**PART 1040—ARBITRATION AGREEMENTS**

Sec.

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Supplement I to Part 1040—Official Interpretations.

1. The authority citation for part 1040 reads as follows:

Authority: 12 U.S.C. 5512(b) and (c) and 5518(b).

**§ 1040.1 Authority, purpose, and enforcement.**

1. Authority. The regulation in this part is issued by the Bureau of Consumer Financial Protection (Bureau) pursuant to sections 1022(b)(1) and (c) and 1028(b) of the Dodd-Frank Act (12 U.S.C. 5512(b) and (c) and 5518(b)).
2. Purpose. The purpose of this part is the furtherance of the public interest and the protection of consumers regarding the use of agreements for consumer financial products and services providing for arbitration of any future dispute.

**§ 1040.2 Definitions.**

1. Class action means a lawsuit in which one or more parties seek class treatment pursuant to Federal Rule of Civil Procedure 23 or any State process analogous to Federal Rule of Civil Procedure 23.
2. Consumer means an individual or an agent, trustee, or representative acting on behalf of an individual.
3. Provider means:
4. A person as defined by 12 U.S.C. 5481(19) that engages in offering or providing any of the consumer financial products or services covered by § 1040.3(a) to the extent that the person is not excluded under § 1040.3(b); or
5. An affiliate of a provider as defined in paragraph (c)(1) of this section when that affiliate is acting as a service provider to the provider as defined in paragraph (c)(1) of this section with which the service provider is affiliated consistent with 12 U.S.C. 5481(6)(B).

*2(c) Provider.*

1. *Providers of multiple products or services. A provider as defined in § 1040.2(c) that also engages in offering or providing products or services not covered by § 1040.3 must comply with this part only for the products or services that it offers or provides that are covered by § 1040.3. For example, a merchant that transmits funds for its customers would be covered pursuant to § 1040.3(a)(6) with respect to the transmittal of funds. That same merchant generally would not be covered with respect to the sale of durable goods to consumers, except as provided in 12 U.S.C. 5517(a)(2)(B)(ii) or (iii).*
2. Pre-dispute arbitration agreement means an agreement between a provider and a consumer providing for arbitration of any future dispute between the parties.

*2(d) Pre-dispute arbitration agreement.*

1. *Form of pre-dispute arbitration agreements. A pre-dispute arbitration agreement for a consumer financial product or service includes any agreement between a provider and a consumer providing for arbitration of any future disputes between the parties, regardless of its form or structure. Examples include a standalone pre-dispute arbitration agreement that applies to a product or service, as well as a pre-dispute arbitration agreement that is included within, annexed to, incorporated into, or otherwise made a part of a larger agreement that governs the terms of the provision of a product or service.*

**§ 1040.3 Coverage.**

* 1. Covered consumer financial products and services. This part generally applies to predispute arbitration agreements for the following products or services when they are consumer financial products or services as defined by 12 U.S.C. 5481(5):

*3(a) Covered products or services.*

*1. Consumer financial products or services pursuant to 12 U.S.C. 5481(5). Section 1040.3(a) provides that the products or services listed in paragraph (a) of this section are covered by Part 1040 when they are consumer financial products or services as defined by 12 U.S.C. 5481(5). Products or services generally meet this definition in either of two ways: they are offered or provided for use by consumers primarily for personal, family, or household purposes, or they are delivered, offered, or provided in connection with such products or services.*

*Examples of the second type of consumer product or service include debt collection, when the underlying loan that is the subject of collection is a consumer financial product or service.*

(1)

1. Providing an “extension of credit” that is “consumer credit” as defined in Regulation B, 12 CFR 1002.2;

*1. Coverage of extensions of consumer credit by creditors. A transaction is only an extension of consumer credit, as defined by Regulation B, if the credit is extended by a “creditor.” Persons who do not regularly participate in credit decisions in the ordinary course of business, for example, are not creditors as defined by Regulation B. 12 CFR 1002.2(l).*

1. Acting as a “creditor” as defined by 12 CFR 1002.2(l) by “regularly participat[ing] in a credit decision” consistent with its meaning in 12 CFR 1002.2(l) concerning “consumer credit” as defined by 12 CFR 1002.2(h);
2. Acting, as a person’s primary business activity, as a “creditor” as defined by 12 CFR 1002.2(l) by “refer[ring] applicants or prospective applicants to creditors, or select[ing] or offer[ing] to select creditors to whom requests for credit may be made” consistent with its meaning in 12 CFR 1002.2(l);

*1. Offering or providing referral or creditor selection services. Section 1040.3(a)(1)(iii) includes in the coverage of Part 1040 providing referrals or providing or offering creditor selection consistent with the meaning in 12 CFR 1002.2(l) by a creditor as its primary business.*

*A person whose primary business is the sale of non-financial goods or services that also provides or offers the services described in section 1040.3(a)(1)(iii) would not be covered under section 1040.4(a)(1)(iii) because the referrals are not its primary business.*

1. Acquiring, purchasing, or selling an extension of consumer credit covered by paragraph (a)(1)(i) of this section; or
2. Servicing an extension of consumer credit covered by paragraph (a)(1)(i) of this section; or

*1. Servicing of credit. Section 1040.3(a)(1)(v) includes in the coverage of Part 1040 servicing of extensions of consumer credit. Servicing of extensions of consumer credit includes, but is not limited to, student loan servicing as defined in 12 CFR 1090.106 and mortgage loan servicing as defined in 12 CFR 1024.2(b).*

1. Extending automobile leases as defined by 12 CFR 1090.108 or brokering such leases;
2. Providing services to assist with debt management or debt settlement, modify the terms of any extension of consumer credit covered by paragraph (a)(1)(i) of this section, or avoid foreclosure;

*1. Debt relief products and services. Section 1040.3(a)(3) includes in the coverage of Part 1040 services that offer to renegotiate, settle, or modify the terms of a consumer’s debt.*

*Providers of these services would be covered by section 1040.3(a)(3) regardless of the source of the debt, including but not limited to when seeking to relieve consumers of a debt that does not arise from a consumer credit transaction as described by section 1040.3(a)(1)(i) or from a consumer financial product or service more generally.*

1. Providing directly to a consumer a consumer report as defined by the Fair Credit Reporting Act, 15 U.S.C. 1681a(d), a credit score, or other information specific to a consumer from such a consumer report, except when such consumer report is provided by a user covered by 15 U.S.C. 1681m solely in connection with an adverse action as defined in 15 U.S.C. 1681a(k) with respect to a product or service not covered by any of paragraphs (1) through (3) or (5) through (10) of this section;
2. Providing accounts subject to the Truth in Savings Act, 12 U.S.C. 4301 et seq., as implemented by 12 CFR part 707, and Regulation DD, 12 CFR part 1030;
3. Providing accounts or remittance transfers subject to the Electronic Fund Transfer Act, 15 U.S.C. 1693 et seq., as implemented by Regulation E, 12 CFR part 1005;
4. Transmitting or exchanging funds as defined by 15 U.S.C. 5481(29) except when integral to another product or service that is not covered by section 1040.3;
5. Accepting financial or banking data or providing a product or service to accept such data directly from a consumer for the purpose of initiating a payment by a consumer via any payment instrument as defined by 15 U.S.C. 5481(18) or initiating a credit card or charge card transaction for the consumer, except when the person accepting the data or providing the product or service to accept the data also is selling or marketing the nonfinancial good or service for which the payment or credit card or charge card transaction is being made;

*1. Credit card and charge card transactions. Section 1040.3(a)(8) includes in the coverage of Part 1040 certain payment processing activities involving the initiation of credit card or charge card transactions. The terms “credit card “and “charge card” are defined in Regulation Z, 12 CFR 1026.2(a)(15). For purposes of section 1040.3(a)(8), those definitions in Regulation Z apply.*

1. Check cashing, check collection, or check guaranty services; or
2. Collecting debt arising from any of the consumer financial products or services described in paragraphs (1) through (9) of this section by:
3. A person offering or providing the product or service giving rise to the debt being collected, an affiliate of such person, or, a person acting on behalf of such person or affiliate;
4. A person purchasing or acquiring an extension of consumer credit covered by paragraph (a)(1)(i) of this section, an affiliate of such person, or, a person acting on behalf of such person or affiliate; or
5. A debt collector as defined by 15 U.S.C. 1692a(6).

*1. Collection of debt by the same person arising from covered and non-covered products and services. Section 1040.3(a)(10)(i) includes in the coverage of Part 1040 the collection of debt by a provider that arises from its providing any of the products and services described in paragraphs (1) through (9) of section 1040.3(a), including for example an extension of consumer credit described in section 1040.3(a)(1). If the person collecting such debt also collects other debt that does not arise from any of the products and services described in paragraphs (1) through (9) of section 1040.3(a), the collection of that other debt is not included in the coverage of section 1040.3(a)(10)(i). For example, if a creditor extended consumer credit to consumers and business credit to other persons, section 1040.3(a)(10)(i) would include in the coverage of Part 1040 the collection of the consumer credit but not the collection of the business credit.*

*Similarly, if a debt buyer purchases a portfolio of credit card debt that includes both consumer and business debt, section 1040.3(a)(10)(ii) would include in the coverage of Part 1040 only the collection of the consumer credit card debt.*

*2. Collection of debt by affiliates. Subparagraphs (i) and (ii) of section 1040.3(a)(10) cover certain collection activities not only by providers themselves, but also by their affiliates.*

*The term “affiliate” is defined in 12 U.S.C. 5481(1) as any person that controls, or is controlled by, or is under common control with another person.*

* 1. Excluded persons. This part does not apply to the following persons to the extent they are offering or providing any of the following products and services:
1. Broker dealers to the extent that they are providing products or services described in paragraph (a) of this section that are subject to rules promulgated or authorized by the U.S. Securities and Exchange Commission prohibiting the use of pre-dispute arbitration agreements in class action litigation and providing for making arbitral awards public;

*1. Exclusion for broker dealers to the extent they are subject to certain rules promulgated by the Financial Industry Regulatory Authority. Section 1040.3(b)(1) excludes from the coverage of Part 1040 broker dealers to the extent they are subject to rules promulgated or authorized by the U.S. Securities and Exchange Commission (SEC) prohibiting the use of predispute arbitration agreements in class action litigation and providing that arbitral awards be made public. Rules authorized by the SEC as referenced in section 1040.3(b)(1) include those promulgated by the Financial Industry Regulatory Authority (FINRA) and authorized by the SEC, such as FINRA Rule 2268: Requirements When Using Predispute Arbitration Agreements for Customer Accounts, FINRA Rule 12204: Class Action Claims, and FINRA Rule 12904: Awards.*

* 1. The federal government and any affiliate of the Federal government providing any product or service described in paragraph (a) of this section directly to a consumer; or
	2. A State, local, or tribal government, and any affiliate of a State, local, or tribal government, to the extent it is providing any product or service described in paragraph (a) of this section directly to a consumer who resides in the government’s territorial jurisdiction;

*1. Exclusion only for governments and their affiliates. Section 1040.3(b)(2) excludes from the coverage of Part 1040 governments and their affiliates under certain circumstances.*

*The term “affiliate” is defined in 12 U.S.C. 5481(1) as any person that controls, or is controlled by, or is under common control with another person. One of the requirements for this exclusion in section 1040.3(b)(2) to apply to a government or government affiliate is that the government or government affiliate itself be providing the covered product or service directly to consumers.*

*As a result, the exclusion does not extend to an entity that may provide services on behalf of a government or government affiliate, when the entity is not itself a government or government affiliate.*

*2. Examples of consumer financial products or services provided directly by a government or government affiliate to consumers who reside in the territorial jurisdiction of the government. Section 1040.3(b)(2)(ii) excludes from the coverage of Part 1040 State, local, or tribal governments and their affiliates when directly providing a consumer financial product or service to consumers who reside in the government’s territorial jurisdiction.*

1. *Such products or services provided to a consumer who resides in the territorial jurisdiction of the government may include, but are not limited to, the following:*
2. *A bank that is an affiliate of a State government providing a student loan or deposit account directly to a resident of the State; or*
3. *A utility that is an affiliate of a State or municipal government providing credit or payment processing services directly to a consumer who resides in the State or municipality to allow a consumer to purchase energy from an energy supplier that is not an affiliate of the same State or municipal government.*
4. *Such products or services provided to a consumer who does not reside in the territorial jurisdiction of the government may include, but are not limited to, the following:*
5. *A bank that is an affiliate of a State government providing a student loan to a student who resides in another State; or*
6. *A tribal government affiliate providing a short-term loan to a consumer who does not reside in the tribal government’s territorial jurisdiction and completes the transaction via the Internet.*
7. Any person when providing a product or service described in paragraph (a) of this section that the person and any of its affiliates collectively provide to no more than 25 consumers in the current calendar year and to no more than 25 consumers in the preceding calendar year;

*1. Including consumers to whom affiliates offer or provide a product or service toward the numerical threshold for exemption of a person under Section 1040.4(b)(3). Section 1040.3(b)(3) provides an exclusion to persons offering or providing a service covered by Section 1040.3(a) if no more than 25 consumers are offered the product or service in the current and prior calendar years by the person and its affiliates. For purposes of this test, the number of consumers to whom affiliates of a person offer or provide a product or service is combined with the number of consumers to whom the person itself offers or provides that product or service.*

*The term “affiliate” is defined in 12 U.S.C. 5481(1) as any person that controls, or is controlled by, or is under common control with another person.*

1. Merchants, retailers, or other sellers of nonfinancial goods or services to the extent they:

*1. Enters into a pre-dispute arbitration agreement. Section 1040.4 applies to providers that enter into pre-dispute arbitration agreements after the date set forth in § 1040.5(a).*

* + 1. *Examples of when a provider enters into a pre-dispute arbitration agreement for purposes of § 1040.4 include but are not limited to when the provider:*
1. *Provides to a consumer a new product or service that is subject to a pre-dispute arbitration agreement, and the provider is a party to the pre-dispute arbitration agreement;*
2. *Acquires or purchases a product covered by § 1040.3(a) that is subject to a pre-dispute arbitration agreement and becomes a party to that pre-dispute arbitration agreement, even if the person selling the product is excluded from coverage under § 1040.3(b); or*
3. *Adds a pre-dispute arbitration agreement to an existing product or service.*
	* 1. *Examples of when a provider does not enter into a pre-dispute arbitration agreement for purposes of § 1040.4 include but are not limited to when the provider:*
4. *Modifies, amends, or implements the terms of a product or service that is subject to a pre-dispute arbitration agreement that was entered into before the date set forth in § 1040.5(a); or*
5. *Acquires or purchases a product that is subject to a pre-dispute arbitration agreement but does not become a party to the pre-dispute arbitration agreement.*

*2. Application of section 1040.4 to providers that do not enter into pre-dispute arbitration agreements. Pursuant to § 1040.4(a)(1), a provider cannot rely on any pre-dispute arbitration agreement entered into by another person after the effective date with respect to any aspect of a class action concerning a product or service covered by § 1040.3 and pursuant to § 1040.4(b) may be required to submit certain specified records related to claims filed in arbitration pursuant to such pre-dispute arbitration agreements. See comment 4(a)(2)-1, however, which clarifies that § 1040.4(a)(2) does not apply to providers that do not enter into pre-dispute arbitration agreements.*

*For example, when a debt collector collecting on consumer credit covered by § 1040.3(a)(1)(i) has not entered into a pre-dispute arbitration agreement, § 1040.4(a)(1) nevertheless prohibits the debt collector from relying on a pre-dispute arbitration agreement entered into by the creditor with respect to any aspect of a class action filed against the debt collector concerning its debt collection products or services covered by section § 1040.3.*

*Similarly, section 1040.4(a)(1) would also prohibit the debt collector from relying with respect to any aspect of such a class action on a pre-dispute arbitration agreement entered into by a merchant creditor who was excluded from coverage by § 1040.3(b)(5).*

* 1. Provide an extension of consumer credit covered by paragraph (a)(1)(i) of this section that is of the type described in 12 U.S.C. 5517(a)(2)(A)(i) and they would be subject to the Bureau’s authority only under 12 U.S.C. 5517(a)(2)(B)(i) but not 12 U.S.C. 5517(a)(2)(B)(ii) or (iii); or
	2. Purchase or acquire an extension of consumer credit excluded by paragraph (b)(4)(i) of this section; or
1. Any person to the extent the limitations in 12 U.S.C. 5517 or 5519 apply to the person or a product or service described in paragraph (a) of this section that is offered or provided by the person.

**§ 1040.4 Limitations on the use of pre-dispute arbitration agreements.**

1. Use of pre-dispute arbitration agreements in class actions.
2. General rule. A provider shall not seek to rely in any way on a pre-dispute arbitration agreement entered into after the date set forth in § 1040.5(a) with respect to any aspect of a class action that is related to any of the consumer financial products or services covered by § 1040.3 including to seek a stay or dismissal of particular claims or the entire action, unless and until the presiding court has ruled that the case may not proceed as a class action and, if that ruling may be subject to appellate review on an interlocutory basis, the time to seek such review has elapsed or the review has been resolved.

*1. Reliance on a pre-dispute arbitration agreement. Section 1040.4(a)(1) provides that a provider shall not seek to rely in any way on a pre-dispute arbitration agreement entered into after the compliance date set forth in § 1040.5(a) with respect to any aspect of a class action concerning any of the consumer financial products or services covered by § 1040.3. Reliance on a pre-dispute arbitration agreement with respect to any aspect of a class action includes, but is not limited to, any of the following:*

* + 1. *Seeking dismissal, deferral, or stay of any aspect of a class action;*
		2. *Seeking to exclude a person or persons from a class in a class action;*
		3. *Objecting to or seeking a protective order intended to avoid responding to discovery in a class action;*
		4. *Filing a claim in arbitration against a consumer who has filed a claim on the same issue in a class action;*
		5. *Filing a claim in arbitration against a consumer who has filed a claim on the same issue in a class action after the trial court has denied a motion to certify the class but before an appellate court has ruled on an interlocutory appeal of that motion, if the time to seek such an appeal has not elapsed or the appeal has not been resolved; and*
		6. *Filing a claim in arbitration against a consumer who has filed a claim on the same issue in a class action after the trial court in that class action has granted a motion to dismiss the claim and, in doing so, the court noted that the consumer has leave to refile the claim on a class basis, if the time to refile the claim has not elapsed.*

*2. Class actions concerning multiple products or services. In a class action concerning multiple products or services only some of which are covered by § 1040.3, the prohibition in § 1040.4(a)(1) applies only to claims that concern the consumer financial products or services covered by § 1040.3.*

1. Provision required in covered pre-dispute arbitration agreements. Upon entering into a pre-dispute arbitration agreement for a product or service covered by § 1040.3 after the date set forth in § 1040.5(a):

*1. Application of section 1040.4(a)(2) to providers that do not enter into pre-dispute arbitration agreements. Section 1040.4(a)(2) sets forth requirements only for providers that enter into pre-dispute arbitration agreements for a covered product or service. Accordingly, the requirements of § 1040.4(a)(2) do not apply to a provider that does not enter into a pre-dispute arbitration agreement with a consumer.*

*2. Entering into a pre-dispute arbitration agreement that had existed previously between other parties. Section 1040.4(a)(2)(iii) requires a provider that enters into a pre-dispute arbitration agreement that had existed previously as between other parties and does not contain the provision required by § 1040.4(a)(2)(i) or (ii), either to ensure the agreement is amended to contain the required provision or to provide a written notice to any consumer to whom the agreement applies. This could occur, when, for example, Bank A is acquiring Bank B after the compliance date specified in § 1040.5(a), and Bank B had entered into pre-dispute arbitration agreements before the compliance date specified in § 1040.5(a). If, as part of the acquisition, Bank A enters into the pre-dispute arbitration agreements of Bank B, Bank A would be required either to ensure the account agreements were amended to contain the provision required by § 1040.4(a)(2)(i), the alternative permitted by § 1040.4(a)(2)(ii), or to provide the notice specified in § 1040.4(a)(2)(iii). See comment 4-1 for examples of when a provider enters into a pre-dispute arbitration agreement.*

1. Except as provided in paragraphs (a)(2)(ii) or (iii) of this section or in § 1040.5(a), a provider shall ensure that the agreement contains the following provision: “We agree that neither we nor anyone else will use this agreement to stop you from being part of a class action case in court. You may file a class action in court or you may be a member of a class action even if you do not file it.”
2. When the pre-dispute arbitration agreement is for multiple products or services, only some of which are covered by § 1040.3, the provider may include the following alternative provision in place of the one otherwise required by paragraph 4(a)(2)(i) of this section: “We are providing you with more than one product or service, only some of which are covered by the Arbitration Agreements Rule issued by the Consumer Financial Protection Bureau. We agree that neither we nor anyone else will use this agreement to stop you from being part of a class action case in court. You may file a class action in court or you may be a member of a class action even if you do not file it. This provision applies only to class action claims concerning the products or services covered by that Rule.”
3. When the pre-dispute arbitration agreement existed previously between other parties and does not contain either the provision required by paragraph (a)(2)(i) of this section or the alternative permitted by paragraph (a)(2)(ii) of this section, the provider shall either ensure the agreement is amended to contain the provision specified in paragraph (a)(2)(iii)(A) of this section or provide any consumer to whom the agreement applies with the written notice specified in paragraph (a)(2)(iii)(B) of this section. The provider shall ensure the agreement is amended or provide the notice to consumers within 60 days of entering into the pre-dispute arbitration agreement.

*3. Notice to consumers. Section 1040.4(a)(2)(iii) requires a provider that enters into a pre-dispute arbitration agreement that does not contain the provision required by § 1040.4(a)(2)(i) or (ii) to either ensure the agreement is amended to contain a specified provision or to provide any consumers to whom the agreement applies with written notice stating the provision. The notice may be provided in any way that the provider communicates with the consumer, including electronically. The notice may be provided either as a standalone document or included in another notice that the customer receives, such as a periodic statement, to the extent permitted by other laws and regulations.*

* + - 1. Agreement provision. “We agree that neither we nor anyone else who later becomes a party to this pre-dispute arbitration agreement will use it to stop you from being part of a class action case in court. You may file a class action in court or you may be a member of a class action even if you do not file it.”
			2. Notice. “We agree not to use any pre-dispute arbitration agreement to stop you from being part of a class action case in court. You may file a class action in court or you may be a member of a class action even if you do not file it.”
1. Submission of arbitral records. For any pre-dispute arbitration agreement entered into after the date set forth in § 1040.5(a), a provider shall comply with the requirements set forth below.

*1. Submission by entities other than providers. Section 1040.4(b) requires providers to submit specified arbitral records to the Bureau. Providers are not required to submit the records themselves if they arrange for another person, such as an arbitration administrator or an agent of the provider, to submit the records on the providers’ behalf. The obligation to comply with § 1040.4(b) nevertheless remains on the provider and thus the provider must ensure that the person submits the records in accordance with § 1040.4(b).*

1. Records to be submitted. A provider shall submit a copy of the following records to the Bureau, in the form and manner specified by the Bureau:
2. In connection with any claim filed in arbitration by or against the provider concerning any of the consumer financial products or services covered by § 1040.3;
3. The initial claim and any counterclaim;
4. The pre-dispute arbitration agreement filed with the arbitrator or arbitration administrator;
5. The judgment or award, if any, issued by the arbitrator or arbitration administrator; and
6. If an arbitrator or arbitration administrator refuses to administer or dismisses a claim due to the provider’s failure to pay required filing or administrative fees, any communication the provider receives from the arbitrator or an arbitration administrator related to such a refusal; and
7. Any communication the provider receives from an arbitrator or an arbitration administrator related to a determination that a pre-dispute arbitration agreement for a consumer financial product or service covered by § 1040.3 does not comply with the administrator’s fairness principles, rules, or similar requirements, if such a determination occurs.

*1. Determinations that a pre-dispute arbitration agreement does not comply with an arbitration administrator’s fairness principles. Section 1040.4(b)(1)(ii) requires submission to the Bureau of any communication the provider receives related to any arbitration administrator’s determination that the provider’s pre-dispute arbitration agreement entered into after the date set forth in § 1040.5(a) does not comply with the administrator’s fairness principles or rules. The submission of such records is required both when the determination occurs in connection with the filing of a claim in arbitration as well as when it occurs if no claim has been filed. Further, when the determination occurs with respect to a pre-dispute arbitration agreement that the provider does not enter into with a consumer, submission of any communication related to that determination is not required. For example, if the provider submits a prototype pre-dispute arbitration agreement for review by the arbitration administrator and never includes it in any consumer agreements, the pre-dispute arbitration agreement would not be entered into and thus submission to the Bureau of communication related to a determination made by the administrator concerning the pre-dispute arbitration agreement would not be required.*

*2. Examples of fairness principles, rules, or similar requirements. Section 1040.4(b)(1)(ii) requires submission to the Bureau of records related to any administrator’s determination that a provider’s pre-dispute arbitration agreement violates the administrator’s fairness principles, rules, or similar requirements. What constitutes an administrator’s fairness principles, rules, or similar requirements should be interpreted broadly. Examples of such principles or rules include, but are not limited to:*

* 1. *The American Arbitration Association’s Consumer Due Process Protocol; or*
	2. *JAMS Policy on Consumer Arbitrations Pursuant to Pre-Dispute Clauses Minimum Standards of Procedural Fairness.*
1. Deadline for submission. A provider shall submit any record required pursuant to paragraph (b)(1) of this section within 60 days of filing by the provider of any such record with the arbitrator or arbitration administrator and within 60 days of receipt by the provider of any such record filed or sent by someone other than the provider, such as the arbitration administrator or the consumer.
2. Redaction. Prior to submission of any records pursuant to paragraph (b)(1) of this section, a provider shall redact the following information:

*1. Redaction by entities other than providers. Section 1040.4(b)(3) requires providers to redact records before submitting them to the Bureau. Providers are not required to perform the redactions themselves and may arrange for another person, such as an arbitration administrator, or an agent of the provider, to redact the records. The obligation to comply with § 1040.4(b) nevertheless remains on the provider and thus the provider must ensure that the person redacts the records in accordance with § 1040.4(b).*

1. Names of individuals, except for the name of the provider or the arbitrator where either is an individual;
2. Addresses of individuals, excluding city, State, and zip code;
3. Email addresses of individuals;
4. Telephone numbers of individuals;
5. Photographs of individuals;
6. Account numbers;
7. Social Security and tax identification numbers;
8. Driver’s license and other government identification numbers; and
9. Passport numbers.

**§ 1040.5 Compliance date and temporary exception.**

1. Compliance date. Compliance with this part is required for any pre-dispute arbitration agreement entered into after [INSERT DATE THAT IS 211 DAYS AFTER PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER].
2. Exception for pre-packaged general-purpose reloadable prepaid card agreements. Section 1040.4(a)(2) shall not apply to a provider that enters into a pre-dispute arbitration agreement for a general-purpose reloadable prepaid card if the requirements set forth in either paragraphs (b)(1) or (2) of this section are satisfied.
3. For a provider that does not have the ability to contact the consumer in writing:
4. The consumer acquires a general-purpose reloadable prepaid card in person at a retail store;
5. The pre-dispute arbitration agreement was inside of packaging material when the general-purpose reloadable prepaid card was acquired; and
6. The pre-dispute arbitration agreement was packaged prior to the compliance date of the rule.
7. For a provider that has the ability to contact the consumer in writing:
8. The provider meets the requirements set forth in paragraphs (1)(i) through (iii) of this section; and
9. Within 30 days of obtaining the consumer’s contact information, the provider notifies the consumer in writing that the pre-dispute arbitration agreement complies with the requirements of § 1040.4(a)(2) by providing an amended pre-dispute arbitration agreement to the consumer.

*1. Examples. Section 1040.5(b)(2)(ii) requires a provider that has the ability to contact the consumer in writing to provide an amended pre-dispute arbitration agreement to the consumer in writing within 30 days after the issuer has the ability to contact the consumer. A provider is able to contact the consumer when, for example, the provider has the consumer’s mailing address or email address.*