



June 13, 2025

VIA ELECTRONIC SUBMISSION

The Honorable Russell Vought
Acting Director
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, RIN 3170-AB32**

Dear Acting Director Vought:

On May 14, 2025, the Consumer Financial Protection Bureau (CFPB) published a notice of proposed rulemaking (NPRM) on the *Registry of Nonbank Covered Persons Subject to Certain Agency and Court Orders; Proposed Rescission*.¹ The proposal would rescind the regulations imposed by the *Registry of Nonbank Covered Persons Subject to Certain Agency and Court Orders* (NBR Rule) adopted in July 2024.² This letter constitutes the Office of Advocacy's (Advocacy) public comments on the proposed rescission of the NBR Rule.

Advocacy previously commented on the NPRM for the NBR Rule in March 2023.³ At that time, Advocacy expressed concern with the NBR Rule's adverse economic impact on small entities and encouraged the CFPB to consider less burdensome alternatives. Advocacy supports this proposed rescission of the NBR Rule and commends the CFPB for reducing regulatory burden on small entities. Advocacy recommends the CFPB identify the number of small entities impacted by the rescission and the potential cost savings to small entities in the final rule. Based on Advocacy's estimates using CFPB and Census Bureau data, the rescission could save affected small entities roughly \$28.7 to \$143.4 million or higher in compliance costs over the next ten years.

¹ 90 Fed. Reg. 20,406 (May 14, 2025).

² 89 Fed. Reg. 56,028 (July 8, 2024).

³ U.S. Small Bus. Admin., Off. of Advoc., Comments on Registry of Nonbank Covered Persons Subject to Certain Agency and Court Orders, Docket No. CFPB-2022-0080, RIN 3170-AB13 (Mar. 28, 2023), <https://advocacy.sba.gov/2023/03/29/advocacy-submits-comments-on-cfpbs-registry-of-nonbank-covered-persons-subject-to-certain-agency-and-court-orders-nprm>.

I. Background

A. The Office of Advocacy

Congress established the Office of Advocacy under Pub. L. 94-305 to represent the views of small entities before federal agencies and Congress. Advocacy is an independent office within the U.S. Small Business Administration (SBA) that seeks to ensure small business concerns are heard in the federal regulatory process. Advocacy also works to ensure that regulations do not unduly inhibit the ability of small entities to compete, innovate, or comply with federal laws. The views expressed by Advocacy do not necessarily reflect the views of the SBA or the Administration.

The Regulatory Flexibility Act (RFA),⁴ as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA),⁵ gives small entities a voice in the rulemaking process. For all rules that are expected to have a significant economic impact on a substantial number of small entities, the RFA requires federal agencies to assess the impact of the proposed rule on small entities and to consider less burdensome alternatives.⁶ Additionally, section 609 of the RFA requires the Consumer Financial Protection Bureau, the Occupational Safety and Health Administration, and the Environmental Protection Agency to conduct special outreach efforts through a review panel.⁷ The panel must carefully consider the views of the impacted small entities, assess the impact of the proposed rule on small entities, and consider less burdensome alternatives for small entities.⁸ If a rule is not expected to have a significant economic impact on a substantial number of small entities, agencies may certify it as such and submit a statement of the factual basis for such a determination that adequately supports its certification.⁹

The Small Business Jobs Act of 2010 requires agencies to give every appropriate consideration to comments provided by Advocacy.¹⁰ The agency must include a response to these written comments in any explanation or discussion accompanying the final rule's publication in the Federal Register, unless the agency certifies that the public interest is not served by doing so.¹¹

Advocacy's comments are consistent with Congressional intent underlying the RFA, that "[w]hen adopting regulations to protect the health, safety, and economic welfare of the nation, federal agencies should seek to achieve statutory goals as effectively and efficiently as possible without imposing unnecessary burdens on the public."¹²

⁴ Pub. L. No. 96-354, 94 Stat. 1164 (1980) (codified at 5 U.S.C. §§ 601-612).

⁵ Pub. L. No. 104-121, tit. II, 110 Stat. 857 (1996) (codified in scattered sections of 5 U.S.C. §§601-612).

⁶ 5 U.S.C. § 603.

⁷ *Id.* § 609.

⁸ *Id.*

⁹ *Id.* § 605(b).

¹⁰ Small Business Jobs Act of 2010, Pub. L. No. 111-240, §1601, 214 Stat. 2551 (codified at 5 U.S.C. § 604).

¹¹ *Id.*

¹² Regulatory Flexibility Act, Pub. L. No. 96-354, 94 Stat. 1164 (1980) (codified at 5 U.S.C. §§ 601-612).

II. The 2023 NBR Rule Notice of Proposed Rulemaking

On January 30, 2023, the CFPB published an NPRM in the *Federal Register* on the Registry of Nonbank Covered Persons Subject to Certain Agency and Court Orders.¹³ The proposed regulation required nonbank covered persons (i.e., entities that engage in offering or providing a consumer financial product or service, like loan servicers or fintech companies) to report certain public agency and court orders related to enforcement activity and consumer protection laws to the CFPB through an online reporting system.

The effect of the CFPB's NBR Rule would require nonbanks to report final consent orders, settlements, or other legal agreements the nonbank made with government agencies, even if the nonbank did not admit wrongdoing. Moreover, the NBR Rule would require these orders to be published in a publicly accessible CFPB registry and remain there even after the order has expired or the company has fulfilled its obligations.

The proposed rule had three provisions:

- 1) the registration provision, which required nonbank covered persons that are subject to certain public orders to register with and submit copies of each public order to the CFPB;
- 2) the supervisory reports provision, which required nonbank covered persons to prepare and submit an annual written statement signed by a senior executive, regarding compliance with each covered public order, and;
- 3) the publication provision, which described the registration information the CFPB would make publicly available.

The CFPB estimated the rule would affect between 1,550 and 7,752 total covered nonbanks,¹⁴ but the CFPB did not distinguish how many of these affected nonbanks would be small entities, leaving the statutorily-required assessment of impacts on small entities unfulfilled. Regarding costs, the CFPB estimated that the registration provision would cost around \$300 per firm, irrespective of size,¹⁵ and the supervisory reports provision (including recordkeeping requirements) would cost around \$1,800 per firm.¹⁶ However, the CFPB did not provide cost estimates for the publication provision and instead stated the costs would not be significant while providing contradictory arguments.¹⁷ Despite the potential substantial impact associated with reputation costs, legal fees, and loss of revenue, the CFPB certified that the provision would not have a significant economic impact on a substantial number of small entities.¹⁸

Advocacy expressed concern with the uncertainty and inconsistency in the CFPB certifying the rule would not significantly impact small entities, specifically noting the CFPB's failure to include the number of small covered nonbanks. Advocacy further expressed concern with the

¹³ 88 Fed. Reg. 6088 (Jan. 30, 2023).

¹⁴ *Id.* at 6,131.

¹⁵ *Id.*

¹⁶ *Id.* at 6,133.

¹⁷ See *supra* note 3; see also 88 Fed. Reg. 6133 (explaining that the inclusion of a covered nonbank on the website may create reputational harm, though it is unlikely to alter consumer behavior unless the underlying order is especially controversial).

¹⁸ 88 Fed. Reg. at 6,137.

contradictory treatment of costs, namely that CFPB simultaneously acknowledged nonbanks would face reputational damage and yet claimed those impacts would not be major, without providing any support for the competing claim. Advocacy questioned the CFPB's factual basis for the certification. Advocacy also recommended the CFPB consider the following changes:

- Consent orders (i.e., formal agreements issued with the consent of the covered nonbank subject to the order) should not be included in the registry because parties enter into settlement agreements for various reasons other than acknowledging fault;
- Covered orders (i.e., any written order or judgment issued by an agency or court in an investigation, matter, or proceeding) should be removed from the registry after the covered order expires; and
- The CFPB should clarify which type of affiliates of insured depository institutions, insured credit unions, or related person are subject to the rulemaking because not doing so would add greater uncertainty to who is covered by the rule.

Finally, Advocacy questioned the need for the proposal in the first place because most of the requested data is available through the Conference of State Bank Supervisors' (CSBS) National Multistate Licensing System (NMLS),¹⁹ and consumers can research a company on the internet to learn about a company's business practices.

III. The 2024 Final NBR Rule

On July 8, 2024, the CFPB published in the Federal Register the final rule on the Registry of Nonbank Covered Persons Subject to Certain Agency and Court Orders.²⁰ The CFPB certified that even though a substantial number of small entities were affected by the rule, the rule still would not have a significant economic impact on small entities.²¹

Regarding the number of small entities affected, the CFPB claimed in the final rule that information obtained through a request for information from federal agencies, state regulators, state attorneys general, and tribes on the number of small entities subject to covered orders was not sufficient to provide a rigorous quantitative estimate of the number of small entities subject to covered orders.²² The CFPB's alternative methodology failed to provide any estimate of the number of small entities affected beyond abstract percentages that were not supported.²³ Instead, the CFPB simply noted that state-regulator commenters did not disagree with the CFPB's estimate that between one and five percent of all covered nonbanks might be impacted by the rule.²⁴

¹⁹ See Conf. of State Bank Supervisors, et. al., Comments on Registry of Nonbank Covered Persons Subject to Certain Agency and Court Orders, Docket No. CFPB-2022-0080, RIN 3170-AB13 (Mar. 31, 2023), <https://www.regulations.gov/comment/CFPB-2022-0080-0044>.

²⁰ 89 Fed. Reg. 56,028 (July 8, 2024).

²¹ *Id.* at 56,144.

²² *Id.*

²³ *Id.* at 56,145. The CFPB estimated the number of small entities affected by establishing a range of one to five percent of small and large covered nonbanks that may be subject to covered orders. The CFPB concluded that because 96 percent of the entities named in the rule are small, 5.2 percent of small covered nonbanks would be subject to covered orders.

²⁴ *Id.* at 56,144.

Regarding costs, the CFPB concluded that the registration provision would take five hours and cost \$350 per firm,²⁵ and the supervisory reports provision (including recordkeeping requirements) would take thirty hours and cost \$2,100 per firm.²⁶ The CFPB stated that even though the publications provision costs “may have a somewhat larger effect on smaller firms, that does not mean that the provision has a significant economic impact on a substantial number of small entities.”²⁷ However, the CFPB’s cost estimates in the NPRM received criticism by commenters that they were inaccurate. For example, one commenter indicated that a small nonbank entity not currently subject to the CFPB’s supervisory authority would incur expense to engage legal counsel due to the new reporting requirements.²⁸ Another commenter suggested that covered nonbanks are likely to spend far more than the CFPB’s estimated amount of \$1,200 (revised to \$1,400 in the final rule) for the supervisory reports provision.²⁹

The final rule also failed to exclude consent orders and failed to require removal of expired covered orders upon expiration. The final rule did not address Advocacy’s concern questioning the need for the registry given that the Conference of State Bank Supervisors operates the NMLS, a database of covered enforcement actions reported by state regulators and the CFPB, and that consumers can research a company on the internet to learn about the company’s business practices.

IV. The CFPB Can Better Illustrate the Benefits of the Proposed Rescission

On May 14, 2025, the CFPB published an NPRM in the Federal Register to rescind the NBR Rule from 2024.³⁰ Due to the CFPB’s failure to adequately identify the number of covered nonbanks subject to covered orders, its failure to quantify the likely impacts to small entities in the 2024 NBR Rule, and the potential economic relief to be realized by small entities if the rule is rescinded, Advocacy supports the rescission.

While Advocacy supports rescinding the rule, the CFPB should estimate the small entity impacts of the removal of the 2024 NBR rule requirements. In the 2025 NPRM, the CFPB stated that a rescission of the NBR Rule would result in a reversal of potential economic impacts from the NBR Rule. The CFPB should provide further support for this statement. The CFPB should estimate what the impacts of the final 2024 NBR rule were on small entities and provide a more thorough analysis on small entity impacts to clearly demonstrate the value of rescinding the rule. This would also allow small entities to more meaningfully comment on the proposed rescission to inform the CFPB’s decision-making.

The NBR rule affected small entities conducting financial activities in the finance, real estate, rental and leasing services, and business support services industries. In total, over 160,000 small

²⁵ *Id.* at 56,146.

²⁶ *Id.* at 56,147.

²⁷ *Id.* at 56,149.

²⁸ *Supra* note 19 at 5.

²⁹ See U.S. Chamber of Com., et. al., Comments on Registry of Nonbank Covered Persons Subject to Certain Agency and Court Orders, Docket No. CFPB-2022-0080, RIN 3170-AB13 (Mar. 31, 2023), <https://www.regulations.gov/comment/CFPB-2022-0080-0043>.

³⁰ 90 Fed. Reg. 20,406 (May 14, 2025).

firms are in these industries. However, according to the CFPB's estimate, only one to five percent of the firms in these industries were subject to the requirements of the rule, which only encompasses around 5,000 small firms affected.

Based on data provided in the CFPB's 2024 NBR Rule and the Census Bureau's Statistics of U.S. Businesses, Advocacy estimates the rescission of the NBR Rule would save between 1,666 and 8,831 small nonbanks about \$2,450 each in annual costs. Over the next 10 years, this would save between \$28.7 and \$143.4 million in compliance costs at a present value discounted at 7%.³¹

Actual cost savings will likely exceed this estimate. The CFPB did not estimate the reputational costs of the registry that CFPB itself acknowledged will be real. And several commenters asserted that small business compliance costs were underestimated. Specifically, these commenters claimed that while the CFPB estimated annual expected costs to be about \$2,450 per affected firm, the costs could exceed \$8,700 a year when factoring in reputational costs and legal expenses.

V. Conclusion

Advocacy supports the proposed rescission of the NBR Rule. Further, Advocacy encourages the CFPB to identify in its final rule the potential cost savings to small entities due to the rescission, and Advocacy stands ready to aid in that endeavor.

If you have any questions or require additional information, please contact me or Law Clerk Tanner L. Long at (202) 205-7085 or by email at <mailto:Tanner.Long@sba.gov>.

Sincerely,

/s/

Chip Bishop
Deputy Chief Counsel
Office of Advocacy
U.S. Small Business Administration

/s/

Tanner L. Long
Law Clerk
Office of Advocacy
U.S. Small Business Administration

³¹ Advocacy estimates using data from 89 Fed. Reg. at 56143-49 (July 8, 2024); U.S. Census Bureau, *2022 SUSB Annual Data Tables by Establishment Industry* (Apr. 2025), <https://www.census.gov/data/tables/2022/econ/susb/2022-susb-annual.html>.

Copy to: Mr. Jeffrey B. Clark, Sr., Acting Administrator
Office of Information and Regulatory Affairs
Office of Management and Budget