

Prepared Remarks of CFPB Director Rohit Chopra on the Final Rule to Detect and Deter Repeat Offenders

By Rohit Chopra – JUN 03, 2024

Too many American families have been harmed by corporate repeat offenders in a rinse-and-repeat cycle of illegality, where bad actors see fines and penalties as the cost of doing business. Throughout our economy, we have seen fraudsters and scam artists get caught in one part of the country and restart their scheme in a new place hoping to not get caught again.

The Consumer Financial Protection Bureau is finalizing a rule to create a registry of nonbank financial companies that have broken consumer protection laws. This is the first ever rule under the CFPB's authority to register nonbank companies. The registry will help the CFPB and other law enforcement agencies monitor and track repeat offenders in order to better hold them accountable if they break the law again.

When a company violates the law, government agencies typically take action against them using their enforcement powers. The company is typically then subject to a formal court or law enforcement order. This order is not some sort of tipsheet or set of suggestions. It carries the force of law and binds the company, its executives, and its board of directors. Today's final rule requires nonbanks subject to federal, state, or local agency or court orders involving consumer protection laws to register with the CFPB.

It's important that both the CFPB and other federal and state law enforcement authorities are aware of lawbreakers operating within their jurisdictions. Companies covered by the rule must report certain agency and court orders connected to consumer financial products and services. For companies covered by the rule that are also supervised by the CFPB, they will be required to submit an attestation from a senior executive that the company isn't flouting the order.

Registries for Law Enforcement and Consumer Purposes

In the United States, it is common practice to establish registries of offenders to protect the public and to help prevent repeat offenses. Many of these registries involve cooperation between federal, state, and local governments.

Other registries help consumers make informed decisions. State bar associations publish registries of lawyers subject to sanctions or disbarment. Similar registries exist for medical doctors, social workers, and other professionals. These registries ensure that when a person needs to select a trusted professional, they can know about any potential misconduct.

Similar to the examples I mentioned, the CFPB's registry will enable the agency to more effectively monitor the marketplace for companies that pose particular risk to consumers. Including law enforcement orders from across many jurisdictions will help the CFPB ensure one-time offenders do not become repeat offenders and that repeat offenders do not continue violating the law. We also expect to make certain parts of this registry available online, which will help investors and business partners conduct due diligence on firms, as well as the public more broadly.

Reasons for Registry Authority

Congress gave the CFPB the authority to establish a registry of nonbank offenders in the Consumer Financial Protection Act. As a general matter, the Act gives the CFPB the authority to set up rules to register covered companies so long as they are not a federally insured bank or credit union.¹

Coming out of the housing crisis and Great Recession, it was clear that nonbank financial companies could pose serious risks to consumers and the broader financial system. In the run-up to the housing bubble bursting, we saw predatory lending practices at nonbank companies like Ameriquest Mortgage, which was the country's largest originator of subprime loans, and New Century. New Century illegally falsified borrowers' income documentation, a practice that was representative of the era.² In fact, it was Lehman Brothers' purchase of the nonbank mortgage originator BNC Mortgage that partially led Lehman to its eventual implosion.³

Nonbank firms are often licensed and regulated at the state level, but problems can have consequences across the nation. During the early 2000s states had attempted to stop many of the abuses in the mortgage market, including those perpetrated by nonbanks, but were consistently rebuffed by federal regulators.⁴

Had a registry, such as the one today's rule establishes, been around in the early 2000s, many of the concerns identified by state regulators would have been undeniable.

Such a registry would have included many state enforcement orders addressing unfair, deceptive, or abusive acts or practices in the mortgage industry in the years before the financial crisis. For example, North Carolina took 71 mortgage enforcement actions between 2004 and 2008. Ohio and Virginia also took hundreds of actions in the same period.⁵ A registry containing many of those orders almost certainly would have shown important patterns or trends that could have been acted on in a broader way. Additionally, researchers and other members of the public would have also seen the clear nature of mortgage trends and been able to petition for federal action.

Reining in Repeat Offenders

The registry established in today's rule will capture agency and court orders stemming from federal, state, and local enforcement actions. The registry will allow the CFPB to better identify and act on enforcement trends, identify and monitor repeat offenders, and most importantly, ensure consumers are protected from any endemic risks. The same holds true for state and local authorities.

We see such repeat offenders through our own enforcement activities. Some are cases where the CFPB finds companies have violated prior CFPB enforcement orders. For example, in 2019 the CFPB fined the online lender Enova International \$3.2 million for legal violations including withdrawing funds without borrowers' consent and backtracking on loan extensions. When we investigated Enova's compliance with the 2019 order, we found the company was continuing its illegal behavior and imposed another \$15 million penalty. But just as importantly, the CFPB banned Enova from offering certain short-term loans for at least seven years, and required the company to reform its compensation policies by considering how executives' actions contribute to legal compliance.

In other cases, the prior offenses were detected by other law enforcement agencies. The CFPB and the New York Attorney General sued MoneyGram for systematic violations of a range of consumer protection laws, including stranding customers without money. Our action followed earlier fraud charges from the Federal Trade Commission and the Justice Department that resulted in hundreds of millions of dollars in penalties, in addition to other state actions.

And a final example I'll share is that of TransUnion. The CFPB sued TransUnion in 2022 after discovering multiple ongoing violations of a 2017 order related to deceptive marketing. In that case we also named an individual TransUnion executive for his role in the company's illegal schemes.

Given the variety of offenses of a company, such as TransUnion, it can be difficult for regulatory and law enforcement authorities to track. The registry will make tracking violations of orders easier, and stop serious harm before it spreads.

Conclusion

More broadly, the registry is part of a broad effort to rein in repeat offenders. When companies believe that violating the law is more profitable than following it, this undermines public trust. The CFPB is working on many fronts to stop repeat offenses. We have established a Repeat Offenders Unit to monitor and track companies subject to our orders. We are looking beyond fines and penalties in our repeat offender investigations, including a close examination of the individuals involved in calling the shots. We are even shutting down lines of business that are at the center of repeat problems.

Our final rule to create a registry to detect and deter repeat offenders will play a key role in this work.

Thank you.

References

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2. Director Rohit Chopra's Prepared Remarks at the University of California Irvine Law School ([consumerfinance.gov](https://www.consumerfinance.gov/about-us/newsroom/director-chopra-remarks-at-the-university-of-california-irvine-law-school/)) (<https://www.consumerfinance.gov/about-us/newsroom/director-chopra-remarks-at-the-university-of-california-irvine-law-school/>)
3. Prepared Remarks of CFPB Director Rohit Chopra at the Better Markets Conference on the 15th Anniversary of the Collapse of Lehman Brothers and the Onset of the Global Financial Crisis ([consumerfinance.gov](https://www.consumerfinance.gov/about-us/newsroom/prepared-remarks-of-cfpb-director-rohit-chopra-at-the-better-markets-conference-on-the-anniversary-of-the-collapse-of-lehman-brothers-and-the-onset-of-the-global-financial-crisis/)) (<https://www.consumerfinance.gov/about-us/newsroom/prepared-remarks-of-cfpb-director-rohit-chopra-at-the-better-markets-conference-on-the-anniversary-of-the-collapse-of-lehman-brothers-and-the-onset-of-the-global-financial-crisis/>)
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5. Data Analysis US Housing Market ([predatorylending.duke.edu](https://predatorylending.duke.edu/data-analysis/)) ↗ (<https://predatorylending.duke.edu/data-analysis/>)

The Consumer Financial Protection Bureau is a 21st century agency that implements and enforces Federal consumer financial law and ensures that markets for consumer financial products are fair, transparent, and competitive. For more information, visit www.consumerfinance.gov (<http://www.consumerfinance.gov>).

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