

Withdrawal of Regulatory Guidance, Interpretive Rules, and Other Documents Shrinks the CFPB's Already-Drained Enforcement Arsenal

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Since President Trump took office, the administration has substantially curtailed the Consumer Financial Protection Bureau's (Bureau) rulemaking and enforcement activity. In March, Congress voted to repeal two Biden-era hallmark regulations—Reg E's updated overdraft-protection rule and the recently enacted rule bringing large nonbank payment entities under Reg E's purview. Most recently, on May 12, 2025, the Bureau's Acting Director, Russell Vought, announced the elimination of 67 regulatory guidance documents—including interpretive rules, policy statements, and advisory opinions that have been issued since the Bureau's inception.^[1] The withdrawn guidance documents impact most federal consumer protection laws, including the Electronic Fund Transfer Act (EFTA). Specifically, Vought withdrew two circulars (from 2022 and 2024) regarding overdraft guidance,^[2] and a circular, policy statement,^[3] and 2012 Bulletin regarding Reg E's Remittance Rule.^[4]

OVERDRAFT CIRCULARS

The 2024 Overdraft Circular addressed improper overdraft practices, clarifying that it is a violation of Reg E if there is no proof that a financial institution obtained consumers' affirmative consent to enroll in covered overdraft services before charging overdraft fees for ATM and one-time debit card transactions. The 2022 Overdraft Circular clarified that fees that otherwise comply with the Truth in Lending Act and EFTA may still constitute unfair, deceptive, or abusive acts and practices under EFTA. Given that the Bureau has repealed the rule^[5] governing overdraft practices of certain financial institutions, it makes sense that the two circulars addressing similar topics would also be withdrawn. The repeal of the overdraft rule, and accompanying comments, create uncertainty around what constitute acceptable overdraft fee policies. Financial institutions should work with their outside counsel to ensure that their practices are compliant with current rules.

REMITTANCE RULE WITHDRAWALS

The 2012 Bulletin announced that the Bureau was planning to submit a proposal in December 2012 to refine the following elements of the then-existing remittance rule: (1) errors resulting from incorrect account numbers provided by senders of remittance transfers; (2) the disclosure of certain foreign taxes and third-party fees; and (3) the disclosure of subnational foreign taxes. In May 2020, the Bureau issued a final rule amending the Remittance Rule in line with the 2012 Bulletin.^[6] The now-withdrawn 2020 policy statement stated that for remittances occurring on or after July 21, 2020, and before January 1, 2021, the Bureau would not cite in an examination or initiate an

enforcement action regarding any actions in connection with the disclosure of actual third-party fees and exchange rates against any insured institution that would be newly required to disclose actual third-party fees and exchange rates after the temporary exception expires.^[7] Finally, the Bureau also withdrew a circular^[8] that seemed to create confusion for providers required to comply with the Remittance Rule. The Bureau specifically noted within the circular that “[remittance transfer] [p]roviders may be liable under the CFPA for deceptive marketing practices regardless of whether the provider is in compliance with the disclosure requirements of the Remittance Rule.”

The Bureau’s decision to withdraw the identified guidance documents, including policy statements specific to the 2020 COVID pandemic, is reflective of Vought’s stated intention to issue and maintain guidance only when necessary and reduce compliance burdens rather than increasing them.^[9] Moreover, while the Bureau has long recognized that its guidance is generally nonbinding and does not create substantive rights,^[10] the widespread withdrawal reflects a shift toward ensuring that guidance aligns strictly with statutory requirements.

Leading to further uncertainty, Vought noted that the review of the Bureau’s guidance materials is not necessarily final, as the Bureau will continue to review all of its guidance materials.^[11]

We will continue to update the Reg E Reader as new developments shape Reg E enforcement. For further information, or if you have any questions, please contact the authors of this blog post or your regular Winston contacts.

[1] A full list of the interpretive rules, policy statements, and advisory opinions that were eliminated can be found [here](#).

[2] Consumer Financial Protection Bureau [Circular 2024-05: Improper Overdraft Opt-In Practices](#), 89 Fed. Reg. 8007 (Oct. 2, 2024); Consumer Financial Protection Bureau [Circular 2022-06: Unanticipated Overdraft Fee Assessment Practices](#), 87 Fed. Reg. 66935 (Nov. 7, 2022).

[3] Consumer Financial Protection Bureau, [Statement on Supervisory and Enforcement Practices Regarding the Remittance Rule in Light of the COVID-19 Pandemic](#) (Apr. 10, 2020).

[4] Consumer Financial Protection Bureau, [Bulletin 2012-08 re: implementation of the remittance rule \(Regulation E, Subpart B\)](#) (Nov. 27, 2012).

[5] The full text of the final rule, “Overdraft Lending: Very Large Financial Institutions,” can be found [here](#).

[6] Consumer Financial Protection Bureau, [Electronic Fund Transfers \(Regulation E\); Amendments](#) (June 5, 2020).

[7] Consumer Financial Protection Bureau, [Statement on Supervisory and Enforcement Practices Regarding the Remittance Rule in Light of the COVID-19 Pandemic](#) (Apr. 10, 2020).

[8] Consumer Financial Protection Bureau, [Circular 2024-02: Deceptive Marketing Practices About the Speed or Cost of Sending a Remittance Transfer](#) (Apr. 17, 2024).

[9] *Id.* at 2.

[10] *Id.*

[11] *Id.*

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Authors

[Juan Azei](#)

[Caitlin M.R. Mandel](#)

Jennifer Olivestone

Christina E. Zaldivar

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Juan Azel



Caitlin M.R. Mandel



Jennifer Olivestone



Christina E. Zaldivar

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