



June 13, 2025

By electronic submission to 2025-NPRM-OrdersRegistryRepeal@cfpb.gov

Comment Intake—Proposed Recission of Registry of Nonbank Covered Persons Subject to Certain Agency and Court Orders
c/o Legal Division Docket Manager
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

***Re: Registry of Nonbank Covered Persons Subject to Certain Agency and Court Orders;
Proposed Rescission Docket No. CFPB-2025-0011***

Dear Sirs and Madams:

The Online Lenders Alliance (OLA) is pleased to submit comments in response to the Consumer Financial Protection Bureau's (CFPB) proposal to rescind its rule requiring 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 Bureau registry. **(Docket No. CFPB-2025-0011)**¹. We appreciate the opportunity to provide our perspective on this topic.

I. About OLA

OLA represents the growing industry of innovative companies that develop and deploy pioneering financial technology, including proprietary underwriting methods, sophisticated data analytics and non-traditional delivery channels, to offer online consumer loans and related products and services. OLA's members include online lenders, vendors and service providers to lenders, consumer reporting agencies, payment processors and online marketing firms.

¹ <https://www.federalregister.gov/documents/2025/05/14/2025-08345/registry-of-nonbank-covered-persons-subject-to-certain-agency-and-court-order>

Fintech companies are at the vanguard of innovative online tools that reach new customers, prevent, and mitigate fraud, manage credit risk, and service loans. As technology evolves and the public's consumer comfort with online financial transactions grows, protecting consumers will be more important than ever. OLA is leading the way to improve consumer protections, with a set of consumer protection standards to ensure that borrowers are fully informed, fairly treated, and using lending products responsibly. To accomplish this, OLA members voluntarily agree to hold themselves to a set of Best Practices, a set of rigorous standards above and beyond the current legal and regulatory requirements. These are standards that OLA members, the industry, and any partners with whom OLA members work use to stay current with the changing legal and regulatory landscape. OLA Best Practices cover all facets of the industry, including advertising and marketing, privacy, payments, and interacting with consumers on their mobile devices.

Most importantly, OLA Best Practices are designed to help consumers make educated financial decisions by ensuring that the industry fully discloses all loan terms in a transparent, easy-to-understand manner.²

Much of the innovation undertaken by OLA members has given consumers greater control over their financial future. This is especially the case when it comes to access to capital. Whether borrowing for major purchase, paying for critical auto repairs or other emergencies, or just bridging the gap between paychecks, the ability to find and secure credit is often a determining factor in a consumer's financial wellbeing. Online lenders provide benefits to consumers, particularly those in underserved communities, with fast, safe, and convenient choices that simply are not available through traditional lending markets.

II. Nonbank Registry

The nonbank registry rule requires "certain nonbank covered person entities" to register with and submit information to the CFPB when they become subject to certain orders from local, state or federal agencies or courts involving violations -whether proven or not- of consumer protection laws. The registry applies to all nonbanks that are considered covered persons regardless of whether the nonbank is already being supervised or examined by CFPB. Furthermore, the rule requires certain supervised nonbanks to file a document from a senior executive attesting to compliance with any consent orders. Under the rule, all registration information is publicly available on the Bureau's website. According to the CFPB, this allows for better monitoring and more effectively reduces the risks to consumers.

OLA has raised serious concerns about the Bureau's registry, which ultimately appears to be more of a "name and shame" scheme and a beneficial resource to trial attorneys rather than a useful tool for consumers and regulators.³ It is also duplicative of efforts by the states, the Nationwide Multistate Licensing System (NMLS) and even the CFPB's own consumer complaint registry.

² Online Lenders Alliance Best Practices <https://onlendlendersalliance.org/best-practices/>

³ [Online Lenders Alliance comment letter 3/31/2023](#)

1. The Registry's Purpose is Inconsistent with Statutory Authority.

In justifying this rule, the Bureau cites its market-monitoring directive under Dodd/Frank, which gives CFPB the ability to request information and monitor the market for trends to drive further rulemaking. Historically, this has been employed by the Bureau for studies and information collection. However, the registry proposed by the CFPB is not just an information gathering exercise but rather is a substantive requirement. Failure to comply with the Registry's exacting requirements exposes the company to the potential of millions of dollars in civil penalties, making it inconsistent with the statutory basis outlined in Dodd/Frank for the Bureau's market monitoring authority and past agency practices.

The Bureau also purported to ground its creation of the nonbank registry in its nonbank supervision authority. This authority almost certainly forms the entirety of the Bureau's claimed ability to promulgate the rule, since its market monitoring functions are not limited to nonbanks. But the Bureau's statutory authority to "prescribe rules to facilitate supervision of" nonbanks⁴ does not extend to mandating that nonbanks (and only nonbanks) publicly disclose when they are subject to consent orders and publicly attest to compliance with those orders. Rather, when read as part of the general grant of supervisory authority over nonbanks, it becomes clear that the grant of registration authority was to help the Bureau identify which entities are within its supervisory jurisdiction, not a backdoor way to impose substantive public disclosure requirements on nonbanks.

The Bureau's nonbank supervisory authority is relatively broad, extending to any institution that "offers or provides to a consumer any private education loan" or "offers or provides to a consumer any payday loan."⁵ This could encompass thousands if not tens of thousands of lenders across the country, especially given that the term "payday loan" is not defined by the statute. Further, the Bureau is authorized to expand its supervisory jurisdiction over nonbanks by promulgating rules to define "a larger participant of a market for other consumer financial products or services."⁶ The Bureau would have no way of implementing its statutorily required risk-based supervision program without first knowing the universe of entities that is subject to its supervisory jurisdiction without the related authority to make those institutions register, which would "facilitate supervision of persons" subject to that authority.⁷ The Bureau had no authority to transform this registration authority into a general purpose public disclosure requirement touching all nonbanks.

2. The Registry Has Added to Growing Regulatory and Compliance Burdens.

Failure to comply with the registry is an independent violation of CFPB regulations and could lead to significant federal penalties against both the entity and individuals. Furthermore, the compliance and related attestation obligation with respect to state or local orders and other regulatory actions would effectively make these essentially state and local orders enforceable by the Federal CFPB.

⁴ 12 U.S.C. § 5514(b)(7)(A).

⁵ Id. at § 5514(a)(1)(D)–(E).

⁶ Id. at § 5514(a)(1)(B).

⁷ Id. at § 5514(b)(7)(A).

This represents significant new compliance burdens and unnecessary legal risk on affected nonbank financial entities, particularly smaller fintech companies that often possess limited resources. These companies will have to divert funding that could be directed towards innovation and serving their customers to monitor all resolutions, including informal consumer mediation services such as those provided by many state and local agencies, as well as investing in the development of new reporting mechanisms. They have also had to expend resources on additional staff training to ensure that reports are made in a timely manner.

This rule has become a substantial new cost driver, impacting financial services providers' ability to offer products and services to their customers.

3. The Registry is Redundant to Current Efforts at the State and National Level.

Many of the requirements contained in the registry are repetitive of existing efforts at the state and national levels. Currently, nonbanks are required to hold state licenses to engage in a variety of regulated activities, including but not limited to commercial and residential mortgage brokerage, lending, loan servicing, lead generation, commercial financing, private student lending and servicing, as well as a host of other regulated industries. To obtain a license, a company applies through the NMLS, which is a nationwide, multi-state license registry. While there are some licenses that are administered outside this process, by and large most are covered in the NMLS.

During this process a company is required to submit an MU1 Form⁸ that includes disclosure questions and complete a disclosure explanation section that requires a company to answer a host of regulatory action disclosure questions. As part of this process, companies are required to disclose whether, in the past 10 years, any state or federal regulatory agency or foreign financial regulatory authority or self-regulatory organization (SRO):

- Found the entity or a control affiliate to have made a false statement or omission or been dishonest, unfair or unethical.”
- “Found the entity or a control affiliate to have been involved in a violation of a financial services-related [regulation] or [statute].
- Found the entity or a control affiliate to have been a cause of a financial services-related business having its authorization to do business denied, suspended, revoked or restricted.
- “Entered an order against the entity or a control affiliate in connection with a financial services-related activity; or
- “Denied, suspended, or revoked the entity’s or a control affiliate’s registration or license or otherwise, by otherwise, by order, prevented it from associating with a financial services-related business or restricted its activities.”⁹

⁸[https://mortgage.nationwidelicensingsystem.org/licensees/resources/LicenseeResources/Company%20\(MU1\)%20Form%20Filing%20Instructions.pdf](https://mortgage.nationwidelicensingsystem.org/licensees/resources/LicenseeResources/Company%20(MU1)%20Form%20Filing%20Instructions.pdf)

⁹ [Microsoft Word - NMLS Company Form \(nationwidelicensingsystem.org\)](#)

Under this process, companies are required to answer affirmatively any time there is a public consent order or other action and provide an explanation, including a copy of the order. This covers final adverse actions, consent degrees and orders in which the respondent has neither admitted nor denied the findings. This encompasses much of what is considered a covered order by the Bureau. That means any action entered into with a regulator that is not labeled as some type of private settlement agreement or a minor administrative penalty would be considered public, requiring the entity to answer affirmatively to the NMLS disclosure questions and provide the proper explanation.

Once a respondent has submitted an affirmative response and provided the required explanation, other state regulators are notified of the action, therefore accomplishing one of the stated goals of the registry, namely the need to better inform consumers. It should be noted that state regulators already have the discretion to list these actions on a specific registry.¹⁰ In addition, the State Regulatory Registry (SRR) that governs the NMLS has created “NMLS Consumer Access,”¹¹ a public-facing website that consumers can utilize to look up lenders, brokers or service providers to see what enforcement actions exist.

The CFPB’s registry also has many of the same defects of the Bureau’s disclosure of incomplete and unreliable complaint data from its consumer complaint database. In the same way that many of the complaints are based on faulty evidence, the registry would require registration of consent orders, not just litigated cases or judgments. In most consent orders, the company does not admit any wrongdoing (a statement the government entity has agreed to include); indeed, enforcement actions are often resolved through consent orders – not because the company is engaged in any wrongful conduct alleged by the enforcement agency but because enforcement actions are very costly to defend. This would make the proposed registry an unreliable measurement of risk to consumers.

4. Registration and Attestation Record-Keeping is Burdensome, Without Clear Benefits to Consumers.

A nonbank identified by name as a party subject to a covered order will have 90 days to register. Covered orders have a fairly lengthy lifespan and are assumed to be in existence for 10 years from the effective date, unless there is an expressly provided termination date. However, most regulatory and supervisory agencies are reluctant to agree to termination dates.

In addition to the general requirements that entities submit a copy of the order that identifies the issuing government entity, effective date, expiration date, and any laws that were violated or alleged, a subset of entities that are subject to supervisory jurisdiction by the CFPB, and that meet other thresholds, would face an additional requirement to have an executive file an attestation that their company is in full compliance with the terms of the order.

¹⁰ Illinois Department of Financial and Professional Regulation’s Monthly Consolidated Reports on Enforcement Actions <https://idfpr.illinois.gov/News/Disciplines/DiscReportsDefault.asp>

¹¹ <https://www.nmlsconsumeraccess.org/>

The Bureau claims two primary benefits: first, that there is a public interest in transparency when it comes to potentially significant orders; and second, that if publicly released, such orders would be available as a precedent in future proceedings. As to the first claimed benefit around transparency, the Bureau has provided no data detailing what additional benefit this transparency would yield, either in an absolute sense or a relative sense when weighed against the drawbacks of publishing these orders and providing the name of the company's senior officer that has signed the attestation. In addition, making local and state consent orders effectively enforceable by the CFPB provides a serious disincentive to settlement and efficient resolution of these claims by state and local officials.

With respect to the second claimed benefit, while financial regulators often use prior decisions and orders to inform current and future regulatory policy and supervisory actions, this can be accomplished without the need to publish these documents on a website. If the Bureau's claim is that publishing decisions and orders will help establish regulatory standards (much like the publication of enforcement/consent orders), it has offered no evidence that listing the name of the respondents enhances the public's ability to understand the facts and circumstances regarding the supervisory actions taken by the Bureau. This also would be wholly inappropriate for a regulatory agency. If the Bureau wishes to shape the conduct of regulated entities, it must enact valid regulations through notice-and-comment rulemaking, not publish a hodgepodge of consent orders and other settlements in the hope that the publication will police the conduct of market participants.

Since its inception, the Bureau has had the dual mandate of supervising larger depository institutions and certain nonbanks. This was intended by Congress to level the playing field in terms of federal consumer protection in the financial regulatory space. Since then, the Bureau has struggled with how to manage the large and diverse nonbank market. The Bureau itself has acknowledged that the potential community covered by the orders registry could be as large as 155,000 nonbanks, with the Bureau further estimating that 1 to 5 percent may have a covered order that would cause them to register.¹²

Considering the dubious statutory authority for the registry, its redundancy, and the potential burdens it will place on nonbank entities, it appears to be little more than a "name and shame" tactic rather than a useful and productive tool. Moreover, it is a trap for the unwary nonbank who is subjected to risk of annihilating civil penalties for technical failures to comply with the Registry's detailed administrative requirements. It also provides a lever for the CFPB to enforce state and local orders to which it was never a party, and which are premised on violations of state laws and local ordinances that the CFPB has no authority to enforce. Given these types of registries currently exist in multiple other forums, in more user-friendly options, it is unclear what additional benefit consumers will derive from this registry. The group that would appear to benefit the most from the registry would be plaintiffs' attorneys and others seeking to file endless lawsuits. This would not justify the sizable compliance and regulatory costs to nonbanks, which may result in the reduction of services available to American consumers, which is why OLA supports the Bureau's efforts to rescind the registry.

¹² https://files.consumerfinance.gov/f/documents/cfpb_proposed-rule_registry-of-nonbank-covered-persons_2022.pdf

OLA appreciates this opportunity to offer input on this key issue. If you have questions or need additional information, please feel free to contact me at mday@OLADC.org.

Respectfully submitted,

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