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July 23, 2024

The Honorable Sherrod Brown
Chairman
The Honorable Tim Scott
Ranking Member
Committee on Banking, Housing, and Urban Affairs
United States Senate

The Honorable Patrick McHenry
Chairman
The Honorable Maxine Waters
Ranking Member
Committee on Financial Services
House of Representatives

Subject: *Consumer Financial Protection Bureau: Registry of Nonbank Covered Persons
Subject to Certain Agency and Court Orders*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Consumer Financial Protection Bureau (CFPB) entitled “Registry of Nonbank Covered Persons Subject to Certain Agency and Court Orders” (RIN: 3170-AB13). We received the rule on June 6, 2024. It was published in the *Federal Register* as a final rule on July 8, 2024. 89 Fed. Reg. 56028. The effective date of the rule is September 16, 2024.

According to CFPB, this final rule requires certain types of nonbank covered persons subject to certain final public orders obtained or issued by a government agency in connection with the offering or provision of a consumer financial product or service to report the existence of the orders and related information to a CFPB registry. CFPB stated that it is also requiring certain supervised nonbanks to file annual reports regarding compliance with registered orders.

Enclosed is our assessment of CFPB’s compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Charlie McKiver, Assistant General Counsel, at (202) 512-5992.

Shirley A. Jones
Managing Associate General Counsel

Enclosure

cc: Edward J. Lovett
Senior Congressional Liaison
Consumer Financial Protection Bureau

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
CONSUMER FINANCIAL PROTECTION BUREAU
ENTITLED
“REGISTRY OF NONBANK COVERED PERSONS
SUBJECT TO CERTAIN AGENCY AND COURT ORDERS”
(RIN: 3170-AB13)

(i) Cost-benefit analysis

The Consumer Financial Protection Bureau (CFPB) prepared an analysis of the costs and benefits of this final rule. This analysis includes 1) an overview; 2) a discussion about data limitations and quantification of benefits, costs, and impacts; 3) the establishment of a baseline for analysis; 4) a discussion about potential benefits and costs of the rule to consumers and covered persons; 5) a discussion about the potential specific impacts of the rule on insured depository institutions and insured credit unions with \$10 billion or less in total assets; and 6) a discussion about the potential specific impacts of this rule on access to consumer financial products and services and on consumers in rural areas.

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603–605, 607, and 609

CFPB certified that this final rule will not have a significant economic impact on a substantial number of small entities.

(iii) Agency actions relevant to sections 202–205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532–1535

As an independent regulatory agency, CFPB is not subject to the Act.

(iv) Agency actions relevant to the Administrative Pay-As-You-Go-Act of 2023, Pub. L. No. 118-5, div. B, title III, 137 Stat 31 (June 3, 2023)

Section 270 of the Administrative Pay-As-You-Go-Act of 2023 amended 5 U.S.C. § 801(a)(2)(A) to require GAO to assess agency compliance with the Act, which establishes requirements for administrative actions that affect direct spending, in GAO’s major rule reports. In guidance to Executive Branch agencies, issued on September 1, 2023, the Office of Management and Budget (OMB) instructed that agencies should include a statement explaining that either: “the Act does not apply to this rule because it does not increase direct spending; the Act does not apply to this rule because it meets one of the Act’s exemptions (and specifying the relevant exemption); the OMB Director granted a waiver of the Act’s requirements pursuant to section 265(a)(1) or (2) of the Act; or the agency has submitted a notice or written opinion to the OMB Director as required by section 263(a) or (b) of the Act” in their submissions of rules to GAO under the Congressional Review Act. OMB, *Memorandum for the Heads of Executive Departments and Agencies*, Subject: Guidance for Implementation of the Administrative Pay-As-You-Go Act of 2023, M-23-21 (Sept. 1, 2023), at 11–12. OMB also states that directives in the memorandum that supplement the requirements in the Act do not apply to proposed rules that have already been submitted to the Office of Information and Regulatory

Affairs, however agencies must comply with any applicable requirements of the Act before finalizing such rules.

As an independent regulatory agency, CFPB is not subject to the Act.

(v) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

On December 12, 2022, CFPB issued a proposed rule. 88 Fed. Reg. 6088 (Jan. 30, 2023). CFPB received more than 60 comments on the proposed rule during the comment period. CFPB stated that commenters included individual consumers, consumer advocate commenters, tribes, the U.S. Small Business Administration Office of Advocacy, industry, and others, including a comment letter from state regulators. CFPB also received three *ex parte* communications. CFPB stated that it considered all comments it received regarding the proposal and discussed relevant information received via comment letters and *ex parte* submissions in this final rule.

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501–3520

CFPB determined that this final rule contains information collection requirements (ICRs) under PRA and submitted them to OMB for review (OMB Control No. 3170-0076). CFPB estimated the total annual burden hours of the ICRs imposed by the rule to be 35 hours.

Statutory authorization for the rule

CFPB promulgated this final rule pursuant to sections 1022 and 1024 of the Consumer Financial Protection Act of 2010. 12 U.S.C. §§ 5512, 5514.

Executive Order No. 12866 (Regulatory Planning and Review)

As an independent regulatory agency, CFPB is not subject to the Order.

Executive Order No. 13132 (Federalism)

As an independent regulatory agency, CFPB is not subject to the Order.