

**April 2013**

**MEMORANDUM TO: All CFPB Employees, Former Employees, and Applicants  
for Employment at CFPB**

**FROM: Richard Cordray  
Director**

**SUBJECT: FY 2013 Annual No FEAR Act Notice**

On May 15, 2002, Congress enacted the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), Pub. L. 107-174, 116 Stat. 566 (5 U.S.C. § 2301 note). The Act is intended to hold Federal agencies accountable for violations of antidiscrimination and whistleblower protection laws. In support of this purpose, Congress found that “agencies cannot be run effectively if those agencies practice or tolerate discrimination.” Sec. 101(1), Pub. L. 107-174, 116 Stat. 566. The Act requires CFPB to inform its employees, former employees, and applicants for employment of the rights and protections available under Federal antidiscrimination, whistleblower protection, and retaliation laws. 5 C.F.R. § 724.202.

### **Antidiscrimination Laws**

A Federal agency may not discriminate against an employee or applicant with respect to the terms, conditions, or privileges of employment on the basis of race, color, religion, national origin, sex, (including pregnancy, sex stereotyping, gender identity, gender expression, and gender non-conformity), age (40 and above), disability, genetic information, marital status, parental status, sexual orientation, political affiliation, military service, union activities, or any other non-merit factor. Discrimination on these bases is prohibited by Federal statutes and Executive Orders. 5 U.S.C. § 2302(b)(1); 5 U.S.C. §§ 7101-7135; 29 U.S.C. § 206(d); 29 U.S.C. § 631; 29 U.S.C. § 633a; 29 U.S.C. § 791; 38 U.S.C. §§ 4301-35; 42 U.S.C. § 2000e-16; 42 U.S.C. § 2000ff-1; E.O. 13087; E.O. 13145; E.O. 13152.

If you believe that you have been the victim of unlawful discrimination on the basis of race, color, religion, sex, national origin, disability, genetic information, sexual orientation, or parental status, you must contact an Equal Employment Opportunity (EEO) counselor in the Office of Equal Employment Opportunity (EEO Office) at the Consumer Financial Protection Bureau (CFPB) within 45 calendar days of the alleged discriminatory action, or, in the case of a personnel action, within 45 calendar days of the effective date of the action, before you may file a formal complaint of discrimination with the CFPB. *See, e.g.,* 29 C.F.R. Part 1614.

If you believe that you have been the victim of unlawful discrimination on the basis of age, you must either contact an EEO counselor or give notice of your intent to sue to the Equal Employment Opportunity Commission (EEOC) within 180 calendar days of the alleged discriminatory action.

If you are alleging discrimination based on marital status, political affiliation, or any other non-merit factor you may file a written complaint with the U.S. Office of Special Counsel (OSC).

If you are alleging discrimination based on military service, you may request assistance from the Veterans' Employment and Training Service (VETS) at the Department of Labor (DOL), the Merit Systems Protection Board (MSPB), or OSC, depending on the circumstances.

If you are alleging discrimination based on membership or non-membership in a union, or for union activities, you may request assistance from your union (if applicable) or the Federal Labor Relations Authority (FLRA).

### Whistleblower Protection Laws

A Federal employee with authority to take, direct others to take, recommend, or approve a personnel action must not use that authority to take or fail to take, or threaten to take or fail to take, a personnel action against an employee or applicant because of disclosure of information by that individual that is reasonably believed to be evidence of violations of law, rule or regulation; gross mismanagement; gross waste of funds; abuse of authority; or substantial and specific danger to public health or safety, unless disclosure of such information is specifically prohibited by law or such information is specifically required by Executive Order to be kept secret in the interest of national defense or the conduct of foreign affairs.

Retaliation against an employee or applicant for making a protected disclosure is prohibited by 5 U.S.C. § 2302(b)(8). If you believe that you have been the victim of whistleblower retaliation, you may file a written complaint (Form OSC-11) with OSC at 1730 M Street, NW, Suite 218, Washington, DC 20036-4505 or online through the OSC website at <http://www.osc.gov>.

### Retaliation for Engaging in Protected Activity

A Federal agency may not retaliate against an employee or applicant because that individual exercises his or her rights under any of the Federal antidiscrimination or whistleblower protection laws listed in this Notice. If you believe that you are the victim of retaliation for engaging in protected activity, you must follow the procedures described in

the Antidiscrimination Laws and Whistleblower Protection Laws sections of this Notice in order to pursue a legal remedy.

### Disciplinary Actions

Each agency has the right to discipline a Federal employee for conduct that is inconsistent with Federal antidiscrimination and whistleblower protection laws up to and including removal from the federal service. If OSC has initiated an investigation under 5 U.S.C. § 1214, however, according to 5 U.S.C. § 1214(f), agencies must seek approval from the Special Counsel to discipline employees for, among other activities, engaging in prohibited retaliation. Nothing in the No FEAR Act alters existing laws or permits an agency to take unfounded disciplinary action against a Federal employee or to violate the procedural rights of a Federal employee who has been accused of discrimination.

### Additional Information

For further information regarding the No FEAR Act regulations, please see 5 C.F.R. Part 724, and contact the EEO Office at CFPB. Additional information regarding Federal antidiscrimination, whistleblower protection, and retaliation laws can be found on the CFPB's intranet at <http://team.cfpb.local/wiki/index.php/EEO>, the EEOC website at <http://www.eeoc.gov>, on the OSC website at <http://www.osc.gov>, on the DOL website at <http://www.dol.gov>, the MSPB website at <http://www.mspb.gov>, or the FLRA website at <http://www.flra.gov>.

### Existing Rights Unchanged

Pursuant to section 205 of the No FEAR Act, neither the Act nor this notice creates, expands or reduces any rights otherwise available to any employee, former employee or applicant under the laws of the United States, including the provisions of law specified in 5 U.S.C. § 2302(d).

### Contact Information for the CFPB EEO Office

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