Americans for Financial Reform Education Fund

Comment Intake—Procedures for Supervisory Designation Proceedings,
c/o Legal Division Docket Manager
Consumer Financial Protection Bureau
1700 G Street NW
Washington, DC 20552

June 13, 2025

Re: Docket No. CFPB-2025-0013, RIN 3170-AB34; Procedures for Supervisory Designation Proceedings

To whom it may concern:

Americans for Financial Reform Education Fund (AFREF)[1] appreciates the opportunity to comment on the Consumer Financial Protection Bureau's (CFPB) proposed rescission of supervisory authority amendments adopted on April 29, 2022, November 21, 2022, and April 23, 2024.[2] These amendments strengthened procedures for establishing supervisory authority based on a risk determination and publicly disclose certain supervisory determinations to improve market transparency and public understanding of nonbank financial firms.

A lack of transparency and meaningful oversight of nonbank financial products contributed significantly to the 2008 financial crisis.[3] Rescinding these amendments[4] and proposing blanket confidentiality for all final decisions and orders in risk-designation proceedings will further strip away much needed transparency for some of the riskiest and least regulated nonbank financial products that are offered in the financial marketplace. AFREF opposes the proposed rescissions and urge the CFPB to retain the procedural mechanism currently in place, which affords the Director flexibility to consider whether to release certain financial decisions and orders in a way that still protects privacy, confidentiality, proprietary information, and trade secrets.

Meaningful CFPB enforcement and supervision helps keep people safe from financial fraud, abuse, and harm.

For fourteen years, the Consumer Financial Protection Bureau (CFPB) has kept everyday people safe from financial fraud and harm and held banks, payday lenders, and Big Tech firms accountable when they scammed, misled, and hurt people. Created as part of the Dodd-Frank Wall Street Reform and Consumer Protection Act, the CFPB helped return $21 billion to over 200 million people through restitution and cancelled debts.[5] Until recent attacks and efforts to dismantle this

[1] Americans for Financial Reform Education Fund (AFREF) is a nonpartisan and nonprofit coalition of more than 200 civil rights, consumer, labor, investor, faith-based, and civic and community groups dedicated to advocating for policies that shape a financial sector that serves workers, communities and the real economy, and provides a foundation for advancing economic and racial justice.
[2] 90 Fed. Reg. 92. May 14, 2025 at 20401.
[3] Chairman Martin J. Gruenberg. FDIC. [Speech]. "Financial stability risks of nonbank financial institutions." September 20, 2023.
[4] 87 Fed. Reg. 83. April 29, 2022 at 25397; 87 Fed. Reg. 223. November 21, 2022 at 70703; 89 Fed. Reg. 79. April 23, 2024 at 30259.
[5] Consumer Financial Protection Bureau (CFBP). About the Bureau. Accessed June 6, 2025.

consumer watchdog, the CFPB has been able to meaningfully enforce consumer protections and fair lending laws to keep the financial marketplace fair, transparent, and stable, and these factors have fostered consumer confidence and a more competitive marketplace. When allowed to function as designed, the CFPB's enforcement, supervision, and regulatory efforts play an important and unique role that helps keep people safe from predatory lending and financial fraud and harms. It helps keep our financial marketplace stable and transparent, all of which was designed to reduce the likelihood and severity of another financial crisis.

Previously, the CFPB found unique fraud risks for servicemembers and older adults from nonbank financial products, including digital payment apps.[6] Gutting the agency, rolling back previously finalized protections for certain nonbank products,[7] and now proposing to rescind amendments that would have increased transparency and helped strengthen the Bureau's ability to exercise supervision over nonbanks engaged in risky conduct will put everyone, and especially older adults and servicemembers, at greater risk of fraud and harm.

CFPB has supervisory authority over nonbanks engaged in risky conduct.

Congress authorized the CFPB to supervise nonbanks that it has reasonable cause to determine are "engaging, or ha[ve] engaged, in conduct that poses risks to consumers with regard to the offering or provision of consumer financial products or services."[8] The Bureau's risk-designation authority helps it to determine whether otherwise companies offering services in non-traditional areas might be engaging in risky and new practices that warrant supervisory oversight. When the CFPB has "reasonable cause" to determine a nonbank's conduct poses risks, that nonbank can either choose to be supervised, or contest the CFPB's designation. Generally, "all documents, records or other items submitted by a respondent to the Bureau…shall be deemed confidential supervisory information."[9] Furthermore, a designation of supervision is not the same as an allegation of wrongdoing. It only means that the Bureau believes supervision is warranted and uses a "confidential supervisory process to…assess the nonbank covered person's compliance with Federal consumer financial law."[10]

In a final rule that became effective on April 23, 2024, the CFPB codified a standard and process that allows the Director make a determination whether certain decisions or orders under Section 1091 "will be publicly released on the Bureau's website, in whole or in part."[11] The CFPB is uniquely positioned both to collect and analyze unredacted consumer complaints data, and where it senses potentially risky conduct that the broader public is unaware of, it makes sense to allow the limited disclosure of these reasons.

Current CFPB supervisory designation process, including issuing public orders and decisions, helps create a more informed and stable industry.

The CFPB's selected release of public and (where appropriate) redacted response to contested nonbank supervisory determinations helps both the market, other financial firms, and the public better understand why the Bureau chose to proceed with a risk-designation for that nonbank, in a way that protects confidential information, trade secrets, and other sensitive private information. No

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[6] Marek, Lynne. "US servicemembers ensnared by digital payment app scams." Dive Brief. June 22, 2023.
[7] Williams, Claire. "Congress moves on nullifying overdraft, larger participant rules." American Banker. March 6, 2025.
[8] 12 U.S.C. 5514(a)(1)(C).
[9] 12 CFR 1091.405(a).
[10] 87 Fed. Reg. 223. November 21, 2022 at 70704.
[11] 12 CFR 1091.115(c)(2).

matter what the CFPB Director ultimately decides, under the current process, that Director retains flexibility and discretion to weigh the public interests of releasing certain orders and decisions against any perceived harm to a nonbank's contest of that supervisory designation.[12]

Two recent examples of public orders issued by the CFPB demonstrate how these orders provide helpful guidance to both the public and similarly situated nonbanks on what might constitute "reasonable cause" for a nonbank to be subject to supervision under section 1042(a)(1)(C).[13] These public releases can inform other market participants what kinds of problematic practices prompt the application of CFPB supervision.

- **Public version of World Acceptance Corporation decision and order helps the public and similarly situated nonbanks understand why the CFPB designated this small-loan company for supervision.** In 2023, consumer complaints helped CFPB regulators determine at least four risks posed to World Acceptance Corporation customers.[14] The CFPB's public version of its decision and order revealed that complaints made against World Acceptance demonstrated expensive and unwanted insurance products hidden within its loan agreements, abusive and excessive debt collection practices, possibly inaccurate information furnished to consumer reporting agencies, inadequate explanations provided to customers regarding its insurance coverage, and a business model that relies on serially refinancing its loans.

- **Public CFPB order helped provide insights into why CFPB supervision was needed for Google Payment Corporation.** An order published in December 2024[15] helped provide important insights into Google Payment's practices and why the CFPB had "reasonable cause" to determine it engaged in risky conduct. The order referenced consumer complaints stemming from Google's failure to adequately investigate erroneous transfers made through its peer-to-peer payment platform, failure to explain investigation results, as well as a pattern of Google's failure to provide people with recourse or documentation proving no errors had occurred.

Under the proposed rescissions, none of this information would have become public, but would instead have been hidden from public view and kept inside an impenetrable black box of regulatory speculation. The proposed rescission would even preclude the Director from any opportunity to weigh the risks and benefits of making such decisions and orders public. Consumers and regulated institutions would automatically lose any opportunity or ability to understand how the Bureau might approach their "risks to consumers" reasoning. And as a matter of course, any nonbank the CFPB has "reasonable cause" to believe is engaging in risky conduct will likely automatically oppose that designation outright, with no consequences and none of the accountability that accompanies the transparency built into the current process. The recission would make the marketplace more opaque and more uncertain for companies and for consumers.

For these reasons, we oppose the CFPB's proposed rescission and urge the CFPB to keep the current procedures for establishing supervisory authority based on a risk determination.

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[12] 89 Fed. Reg. 79. April 23, 2024 at 30259.
[13] 12 U.S.C. 5514(a)(1)(C).
[14] *In the Matter of: World Acceptance Corp.*, CFPB No. 2023-CFPB-SUP-0001 (Nov. 30, 2023).
[15] *In the Matter of: Google Payment Corp.*, CFPB No. 2024-CFPB-SUP-0001 (Nov. 8, 2024).