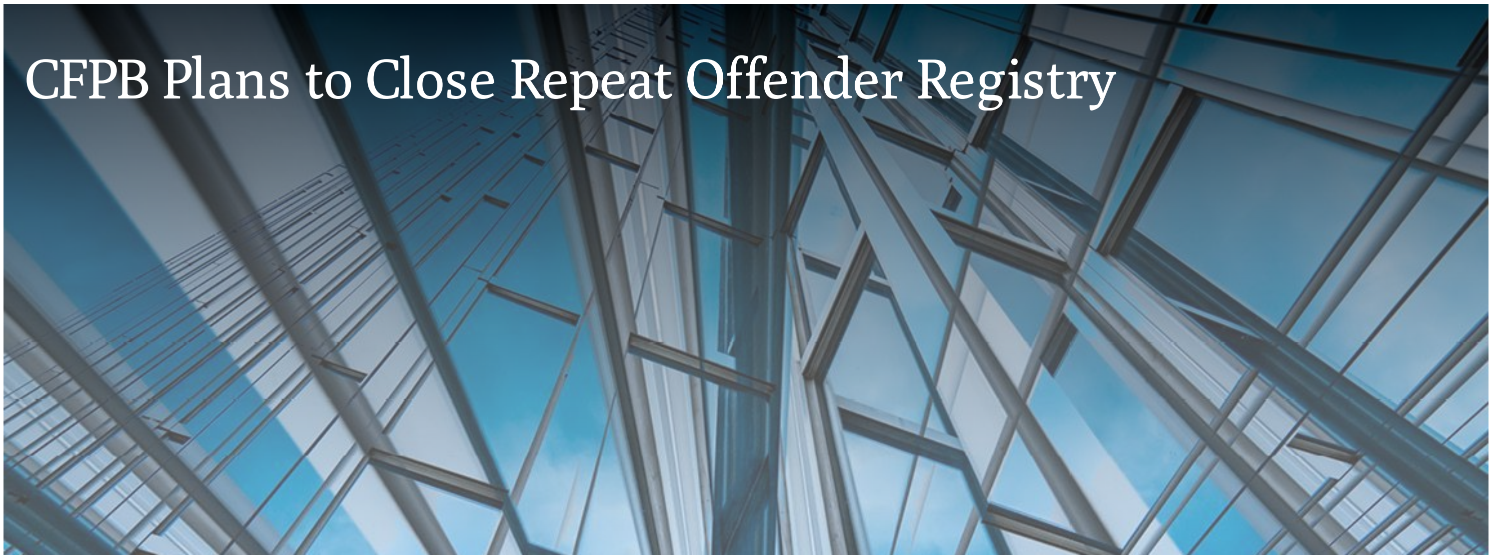
WINSTON & STRAWN LLP

CLIENT ALERT

CFPB Plans to Close Repeat Offender Registry



MAY 16, 2025

In a notice published in the Federal Register on May 14, the CFPB announced its intent to close its repeat offender registry by rescinding its rule requiring nonbank financial entities to report public orders entered against them to the Bureau and to file annual compliance reports.[1] The notice follows the Bureau's brief press release last month announcing that it was considering eliminating the registry and would no longer prioritize enforcement or supervisory actions related to associated reporting deadlines.[2]

The repeat offender registry was established in 2024 and imposes two principal requirements. First, covered nonbank companies are required to register with the Bureau all agency and court orders and judgments related to violations of consumer protection laws.[3] The regulation requires registration of both final and consent judgments and orders, meaning it publishes information on covered entities that have not necessarily been found to violate any consumer protection law.[4] Second, covered nonbanks are required to make annual attestations from a senior executive confirming compliance with registered orders.[5]

The repeat offender registry is one of two Bureau programs designed to target recidivism—a goal of former Director Rohit Chopra. As we covered in a previous article, Chopra expressed concern that Bureau enforcement practices incentivized recidivism.[6] While the registry addresses conduct of nonbank companies, the Repeat Offender Unit monitors all entities under the Bureau's purview.[7] The Repeat Offender Unit focuses on monitoring enforcement order compliance to "address the root cause of violations" and recommending corrective actions designed to deter further recidivism.[8]

Commenters at the time questioned whether the agency had fully accounted for the costs associated with the registry.[9] The Bureau's recent notice to close the registry echoes these concerns, stating that the costs imposed by the registry do not justify its "speculative and unquantified benefits" to consumers.[10] The notice invites comments on "non-speculative and methodologically rigorous analysis of the purported benefits and costs that were identified when the rule was promulgated."[11] And it specifically notes the Bureau's interest in comments that "model [the registry's] benefits in a quantitative and methodologically rigorous manner."[12]

The notice's repeated characterization of the final rule's benefits as "speculative" and "purported" is noteworthy, criticizing the nonquantitative nature of the rule. Although the final rule asserted benefits of providing the highquality information on public orders and assisting the Bureau in monitoring recidivism risks, it conceded that "the Bureau does not have any data to quantify these benefits."[13]

This concern for quantitative benefits is nominally tied to Executive Order 12866, which directs agencies to promulgate regulations only when required by law, as necessary to interpret the law, or as made necessary by compelling public need.[14] But the notice suggests an even more restrictive view of permissible regulation, requesting comments that "indicate the existence of a market failure that would justify [the registry's] retention."[15] This reference to market failure as the only justification suggests the administration's view on when regulation is appropriate generally.

The proposed closure of the registry also continues the administration's efforts to pare back the Bureau's regulatory authority. For instance, the notice points out that "Congress has authorized multiple other Federal and State agencies to enforce Federal consumer financial laws."[16] The reference to the overlapping authority of financial regulators is consistent with other administration statements about consolidating financial regulatory authority.[17]

Interested parties have until June 13 to comment on the proposal.

---

[1] "Registry of Nonbank Covered Persons Subject to Certain Agency and Court Orders; Proposed Recission," 90 Fed. Reg. 20406 (May 14, 2025).

[2] Press Release, Consumer Fin. Prot. Bureau, "CFPB Offers Regulatory Relief from Registration Requirements for Small Loan Providers" (Apr. 11, 2025).

[3] Press Release, Consumer Fin. Prot. Bureau, "CFPB Creates Registry to Detect Corporate Repeat Offenders" (June 3, 2024).

[4] *See* 12 C.F.R. § 1092.201(e) (defining "covered order" to include those "based on alleged violation" of covered consumer protection laws).

[5] Press Release, *supra* note 2.

[6] Rohit Chopra, Lecture at University of Pennsylvania Carey Law School, "Reining in Repeat Offenders."

[7] Consumer Fin. Prot. Bureau, "Supervisory Highlights," Issue 28 at 3 (Fall 2022).

[8] *Id.*

[9] *See* "Registry of Nonbank Covered Persons Subject to Certain Agency and Court Orders," 89 Fed. Reg. 56028, 56067 (July 8, 2024) (summarizing a comment that the registry's publication of consent orders would "lead to higher compliance costs" and "encourage class action lawsuits and spurious litigation claims").

[10] 90 Fed. Reg. at 20407.

[11] *Id.*

[12] *Id.*

[13] 89 Fed. Reg. at 56138.

[14] Exec. Order. 12866, "Regulatory Planning and Review," 58 Fed. Reg. 51735, 51735 (Oct. 4, 1993).

[15] 90 Fed. Reg. at 20408.

[16] *Id.*

[17] *See* Scott Bessent, Secretary, Dep't of Treasury, Remarks at the Economic Club of New York (Mar. 6, 2025) (calling for financial regulators to work in parallel through "coordination via Treasury"); *see also* Cong. Budget Off.,

"Reconciliation Recommendations of the House Committee on Financial Services" (May 7, 2025) (proposing to fold the PCAOB into the SEC).
3 Min Read

Authors

Caitlin M.R. Mandel

Patrick Doerr

Arman Aboutorabi

Juan Azel

Kobi Kennedy Brinson

Carl Fornaris

Jennifer Olivestone

Related Topics

Consumer Financial Protection Bureau (CFPB)

Repeat Offender Registry

Related Capabilities

Financial Services Litigation

Financial Services Transactions & Regulatory

Government Investigations, Enforcement & Compliance

Financial Services

Related Professionals

Caitlin M.R. Mandel

[Patrick Doerr]

[Arman Aboutorabi]

[Juan Azel]

[Kobi Kennedy Brinson]

Carl Fornaris

Jennifer Olivestone