consumer financial products or services. The manual describes how the CFPB supervises and examines these companies and gives CFPB examiners direction on how to assess compliance with federal consumer financial laws.

Attachment 1: Laws Enforced by the CFPB

Laws Enforced by the CFPB with Short Description	U.S.C.	Regulations
<p>1. Consumer Financial Protection Act of 2010 (CFPA or Title X of the Dodd-Frank Act) Among other things, CFPA itself prohibits covered persons and service providers from offering or providing to a consumer any financial product or service not in conformity with Federal consumer financial law, from violating any Federal consumer financial law, and from engaging in “unfair, deceptive, or abusive” acts or practices (UDAAP).</p>	12 U.S.C. 5481 <i>et seq.</i>	Various
<p>2. Alternative Mortgage Transaction Parity Act of 1982 This law authorizes nonfederally-chartered “housing creditors” to make alternative mortgage transactions that would otherwise have been prohibited by state law, so long as the creditors comply with certain federal regulations.</p>	12 U.S.C. 3801 <i>et seq.</i>	12 CFR Part 1004 (Regulation D)
<p>3. Consumer Leasing Act of 1976 This Act, amending the Truth in Lending Act, regulates personal property leases that exceed four months in duration and that are made to consumers for personal, family, or household purposes. The statute requires that certain lease costs and terms be disclosed, imposes limitations on the size of penalties for delinquency or default and on the size of residual liabilities, and requires certain disclosures in lease advertising.</p>	15 U.S.C. 1667 <i>et seq.</i>	12 CFR Part 1013 (Regulation M); also 12 CFR Part 213 (Regulation M)
<p>4. Electronic Fund Transfer Act (EFTA) (except section 920 of that Act) The EFTA is intended to protect individual consumers engaging in electronic fund transfers (EFTs) and remittance transfers. EFT services include transfers through automated teller machines, point-of-sale terminals, automated clearinghouse systems, certain telephone transfers, and remote banking programs. The Act requires financial institutions to adopt certain practices respecting EFT services, including such matters as transaction accounting, preauthorized transfers, and error resolution, and limits liability for losses caused by unauthorized transfers. The Credit Card Accountability Responsibility and Disclosure (CARD) Act of 2009 and the Dodd-Frank Act made substantial amendments to this Act.</p>	15 U.S.C. 1693 <i>et seq.</i>	12 CFR Part 1005 (Regulation E); also 12 CFR Part 205 (Regulation E)
<p>5. Equal Credit Opportunity Act This Act prohibits discrimination on the basis of race, color, religion, national origin, sex, marital status, age, receipt of public assistance, or good faith exercise of any rights under the Consumer Credit Protection Act. The Consumer Credit Protection Act includes the Truth in Lending Act (including the Fair Credit Billing Act, the Consumer Leasing Act, and the Home Ownership and Equity Protection Act), the Fair Credit Reporting Act, the Equal Credit Opportunity Act, the Fair Debt</p>	15 U.S.C. 1691 <i>et seq.</i>	12 CFR Part 1002 (Regulation B); also 12 CFR Part 202 (Regulation B)

Laws Enforced by the CFPB with Short Description	U.S.C.	Regulations
Collection Practices Act, and the Electronic Fund Transfer Act. The Act also requires creditors to provide applicants, upon request, with the reasons underlying decisions to deny credit. It also requires creditors to provide applicants a copy of all appraisals and other written valuations used in connection with the applicant's application for first lien loans secured by a dwelling.		
6. Fair Credit Billing Act This Act amended the Truth in Lending Act to require prompt written acknowledgment of consumer billing complaints and investigation of billing errors by creditors. It prohibits creditors from taking actions that adversely affect the consumer's credit standing until an investigation is completed and affords other protection during disputes. It also requires that creditors promptly post payments to the consumer's account and either refund overpayments or credit them to the consumer's account.	15 U.S.C. 1666 <i>et seq.</i>	12 C.F.R. Part 1026 (Regulation Z); also 12 C.F.R. Part 226 (Regulation Z)
7. Fair Credit Reporting Act (except sections 615(e), 15 U.S.C. 1681m(e), and 628, 15 U.S.C. 1681w) This Act protects information collected by consumer reporting agencies such as credit bureaus, medical records and payment companies, and tenant screening services. Information in a consumer report cannot be provided to anyone who does not have a permissible purpose specified in the Act. Companies that furnish information to consumer reporting agencies also have specific legal obligations, including the duty to investigate disputed information. Also, users of the information for credit, insurance, or employment purposes must notify the consumer when an adverse action is taken on the basis of such reports. Further, users must identify the company that provided the report, so that the accuracy and completeness of the report may be verified or contested by the consumer. The Fair and Accurate Credit Transactions Act of 2003, the Credit CARD Act of 2009, the Dodd-Frank Act of 2010, and the Red Flag Program Clarification Act of 2010 made a number of substantial changes to this Act.	15 U.S.C. 1681 <i>et seq.</i>	12 CFR Part 1022 (Regulation V); also 16 CFR Subchapter F, Parts 603 <i>et seq.</i> except with respect to Part 681, Part 682, & Appendix A to Part 681
8. Homeowners Protection Act of 1998 The Act, also known as the Private Mortgage Insurance (PMI) Cancellation Act, addresses the difficulties homeowners have experienced in canceling PMI coverage. It establishes provisions for the cancellation and termination of PMI, sets forth disclosure and notification requirements, and requires the return of unearned premiums.	12 U.S.C. 4901 <i>et seq.</i>	
9. Fair Debt Collection Practices Act Under this Act, third-party debt collectors are prohibited from employing harassing, abusive, deceptive, unfair, or unconscionable conduct in the collection of consumer debts	15 U.S.C. 1692 <i>et seq.</i>	12 CFR Part 1006 (Regulation F)

Laws Enforced by the CFPB with Short Description	U.S.C.	Regulations
<p>incurred for personal, family, or household purposes. Such collectors may not, for example, contact debtors at odd hours, subject them to inappropriate repeated telephone calls, threaten legal action that is not actually contemplated, or reveal to other persons the existence of debts without the consumer's consent.</p>		
<p>10. Federal Deposit Insurance Act, section 43, subsections (b) through (f) Requires, among other things, that depository institutions lacking federal deposit insurance conspicuously disclose that deposits in these institutions are not federally insured.</p>	<p>12 U.S.C. 1831t(c)–(f)⁴</p>	<p>12 CFR Part 1009 (Regulation I)</p>
<p>11. Gramm-Leach-Bliley Act sections 502 through 509 (except for section 505 as it applies to section 501(b)) Title V, subtitle A, of this Act requires the CFPB, along with several other agencies, to issue regulations ensuring that financial institutions protect the privacy of consumers' personal financial information. Such institutions must develop and give notice of their privacy policies to their customers initially and at least annually. Before disclosing any consumer's personal financial information to an unaffiliated third party, they must give notice and an opportunity for that consumer to "opt out" from such disclosure.</p>	<p>15 U.S.C. 6802–6809</p>	<p>12 CFR Part 1016 (Regulation P); also 16 CFR Part 313 (FTC); 17 CFR 160 (CFTC); 17 CFR 248 (SEC)</p>
<p>12. Home Mortgage Disclosure Act of 1975 This Act requires certain lending institutions to report mortgage loan data for public disclosure, in order to provide citizens and public officials with sufficient information to enable them to determine whether depository institutions are fulfilling their obligations to serve the housing needs of the communities and neighborhoods in which they are located; to assist public officials in distributing public sector investments in a manner designed to improve the private investment environment; and to assist in identifying possible discriminatory lending patterns and enforcing antidiscrimination statutes.</p>	<p>12 U.S.C. 2801 <i>et seq.</i></p>	<p>12 CFR Part 1003 (Regulation C)</p>
<p>13. Home Ownership and Equity Protection Act of 1994 The Act, amending the Truth in Lending Act, establishes disclosure requirements and prohibits equity stripping and other abusive practices in connection with high-cost mortgages. The Dodd-Frank Act made substantial amendments to this Act.</p>	<p>15 U.S.C. 1602(bb) & 1639</p>	<p>12 CFR Part 1026 (Regulation Z)</p>
<p>14. Real Estate Settlement Procedures Act of 1974 (RESPA) The purposes of RESPA include (1) to help consumers become better shoppers for settlement services by requiring that borrowers receive disclosures at various times, and (2) to eliminate kickbacks and referral fees that unnecessarily increase the costs of certain settlement services. Section 8 of RESPA</p>	<p>12 U.S.C. 2601 <i>et seq.</i></p>	<p>12 CFR Part 1024 (Regulation X)</p>

⁴ As cited in 12 U.S.C. 5481(12); however, subsection (b) of Section 43 of the Federal Deposit Insurance Act is 12 U.S.C. 1831t(b).

Laws Enforced by the CFPB with Short Description	U.S.C.	Regulations
<p>prohibits a person from giving or accepting anything of value for referrals of settlement service business related to a federally related mortgage loan, or from giving or accepting any part of a charge for services that are not performed. Section 9 of RESPA prohibits home sellers from requiring home buyers to purchase title insurance from a particular company for federally related mortgage loans.</p>		
<p>15. Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (S.A.F.E. Act) The S.A.F.E. Act requires the CFPB to develop and maintain a Federal registration system for individual employees of institutions regulated by a Federal banking agency or the Farm Credit Administration who engage in the business of residential mortgage loan origination. The statute requires these individual mortgage loan originators to be registered with the Nationwide Mortgage Licensing System and Registry, and encourages all states (and gives the CFPB backup authority) to provide for a licensing and registration regime for mortgage loan originators who are not employed by institutions regulated by a Federal banking agency or the Farm Credit Administration.</p>	<p>12 U.S.C. 5101 <i>et seq.</i></p>	<p>12 CFR 1007 (Regulation G); 12 CFR 1008 (Regulation H)</p>
<p>16. Truth in Lending Act The Truth in Lending Act seeks to assure meaningful disclosure of credit terms so that the consumer will be able to compare more readily the various credit terms available to him or her and avoid the uninformed use of credit, and to protect the consumer against inaccurate and unfair credit billing and credit card practices. Among other things, the Act requires all creditors who deal with consumers to make certain written disclosures concerning all finance charges and related aspects of credit transactions (including disclosing an annual percentage rate). Other protections include: rescission rights in some circumstances; rate caps on certain dwelling-secured loans; limitations on home equity lines of credit and certain closed-end home mortgages; minimum standards for most dwelling-secured loans; and prohibitions on unfair or deceptive mortgage lending practices. Dodd-Frank and the Credit CARD Act made substantial changes to this Act.</p>	<p>15 U.S.C. 1601 <i>et seq.</i></p>	<p>12 C.F.R Part 1026 (Regulation Z); also 12 C.F.R. Part 226 (Regulation Z).</p>
<p>17. Truth in Savings Act The purpose of this Act is to enable consumers to make informed decisions about their accounts at depository institutions through the use of uniform disclosures. The disclosures aid comparison shopping by informing consumers about the fees, annual percentage yield, interest rate, and other terms for deposit accounts. It also includes requirements on the payment of interest, the methods of calculating the balance on which interest</p>	<p>12 U.S.C. 4301 <i>et seq.</i></p>	<p>12 CFR Part 1030 (Regulation DD); also 12 CFR Part 707; 12 CFR 741.217 (NCUA)</p>

Laws Enforced by the CFPB with Short Description	U.S.C.	Regulations
is paid, the calculation of the annual-percentage yield, and advertising.		
<p>18. Omnibus Appropriations Act of 2009, section 626, as amended Permits the Bureau to issue rules relating to unfair or deceptive acts or practices regarding mortgage loans, including loan modification and foreclosure rescue services. It also authorizes the Bureau and the FTC to enforce the rules.</p>	15 U.S.C. 1638 note	12 CFR 1014 (Regulation N); 12 CFR 1015 (Regulation O)
<p>19. Interstate Land Sales Full Disclosure Act The Interstate Land Sales program protects consumers from fraud and abuse in the sale or lease of land. It requires land developers to register subdivisions of 100 or more non-exempt lots with the CFPB and to provide each purchaser with a disclosure document called a Property Report. The Property Report contains relevant information about the subdivision and must be delivered to each purchaser before the signing of the contract or agreement.</p>	15 U.S.C. 1701 <i>et seq.</i>	12 CFR 1010 (Regulation J); 12 CFR 1011 (Regulation K); 12 CFR 1012 (Regulation L)
<p>20. Military Lending Act The Military Lending Act provides service members and their dependents with specific protections for their “consumer credit” transactions. Among other protections, the law limits the annual rate on an extension of such credit to 36 percent, provides for military-specific disclosures, and prohibits creditors from requiring a service member to submit to arbitration in the event of a dispute.</p>	10 U.S.C. 987	32 CFR Part 232 (Department of Defense (DoD))

Attachment 2: Regulations Enforced by the CFPB

Below is a list of the regulations enforced or enforceable by the CFPB that OSHA believes are most likely to be relevant to a CFPA whistleblower complaint. In some instances, the CFPB and another federal agency, such as the Federal Trade Commission, both exercise enforcement authority under the rule:

1. Financial Products or Services, 12 CFR Part 1001
2. [Regulation B](#): Equal Credit Opportunity, 12 CFR Part 1002
3. [Regulation C](#): Home Mortgage Disclosure, 12 CFR Part 1003
4. [Regulation D](#): Alternative Mortgage Parity Act, 12 CFR Part 1004
5. [Regulation E](#): Electronic Fund Transfers, 12 CFR Part 1005
6. [Regulation G](#): S.A.F.E. Mortgage Licensing Act – Federal Registration of Residential Mortgage Loan Originators, 12 CFR Part 1007
7. [Regulation H](#): S.A.F.E. Mortgage Licensing Act – State Compliance and Bureau Registration System, 12 CFR Part 1008
8. [Regulation I](#): Disclosure Requirements for Depository Institutions Lacking Federal Deposit Insurance, 12 CFR Part 1009
9. [Regulation J](#): Land Registration, 12 CFR Part 1010
[Regulation K](#): Purchasers’ Revocation Rights, Sales Practices and Standards, 12 CFR Part 1011
10. [Regulation L](#): Special Rules of Practice, 12 CFR Part 1012
11. [Regulation M](#): Consumer Leasing, 12 CFR Part 1013
12. [Regulation N](#): Mortgage Acts and Practices-Advertising, 12 CFR Part 1014
13. [Regulation O](#): Mortgage Assistance Relief Services, 12 CFR Part 1015
14. [Regulation P](#): Privacy of Consumer Financial Information, 12 CFR Part 1016
15. [Regulation V](#): Fair Credit Reporting, 12 CFR Part 1022
16. [Regulation X](#): Real Estate Settlement Procedures Act, 12 CFR Part 1024
17. [Regulation Z](#): Truth in Lending, 12 CFR Part 1026
18. [Regulation DD](#): Truth in Savings, 12 CFR Part 1030
19. Telemarketing Sales Rule, 16 CFR Part 310
20. Use of Prenotification Negative Option Plans, 16 CFR Part 425
21. Rule Concerning Cooling-Off Period for Sales Made at Homes or at Certain Other Locations, 16 CFR Part 429
22. Preservation of Consumers’ Claims and Defenses, 16 CFR Part 433
23. Credit Practices, 16 CFR Part 444
24. Mail or Telephone Order Merchandise, 16 CFR Part 435
25. Disclosure Requirements and Prohibitions Concerning Franchising, 16 CFR Part 436
26. Disclosure Requirements and Prohibitions Concerning Business Opportunities, 16 CFR Part 437
27. Limitations on Terms of Consumer Credit Extended to Service Members and Dependents, 32 CFR Part 232, as issued by DoD

Attachment 3: Optional Worksheet: Analyzing CFPA Whistleblower Complaints

In order to issue merit findings, answers 1 to 9 must be “yes” and answer 10 must be “no.”

	Yes	No
Timeliness		
1. Was the complaint filed within 180 days of the alleged adverse action (or tolling applies)?	<input type="checkbox"/>	<input type="checkbox"/>
Coverage (See Desk Aid pp. 2-4)		
2. Is respondent covered under the CFPA whistleblower provision? (check one coverage category) <input type="checkbox"/> Covered Person <input type="checkbox"/> Service Provider	<input type="checkbox"/>	<input type="checkbox"/>
3. Is complainant a covered employee or authorized representative within the meaning of the CFPA whistleblower provision?	<input type="checkbox"/>	<input type="checkbox"/>
Protected Activity (See Desk Aid pp. 5-8)		
4. Has complainant (pick at least one): a. Provided, caused to be provided, or is about to provide or cause to be provided to the employer, the CFPB, any other state, local, or federal government authority or law enforcement agency information relating to any violation or any conduct that the employee reasonably believes is a violation of any provision of law (including the CFPA) that is subject to the jurisdiction of the CFPB, or any rule, order, standard, or prohibition prescribed by the CFPB; b. Testified or will testify in a proceeding concerning such violation; c. Filed, instituted, or caused to be filed or instituted, any proceeding under any Federal consumer financial law; or d. Objected to, or refused to participate in, any activity, policy, practice, or assigned task that the employee reasonably believes violates any law, rule, order, standard, or prohibition subject to the jurisdiction of or enforceable by the CFPB.	<input type="checkbox"/>	<input type="checkbox"/>
5. For item 4a. and 4d. does the complainant have a subjective, good faith belief that the conduct complained of violated the law?	<input type="checkbox"/>	<input type="checkbox"/>
6. For item 4a. and 4d. could a reasonable person with similar training, knowledge, and experience believe that a violation occurred, is occurring, or is likely to occur?	<input type="checkbox"/>	<input type="checkbox"/>
Employer Knowledge		
7. Did respondent know or suspect that complainant engaged in the protected activity? (Remember that knowledge may be imputed to respondent using a cat’s paw theory or the small plant doctrine if warranted by the evidence.)	<input type="checkbox"/>	<input type="checkbox"/>
Adverse Action		
8. Did respondent discharge or take other adverse action against complainant? (Adverse action is any action that could dissuade a reasonable employee from engaging in CFPA-protected activity. Common examples include firing, demoting, or disciplining the employee.)	<input type="checkbox"/>	<input type="checkbox"/>
Nexus (Contributing Factor)		
9. Was complainant’s CFPA-protected activity a <i>contributing factor</i> in respondent’s decision to take adverse action against complainant? Evidence that protected activity contributed to an adverse action includes, but is not limited to: <ul style="list-style-type: none"> • Close timing (temporal proximity) between the protected activity and the adverse action. • Evidence of hostility towards the protected activity. • Disparate treatment of complainant as compared to other employees following the protected activity. • Changes in respondent’s treatment of complainant after the protected activity. • Indicators that respondent’s stated reasons for the adverse action are pretext. 	<input type="checkbox"/>	<input type="checkbox"/>
Affirmative Defense		
10. Is there clear and convincing evidence that respondent would have taken the same action against complainant absent the protected activity?	<input type="checkbox"/> No	<input type="checkbox"/> Yes