

[Banking and Finance Law Daily Wrap Up, CONSUMER FINANCIAL PROTECTION BUREAU—Senate resolutions would block CFPB regulations on lending activity, \(Mar. 26, 2018\)](#)

Banking and Finance Law Daily Wrap Up

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By [Stephanie K. Mann, J.D.](#)

Joint resolutions have been filed for congressional disapproval under Senate rules to block two final rules filed by the Consumer Financial Protection Bureau. The Congressional Review Act resolutions, introduced by Sens. Graham Lindsay (R-SC) and Jerry Moran (R-Kan), are intended to block the Bureau's rules on "[Indirect Auto Lending and Compliance with the Equal Credit Opportunity Act](#)" and "[Payday, Vehicle, Title, and Certain High-Cost Installment Loans](#)."

The House previously introduced a resolution to nullify the Bureau rule that would ban millions of consumers from accessing short-term, small-dollar credit. H.J. Res. 122 was introduced by Rep. Dennis Ross (R-Fla) and co-sponsored by Reps. Alcee Hastings (D-Fla), Tom Graves (R-Ga), Henry Cueller (D-Texas), Steve Stivers (R-Ohio), and Collin Peterson (D-Minn). Emphasizing that while all 50 states, the District of Columbia, and all Native American tribes already regulate short-term loans, Ross stated that "short-term, small dollar credit is essential to nearly 12 million American consumers who have difficulty qualifying for many other types of credit." Many people also use these short term loans to bridge an emergency such as an unexpected car repair or medical bills, Ross added (see *Banking and Finance Law Daily*, [Dec. 4, 2017](#)).

ECOA rule. Government Accountability Office General Counsel Thomas H. Armstrong issued an opinion letter on Dec. 5, 2017, concluding that the CFPB's 2013 bulletin on "Indirect Auto Lending and Compliance with the Equal Credit Opportunity Act" is a general statement of policy and a "rule" subject to the requirements of the Congressional Review Act (see *Banking and Finance Law Daily*, [Dec. 7, 2017](#)). While the CFPB has acknowledged that its bulletin provides guidance and clarity, the Bureau maintains that it is nonbinding and has no legal effect on regulated entities. In contrast, the GAO opinion letter asserts that the CFPB bulletin goes beyond the attributes of guidance and clarity and satisfies the CRA's definition of a "rule" because, among other things, it is a "general statement of policy designed to assist indirect auto lenders to ensure that they are operating in compliance with ECOA and Regulation B, as applied to dealer markup and compensation policies."

The guidance was [intended](#) to assist indirect auto lenders with ECOA compliance and was directed toward auto lenders that permit dealers to increase consumer interest rates and compensate dealers with a share of the increased interest revenues.

LegislativeActivity: BankingFinance CFPB ConsumerCredit EqualCreditOpportunity FedTracker Loans