

Banking and Finance Law Daily Wrap Up, CONSUMER FINANCIAL PROTECTION BUREAU—CFPB proposes to revise its ‘Procedures for Supervisory Designation Proceedings’, (May 13, 2025)

Banking and Finance Law Daily Wrap Up

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By Jonathan Anderson

The Bureau said it has concerns about how earlier amendments provide for public release of decisions and orders.

The Consumer Financial Protection Bureau (CFPB) is proposing to rescind amendments it adopted in April 2022, November 2022, and April 2024 to the “Procedures for Supervisory Designation Proceedings.” The rules proposed for rescission provide for public release of final decisions and orders by the CFPB director and made other changes to the Bureau’s procedures for designating nonbank covered persons for supervision. According to the agency’s [notice](#) for publication in the *Federal Register*, public comments on the proposal are due by June 13, 2025.

Proposed revisions. The Bureau is proposing to rescind in full amendments to the Procedures for Supervisory Designation Proceedings that it adopted in April 2022, at 87 Fed. Reg. 25397; in November 2022, at 87 Fed. Reg. 70703; and in April 2024, at 89 Fed. Reg. 30259. These amendments were codified in 12 C.F.R. Part 1091.

87 Fed. Reg. 25397. In April 2022, the CFPB [said](#) it was invoking its dormant authority to examine nonbank companies that pose risks to consumers. After the financial crisis of 2008, Congress authorized the CFPB’s supervision over nonbanks when there is reasonable cause to determine that they pose risks to consumers. The agency had implemented the provision through a procedural rule in 2013 (see [Banking and Finance Law Daily](#), June 26, 2013). The rule covers companies that provide consumer products or services but do not have a bank, thrift, or credit union charter, including fintechs, payday lenders, and others (see [Banking and Finance Law Daily](#), Apr. 26, 2022).

87 Fed. Reg. 70703. In November 2022, the CFPB [announced](#) that it had adopted a [final rule](#) amending the April 2022 procedural rule to clarify the standard governing whether a decision or order of the Bureau will be publicly released. The final rule also gave a nonbank entity involved in a proceeding additional time to provide input on what information should be released (see [Banking and Finance Law Daily](#), Nov. 14, 2022).

89 Fed. Reg. 30259. In April 2024, the CFPB [said](#) it had issued a [final rule](#) updating its procedures for designating potentially risky nonbanks for supervision. The agency said the update was prompted because of organizational changes for its supervision and enforcement work. The CFPB also said the update sought to ensure that proceedings are fair, effective, and efficient for all parties (see [Banking and Finance Law Daily](#), Apr. 17, 2024).

Agency concerns. In its new proposed rule and request for comment, the Bureau said it has concerns about how the amendments provide for public release of decisions and orders. “If an entity consents to supervisory designation, under the procedures as amended there is no decision or order issued by the director that is eligible for public release,” the CFPB said. “However, if it exercises its statutory right to contest designation, that choice may ultimately result in a public decision and order asserting that the entity ‘is engaging, or has engaged, in conduct that poses risks to consumers.’”

The CFPB added: “Because businesses are concerned about their public reputations, this procedural disparity may put inappropriate pressure on entities to consent to designation, even when they have good arguments that designation is unwarranted.”

The Bureau is seeking comments on the proposal, including comments on the impact of public release on supervised entities and the supervisory process.

“With respect to other changes made by the amendments, the Bureau’s preliminary view subject to considering comments is that they were largely unnecessary,” the CFPB said.

Comment deadline. Public comments on the CFPB’s new proposal are due by June 13, 2025.

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