



United States House of Representatives  
One Hundred Nineteenth Congress  
Committee on Financial Services  
2129 Rayburn House Office Building  
Washington, DC 20515

March 31, 2025

The Honorable Russell Vought  
Acting Director  
Consumer Financial Protection Bureau  
1700 G Street, N.W.  
Washington, D.C. 20552

Dear Acting Director Vought:

Thank you for your work to restore the United States to a place where financial innovation is allowed to thrive, and financial firms can focus on providing innovative products and services that serve Americans. The CFPB's broader regulatory approach has impeded financial innovation and restricted financial technology (fintech) companies' growth and development. Under former Director Chopra, the CFPB sought to create an uncertain regulatory environment, discouraging entrepreneurs and limiting competition. We are pleased former Director Chopra's reign is over and that the CFPB will no longer impede consumer access to financial products and services that lower costs and expand economic opportunities. As such, we encourage you to ensure the CFPB's course is corrected by rescinding, modifying, and reproposing, as requested below, the following final and proposed rules, advisory opinions, and statements of policy.

**Final Rule on Defining Larger Participants of a Market for General-Use Digital Consumer Payment Applications.**

In November 2024, the CFPB issued a final rule to supervise larger nonbank companies that offer general-use digital consumer payment applications such as digital wallets, payment apps, and peer-to-peer payment apps. Since its proposal in November 2023, Committee Republicans have had serious concerns about its sweeping implications and inadequate comment periods.<sup>1</sup> The CFPB also failed to adequately justify the need for this proposal, raising concerns about its necessity. The rule's broad scope impacted activities beyond the CFPB's purported scope and the flawed cost-benefit analysis supporting the proposal also raised significant concerns about the impact of the rule. Further, the CFPB's initial interpretation of the term "funds" would have inappropriately granted the CFPB authority over digital assets.<sup>2</sup> This final rule will only stifle innovation in our digital payments ecosystem and increase costs for consumers.

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<sup>1</sup> Press Release, McHenry, *Flood Lead Letter Urging CFPB to Extend Comment Period for Larger Participants Rule*, (Dec. 20, 2023).

<https://financialservices.house.gov/news/documentsingle.aspx?DocumentID=409084>; Press Release, McHenry, Hill, *Flood Urge CFPB to Revisit Digital Consumer Payment Proposed Rule*, (Jan. 30, 2024)

<https://financialservices.house.gov/news/documentsingle.aspx?DocumentID=409125>.

<sup>2</sup> Defining Larger Participants of a Market for General-Use Digital Consumer Payment Applications, 88 Fed. Reg. 80197 (Proposed Nov. 7, 2023) (to be codified at 12 C.F.R. pt. 1090) <https://www.consumerfinance.gov/rules-policy/final-rules/defining-larger-participants-of-a-market-for-general-use-digital-consumer-payment-applications/>.

## **Interpretive Rule on Use of Digital User Accounts to Access Buy Now, Pay Later Loans.**

In May 2024, the CFPB issued an interpretive rule, which sought to apply certain provisions under Regulation Z to the use of digital user accounts to access buy now, pay later (BNPL) products. The rule proposes an expansionary interpretation of Regulation Z that puts consumers at risk of losing access to this low-cost and convenient alternative financing method. The CFPB's reliance on guidance to implement major policy changes is inappropriate.

Furthermore, the 60-day compliance timeline was far too short for BNPL providers to implement the compliance processes required by the interpretive rule, and it disregards the Truth in Lending Act's (TILA) applicable effective date requirement.<sup>3</sup> The CFPB must adopt tailored, common-sense rules to ensure consumers are protected while still being able to reap the benefits of BNPL products.

## **Payday, Vehicle Title, and Certain High-Cost Installment Loans (“the Payday Lending Rule”).**

In June 2024, the CFPB announced its Payday Lending Rule would go into effect on March 30, 2025.<sup>4</sup> Although the Rule excludes eight loan types that “do not require the consumer to pay any fees or finance charges,” it does not explicitly exempt BNPL products, which also do not charge interest on customers' balances and generally impose only minimal late fees. Accordingly, most BNPL products would qualify as a “covered loan,” which would require BNPL providers to make multiple disclosures to customers and would limit their ability to withdraw payments from consumers' accounts.<sup>5</sup> The additional requirements on BNPL providers would substantially increase default rates, raise compliance costs, disrupt providers' business models, and likely impede their ability to offer BNPL products altogether. Additionally, because this rule was finalized in 2017, when BNPL products had only recently been made available to consumers, the CFPB did not have the ability to adequately assess the impact the rule would have on this emerging product line. Given the nascence of BNPL at the time the Payday Lending Rule was finalized, and the rule's exemption for products similar to BNPL, the CFPB should extend the compliance deadline for this rule and work toward exempting BNPL products from its requirements.

## **Registry of Nonbank Covered Persons Subject to Certain Agency and Court Orders.**

On June 3, 2024, the CFPB issued a final rule requiring nonbank financial institutions, subject to its supervisory authority, to register certain agency and court orders.<sup>6</sup> The final rule requires

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<sup>3</sup> Truth in Lending (Regulation Z); Use of Digital User Accounts to Access Buy Now, Pay Later Loans, 89 Fed. Reg. 47068 (published May 31, 2024) <https://www.consumerfinance.gov/rules-policy/final-rules/use-of-digital-user-accounts-to-access-buy-now-pay-later-loans/>.

<sup>4</sup> Zixta Martinez, New protections for payday and installment loans slated to take effect next year, Consumer Fin. Prot. Bureau (Jun. 14, 2024), <https://www.consumerfinance.gov/about-us/blog/new-protections-for-payday-and-installment-loans-slated-to-take-effect-next-year/>.

<sup>5</sup> Payday, Vehicle Title, and Certain High-Cost Installment Loans, 82 Fed. Reg. 54,472, 54,724 (Nov. 17, 2017).

<sup>6</sup> CFPB, “Registry of Nonbank Covered Persons Subject to Certain Agency and Court Orders,” (Jun. 3, 2024), <https://www.consumerfinance.gov/rules-policy/final-rules/registry-of-nonbank-covered-persons-subject-to-certain->

nonbank entities operating under certain final public orders obtained or issued by a Federal, State, or local agency to report the existence of such orders to a CFPB registry. All final public written orders and judgments (including consent and stipulated orders and judgments) obtained or issued by the CFPB or any government agency for violation of certain consumer protection laws must be reported. The rule also requires certain supervised nonbanks to submit annual written statements regarding compliance with each underlying order, signed by an attesting executive who has knowledge of the entity's relevant systems and procedures for achieving compliance and control over the entity's compliance efforts.

The final rule has led to consumer and industry confusion and redundant reporting under the CFPB's Registry and the Nationwide Multistate Licensing System (NMLS). Under Section 1022 of Dodd-Frank, the CFPB has authority to "prescribe rules regarding registration requirements applicable to [nonbanks]," and the CFPB "may publicly disclose registration information to facilitate the ability of consumers to identify [registered nonbanks]."<sup>7</sup> However, the CFPB is also required to "consult with State agencies regarding requirements or systems including coordinated or combined systems for registration."<sup>8</sup> Establishing a nonbank registry solely for listing enforcement actions is both costly and unnecessary. Rather than enhancing consumer protection, it functions primarily as a tool to name and shame firms.

This registry unfairly singles out certain nonbank providers, creating a competitive disadvantage and implying they pose a greater risk to consumers than their competitors. The CFPB grossly underestimates the compliance costs associated with this registry, and its attempt to act as the enforcer of state-level orders contradicts the principles of federalism that underpin our nation. Accordingly, Committee Republicans request that this registry be abandoned.

### **Procedures for Supervisory Designation Proceedings and Supervisory Authority Over Certain Nonbank Covered Persons Based on Risk Determination; Public Release of Decisions and Orders.**

In April 2024, the CFPB issued a final rule to update how the agency designates nonbanks for CFPB supervision.<sup>9</sup> In issuing this rule, the CFPB leveraged Section 1024(a)(1)(C) of Dodd-Frank, which authorizes supervision of a nonbank that "has reasonable cause to determine . . . that such covered person is engaging, or has engaged, in conduct that poses risks to consumers with regard to the offering or provision of consumer financial products or services."<sup>10</sup> In 2013, the CFPB used this authority to issue a procedural rule governing the supervisory designation proceedings.<sup>11</sup> Despite the authority remaining largely dormant for nearly a decade, the CFPB issued an amended

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agency-and-court-orders/; CFPB, "CFPB Creates Registry to Detect Corporate Repeat Offenders," (Jun. 3, 2024), <https://www.consumerfinance.gov/about-us/newsroom/cfpb-creates-registry-to-detect-corporate-repeat-offenders/>.

<sup>7</sup> 12 U.S.C. 5512(c)(7).

<sup>8</sup> *Id.*

<sup>9</sup> CFPB, "Procedures for Supervisory Designation Proceedings," (April 16, 2024), [https://files.consumerfinance.gov/f/documents/cfpb\\_procedures-for-supervisory-designation-proceedings\\_2024-04.pdf](https://files.consumerfinance.gov/f/documents/cfpb_procedures-for-supervisory-designation-proceedings_2024-04.pdf).

<sup>10</sup> 12 U.S.C. 5514(a)(1)(C).

<sup>11</sup> CFPB Docket No. CFPB-2012-0021, Procedural Rule to Establish Supervisory Authority Over Certain Nonbank Covered Persons Based on Risk Determination (Jul. 3, 2013) <https://www.govinfo.gov/content/pkg/FR-2013-07-03/pdf/2013-15485.pdf>.

procedural rule in 2022 and established a process to publicize the Director's final decisions and orders.<sup>12</sup> In April 2024, the Bureau finalized a procedural rule to clarify the timing and conditions for publishing consent agreements and initiating supervision under them.<sup>13</sup>

Despite being asked repeatedly by a wide range of stakeholders, the CFPB did not define what constitutes a “risk to consumers” in its updated procedures.<sup>14</sup> In 2024, the CFPB announced publicly, for the first time, that it was using its risk-based authority to supervise an installment lender. In the announcement, the Bureau claimed that even though it was not accusing the lender of violating any laws, it had decided that the lender engaged in behavior that posed a “risk to consumers.”<sup>15</sup> If the Bureau had engaged with stakeholder feedback and defined clear standards for designation proceedings, companies would have had a meaningful opportunity to provide input and adjust their compliance programs as needed. Instead, the CFPB implemented these proceedings in a black box, wasting significant time and resources on issues that could have been resolved with a clear definition.

Additionally, in making nonbank designation determinations, the CFPB has disregarded its statutory obligation under the Dodd-Frank Act to coordinate with State regulators on examinations and reporting requirements, as well as to utilize existing State reports for nonbanks already subject to State licensing and oversight. Neither the Conference of State Bank Supervisors nor State regulatory agencies were made aware that the CFPB had subjected a State-licensed nonbank entity to supervision since November 2023 until it was shared through a public press release in 2024.<sup>16</sup>

A public finding by the Bureau that a nonbank poses “risks to consumers” unfairly implies wrongdoing without any conclusive determination of a legal violation or direct inquiry into the entity. Moreover, this negative impact will last an indefinite period of time, since the results of any examination that occurs – even if favorable – cannot be disclosed pursuant to the Bureau’s regulations.<sup>17</sup> Given the CFPB’s refusal to define the scope of this final rule and its failure to coordinate with other regulators as is required by statute, Committee Republicans urge the CFPB to withdraw this final rule.

### *Proposed Rules*

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<sup>12</sup> CFPB Docket No. CFPB-2022-0024, Supervisory Authority Over Certain Nonbank Covered Persons Based on Risk Determination; Public Release of Decisions and Orders (Apr. 29, 2022) [https://files.consumerfinance.gov/f/documents/cfpb\\_public-release-of-decisions-and-orders\\_procedural-rule\\_2022-04.pdf](https://files.consumerfinance.gov/f/documents/cfpb_public-release-of-decisions-and-orders_procedural-rule_2022-04.pdf).

<sup>13</sup> *Supra*, note 8.

<sup>14</sup> American Financial Services Association Letter to the CFPB Re: Procedures for Supervisory Designation Proceedings, Docket No. CFPB-2024-0006, (May 23, 2024) <https://www.regulations.gov/comment/CFPB-2024-0006-0003>.

<sup>15</sup> Press Release, CFPB, CFPB Orders Federal Supervision for Installment Lender Following Contested Designation, (Feb. 23, 2024) <https://www.consumerfinance.gov/about-us/newsroom/cfpb-orders-federal-supervision-for-installment-lender-following-contested-designation/>.

<sup>16</sup> Conference of State Bank Supervisors Letter to the CFPB Re: Final Rule – Procedures for Supervisory Designation Proceedings, (May 23, 2024) <https://www.csbs.org/Procedures-Supervisory-Designation-Proceedings>.

<sup>17</sup> 12 C.F.R. § 1070.42.

## **Electronic Fund Transfers Through Accounts Established Primarily for Personal, Family, or Household Purposes Using Emerging Payment Mechanisms (Electronic Fund Transfer Act; Regulation E).**

Proposed in January 2025, this interpretive rule seeks to extend Regulation E protections to emerging payments technologies. Specifically, the interpretive rule would apply to electronic fund transfers through accounts established primarily for personal, family, or household purposes using emerging payment mechanisms. The CFPB interprets "funds" under the Electronic Fund Transfer Act to include assets such as stablecoins and other fungible digital assets used as a medium of exchange or for payments. Applying Regulation E to digital asset transactions on blockchain networks would present significant challenges, as these networks lack traditional financial intermediaries to enforce consumer protections. Unlike traditional electronic payments, stablecoin transfers are final and executed via smart contracts, meaning there is no central authority to halt, reverse, or amend transactions as required under Regulation E.

The CFPB also specifically includes digital assets, extending Regulation E requirements to “virtual currency wallets that can be used to buy goods and services or make person-to-person transfers.”<sup>18</sup> The broad swath of digital asset companies that would be impacted by this interpretation means that digital wallets and software providers, including entities that take no intermediary role in digital payments transactions, could also be swept into its requirements.<sup>19</sup> While consumer protection is essential, the expansive application of Regulation E to new payment mechanisms will impose excessive and prohibitive compliance costs on fintech and digital asset companies, stifling innovation and reducing the availability of alternative payment solutions.

## **Proposed Rule on “Protecting Americans from Harmful Data Broker Practices (Regulation V).”**

On December 3, 2024, the CFPB proposed this midnight rulemaking amending the requirements of Regulation V and significantly expanding the reach of the Fair Credit Reporting Act (FCRA). Under this proposal, the CFPB sought to protect Americans from harmful data broker practices by imposing new restrictions on data brokers regarding the collection, use, and sale of consumer financial data.<sup>20</sup> In reality, the CFPB’s expansive interpretation of what constitutes a “consumer reporting agency” under FCRA would sweep in far more entities than just data brokers, including those that provide innocuous formatting and data storage services as well as digital advertising providers.

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<sup>18</sup> Electronic Fund Transfers Through Accounts Established Primarily for Personal, Family, or Household Purposes Using Emerging Payment Mechanisms (Electronic Fund Transfer Act; Regulation E), 90 Fed. Reg. 3723 (Jan. 15, 2025) (to be codified at 12 C.F.R. pt. 1005) <https://www.federalregister.gov/documents/2025/01/15/2025-00565/electronic-fund-transfers-through-accounts-established-primarily-for-personal-family-or-household>.

<sup>19</sup> Peter Van Valkenburgh, New CFPB Rulemaking Makes No Distinction Between Custodial and Self-Custody Wallets, Coin Center (Jan. 10, 2025) <https://www.coincenter.org/new-cfpb-rulemaking-makes-no-distinction-between-custodial-and-self-custody-wallets/>.

<sup>20</sup> Protecting Americans from Harmful Data Broker Practices (Regulation V), 89 Fed. Reg. 101402 (Dec. 13, 2024) <https://www.federalregister.gov/documents/2024/12/13/2024-28690/protecting-americans-from-harmful-data-broker-practices-regulation-v>.

Additionally, the overly broad interpretation of “consumer report” would limit collection of consumers’ “personal identifiers” from credit reporting agencies to FCRA permissible purposes (i.e. extending credit or insurance to consumers for personal, family, or household purposes, employment purposes, opening a bank account, or renting an apartment). Those entities that seek to obtain this information to help prevent identity theft and fraud or create back-end internal models that support decision-making, automation, and analytics within organization would not be permitted access.

As former Director Chopra was departing the CFPB, he proposed the imposition of overly broad restrictions on consumer data that would impact far more entities than data brokers, hampering legitimate data-driven financial services, limiting fraud prevention efforts, and increase costs for businesses that rely on responsible data practices to provide accurate risk assessments. Former Director Chopra also only gave stakeholders 60 days to comment on a proposal with wide-reaching implications and a significant increase in the number of entities that would be newly required to comply with the requirements of the FCRA. In light of the scope and time for stakeholder feedback, the Committee requests the CFPB reopen the proposed rule for public comment.

### **Proposed Interpretive Rule on “Consumer Credit Offered to Borrowers in Advance of Expected Receipt of Compensation for Work.”**

In July 2024, the CFPB issued a proposed interpretive rule that would regulate earned wage access (EWA) products and other forms of early wage advances as a form of credit subject to TILA.<sup>21</sup> This treatment of EWA products departs from the guidance in the 2020 Advisory Opinion,<sup>22</sup> which created a safe harbor for certain EWA providers, and ignores the nature and structure of EWA transactions.

Under TILA, "credit" generally involves a finance charge or an agreement to repay a debt over time, but most EWA providers allow workers to access wages they have already earned without charging interest or finance fees, meaning there is no "cost of credit." Moreover, traditional loans require a borrower to repay borrowed funds on a specified schedule, often with interest, while many EWA advances are repaid automatically through payroll deduction or voluntary payment, rather than a contractual debt obligation. Imposing such stringent regulations on these financial tools could limit access to short-term liquidity solutions for workers who rely on them. Additionally, overly restrictive rules may drive consumers toward less regulated and more costly alternatives. The CFPB must not shoehorn innovative consumer financial products into legacy consumer protection laws that never contemplated such technological advances. Instead, a common-sense legislative framework should be enacted into law.

#### *Advisory Opinion/Policy Statement*

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<sup>21</sup> Truth in Lending (Regulation Z); Consumer Credit Offered to Borrowers in Advance of Expected Receipt of Compensation for Work, 89 Fed. Reg. 61358 (Jul. 18, 2024) <https://www.federalregister.gov/documents/2024/07/31/2024-16827/truth-in-lending-regulation-z-consumer-credit-offered-to-borrowers-in-advance-of-expected-receipt-of>.

<sup>22</sup> Consumer Financial Protection Bureau Issues an Approval Order to Facilitate Employee Access to Earned but Unpaid Wages (Dec. 30, 2020) <https://www.consumerfinance.gov/about-us/newsroom/consumer-financial-protection-bureau-issues-an-approval-order-to-facilitate-employee-access-to-earned-but-unpaid-wages/>.

## **Advisory Opinion on Truth in Lending (Regulation Z)—Consumer Credit Offered to Borrowers in Advance of Expected Receipt of Compensation for Work.**

Issued in January 2025, the Advisory Opinion rescinds the Trump-era Advisory Opinion from 2020 that certain “earned wage” products did not involve the offering or extension of “credit” as that term is defined in TILA and Regulation Z.<sup>23</sup> Subjecting EWA products to the requirements of TILA could inadvertently restrict access to short-term liquidity for workers who depend on EWA services. Moreover, Committee Republicans feel strongly that an advance on funds that an individual has already earned is not a “credit” offering. Holding EWA products to be “credit” discourages financial firms from offering EWA products, limiting access to a convenient source of short-term liquidity. Increased regulatory burdens may also drive consumers toward higher-cost credit options.

## **Policy Statements on No-Action Letters and Compliance Assistance Sandboxes.**

On January 8, 2025, the CFPB issued a “Policy Statement on No-Action Letters,” setting forth new procedures for companies to request supervisory and enforcement relief.<sup>24</sup> Under the no-action letter program, the CFPB may issue no-action letters stating that the CFPB will not take supervisory or enforcement action against the recipient under the particular facts and circumstances upon which the no-action letter was issued. On the same day, the CFPB also issued a “Policy Statement on Compliance Assistance Sandboxes,” permitting companies to rely on certain statutory safe harbor provisions from specific federal consumer financial laws for innovative products and services.<sup>25</sup> Both programs were issued as general statements of policy, exempting them from notice and comment rulemaking and streamlining their applicability to just two days after the initial publication. The CFPB originally established these no-action letter programs in 2019 under the Trump Administration. They were rescinded under Director Chopra in 2022 due to “a number of potential abuses and challenges.”<sup>26</sup>

Unlike the original programs, these policy statements have a two-year expiration, and the CFPB will automatically terminate any participant that changes its product or service in a way that does not comport with the description in the application. Both programs require applicants to demonstrate how their participation in the program will benefit consumers by providing “an untapped consumer need.” However, the Bureau failed to define the term “untapped,” so it is unclear how this will impact firms’ approvals. Both programs require applicants to consent to giving the CFPB supervisory examination authority over their firms, and the CFPB, in these statements, asserts that it will not generally consider applications from former CFPB attorneys acting as outside counsel. Considering these changes, it is unlikely that firms will be incentivized

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<sup>23</sup> Truth in Lending (Regulation Z); Consumer Credit Offered to Borrowers in Advance of Expected Receipt of Compensation for Work, 90 Fed. Reg. 3622 (Jan.15, 2025)  
<https://www.federalregister.gov/documents/2025/01/15/2025-00381/truth-in-lending-regulation-z-consumer-credit-offered-to-borrowers-in-advance-of-expected-receipt-of>.

<sup>24</sup> Policy Statement on No-Action, 90 Fed. Reg. 1970 (Jan. 10, 2025)  
<https://www.federalregister.gov/documents/2025/01/10/2025-00378/policy-statement-on-no-action-letters>.

<sup>25</sup> Policy Statement on Compliance Assistance Sandbox Approvals, 90 Fed. Reg. 1974, (Jan. 10, 2025)  
<https://www.federalregister.gov/documents/2025/01/10/2025-00377/policy-statement-on-compliance-assistance-sandbox-approvals>.

<sup>26</sup> *Id.*

to use these programs. Accordingly, Committee Republicans urge the CFPB to withdraw these statements and instead develop durable programs that transcend administrations and genuinely promote innovation in consumer financial products.

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We look forward to working with the CFPB to engage with market participants to foster consumer protection without stifling innovation, limiting financial access, or imposing excessive compliance burdens. A more balanced approach to financial innovation would better serve both consumers and financial firms. The House Committee on Financial Services Republicans stand ready to work with the CFPB to achieve this more balanced approach.

Sincerely,



French Hill  
Chairman



Bryan Steil  
Chairman, Subcommittee on Digital Assets,  
Financial Technology and Artificial  
Intelligence



Bill Huizenga  
Vice Chairman



Tom Emmer  
Member of Congress



Warren Davidson  
Member of Congress



John Rose  
Member of Congress



William R. Timmons, IV  
Member of Congress



Marlin Stutzman  
Member of Congress





Byron Donalds  
Member of Congress



Zachary Nunn  
Member of Congress



Troy Downing  
Member of Congress



Mike Haridopolos  
Member of Congress



Tim Moore  
Member of Congress

cc: Representative Maxine Waters, Ranking Member, Committee on Financial Services  
Kevin Hassett, Director of the National Economic Council