

[Banking and Finance Law Daily Wrap Up, CONSUMER FINANCIAL PROTECTION BUREAU—Bureau moves forward with required regulation reviews, \(May 13, 2019\)](#)

Banking and Finance Law Daily Wrap Up

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The CFPB has proposed a formal plan for how it will carry out future Congressionally mandated reviews of the regulations it adopted or inherited since the enactment of the Dodd-Frank Act. It also has begun the first of these reviews, which will look at the 2009 Reg. E amendment that limits overdraft fees on ATM and debit card transactions.

The Consumer Financial Protection Bureau has begun the process of reviewing regulations within 10 years of their adoption, as required by the Regulatory Flexibility Act. The Bureau has started its [first review](#), of the overdraft fee amendments to Reg. E—Electronic Fund Transfers (12 CFR Part 1005), and also [proposed for comment](#) a plan on how future reviews will be performed. [According to the Bureau](#), the RFA requires the 10-year review in order to minimize regulatory burden on small businesses.

Overdraft rule review. The Reg. E overdraft rule was adopted by the Federal Reserve Board in 2009, before the CFPB was created. The rule imposed disclosure requirements on financial institutions that wished to charge overdraft fees and gave consumers the right to reject overdraft services in order to avoid the fees. It was included in Reg. E as republished by the Bureau.

The review poses three questions:

1. What are the economic effects of the rule on small companies, and what are its benefits?
2. How can small entities' costs resulting from the rule be reduced?
3. Is there other information the CFPB should consider in deciding whether to keep the rule in its current form, amend it, or withdraw it?

Future review plans. The Bureau says that it is publishing its proposed review plan because it anticipates the need to perform a number of RFA reviews in upcoming years. Under the proposed plan, the CFPB would initiate a review of a rule about nine years after its adoption. The starting point will be whether the rule has a significant effect on a substantial number of small companies; if it does not, no further review would be required.

The CFPB would publish annually a list of the rules it will review. A separate notice describing each rule also would be published. This separate notice would call for comments on the described rule.

The RFA requires the Bureau to consider five factors:

1. the continued need for the rule;
2. the public comments;
3. the rule's complexity;
4. whether the rule overlaps, duplicates, or conflicts with any other federal or state rules; and
5. any relevant technology, market, or other changes that have occurred since the rule was adopted.

The Bureau notes that it is not required to call for public input on its review plan and that it is subject to a separate review requirement under the Dodd-Frank Act.

RegulatoryActivity: BankingFinance ChecksElectronicTransfers CFPB DoddFrankAct FedTracker