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January 21, 2025

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

The Honorable French Hill
Chairman
The Honorable Maxine Waters
Ranking Member
Committee on Financial Services
House of Representatives

Subject: *Consumer Financial Protection Bureau: Overdraft Lending: Very Large Financial Institutions*

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 “Overdraft Lending: Very Large Financial Institutions” (RIN: 3170-AA42). We received the rule on January 8, 2025. It was published in the *Federal Register* on December 30, 2024. 89 Fed. Reg. 106768. The effective date of the rule is October 1, 2025.

According to CFPB, this rule amends Regulations E and Z to update regulatory exceptions for overdraft credit provided by very large financial institutions, thereby ensuring that these extensions of overdraft credit adhere to consumer protections required of similarly situated products, unless the overdraft fee is a small amount that only recovers estimated costs and losses. CFPB stated that the rule allows consumers to better comparison shop across credit products and provides substantive protections that apply to other consumer credit.

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
“OVERDRAFT LENDING: VERY LARGE FINANCIAL INSTITUTIONS”
(RIN: 3170-AA42)

(i) Cost-benefit analysis

The Consumer Financial Protection Bureau (CFPB) prepared an analysis of the costs and benefits for this rule. 89 Fed. Reg. 106768, 106822–35 (Dec. 30, 2024). In particular, CFPB estimated that the establishment of a \$5 benchmark overdraft fee will save consumers \$5.2 billion annually and could reduce revenue of very large financial institutions by the same amount. *Id.* at 106826, 106833.

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

CFPB stated that the Director of CFPB has certified that this rule will not have a significant economic impact on a substantial number of small entities. 89 Fed. Reg. 106768, 106835.

(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 February 23, 2024, CFPB published a proposed rule. 89 Fed. Reg. 13852. CFPB stated that they received comments from various interested parties. 89 Fed. Reg. 106768, 106776. CFPB responded to comments throughout the rule. *See id.*

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

CFPB determined that this rule contains information collection requirements under the Act. 89 Fed. Reg. 106768, 106835.

Statutory authorization for the rule

CFPB promulgated this rule pursuant to section 5512 of title 12 and sections 1604 and 1693b of title 15, United States Code, as well as Public Law 111-24, section 2, 123 Stat. 1734, 1735 (May 22, 2009).

Executive Order No. 12866 (Regulatory Planning and Review)

As an independent regulatory agency, CFPB is not subject to the Order's regulatory review procedures.

Executive Order No. 13132 (Federalism)

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