

March 31, 2023
Comments on CFPB rule:
Registry of Nonbank Covered Persons Subject to Certain Agency and Court Orders
Docket No. CFPB-2022-0080 or RIN 3170-AB13,

Rohit Chopra
Director
Consumer Financial Protection Bureau,
1700 G Street NW,
Washington, DC 20552

Dear Director Rohit Chopra,

We, the undersigned organizations representing a broad spectrum of Americans, write to provide our insight on the Consumer Financial Protection Bureau (CFPB) [proposed rule](#) requiring “certain nonbank covered person entities (with exclusions for insured depository institutions, insured credit unions, related persons, States, certain other entities, and natural persons) that are under certain final public orders obtained or issued by a Federal, State, or local agency in connection with the offering or provision of a consumer financial product or service to report the existence of such orders to a Bureau registry.”

The CFPB’s proposed rule would require nonbanks under final public enforcement orders by federal, state, or local agencies to submit those orders to the CFPB. Once submitted to the CFPB, these orders would be cataloged and put on public display, including identifying information. We have a number of concerns with this rule that the CFPB should take into consideration prior to implementation.

First, by creating a public catalog of the “offenders,” the CFPB will be risking the public trust in new and emerging financial institutions. Many of the infractions that can cause a nonbank to end up on this new catalog are not in and of themselves indicative of widespread wrongdoing or malice. By publicly “naming and shaming” these organizations the CFPB will be eroding public trust in organizations that are helping to ensure economic stability and continued growth in an emerging marketplace.

Second, it is likely that this rule could be disruptive to the state and local oversight process. As it reads now, covered entities in discussions with state or local authorities would be less likely to settle if a settlement agreement resulted in the organization being listed in the CFPB national registry. Consumers would thus be left in the lurch as agreements stretch out to avoid the national registry. This could lead to uncertainty for the business community as they work with their state and local regulators on agreements.

Third, this rule is duplicative in nature, as it includes enforcement actions against organizations that have already settled with state or local authorities. The CFPB does not have the authority to enforce state and local level consumer financial laws and this rule attempts to circumvent that fact. By including infractions that are already being addressed at the state and local level, the CFPB is acting against its mandate and reaching further than its oversight responsibilities intend.

Fourth, compliance with this new rule will have a financial and time consuming effect on businesses, and constitutes undue burden. Organizations will need to hire extensive compliance teams as well as provide document retention and storage in order to remain in compliance with the rule. As this sector is a new and emerging industry, its growth will be hampered by the rule.

Ultimately the CFPB should refrain from implementation of this rule as it would harm taxpayers waiting on agreements, disrupt state and local oversight, erode public trust, provide an undue burden on organizations seeking to provide services to consumers, and represent a clear-cut example of the CFPB circumventing its mandate and overreaching outside of its authority.

Sincerely,

National Taxpayers Union
American Consumer Institute
Americans for Tax Reform
Southwest Public Policy Institute
Center for Individual Freedom
Taxpayers Protection Alliance
Citizens Against Government Waste
R Street Institute
Independent Women's Voice