



June 13, 2025

The Honorable Russell Vought
Acting Director
Consumer Financial Protection Bureau
1700 G Street NW
Washington, D.C. 20552

Re: Registry of Nonbank Covered Persons Subject to Certain Agency and Court Orders; Proposed Rescission [Docket No. CFPB-2025-0011]

Dear Acting Director Vought:

The Mortgage Bankers Association¹ (MBA) appreciates the opportunity to comment on the Consumer Financial Protection Bureau's (Bureau or CFPB) proposed rescission of the Nonbank Registry Rule Final Rule (the NBR Rule or Final Rule).² We believe the CFPB is taking the appropriate steps by reexamining the need for the registry. MBA supports this approach and believes that a thorough review of the statutory basis, costs and duplicative nature of the Final Rule should lead the Bureau to rescind it. The rescission of the NBR Rule should be *effective immediately* upon publication in the Federal Register. As the Bureau stated in its proposed rescission, rescinding the nonbank registry immediately would not place a burden on regulated entities. Rather, it would provide immediate regulatory relief and prevent regulated entities from incurring the cost of complying with a burdensome and soon-to-be rescinded rule.³ Immediate rescission also would not create any negative

¹ The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 275,000 people in virtually every community in the country. Headquartered in Washington, D.C., the association works to ensure the continued strength of the nation's residential and commercial real estate markets, to expand homeownership, and to extend access to affordable housing to all Americans. MBA promotes fair and ethical lending practices and fosters professional excellence among real estate finance employees through a wide range of educational programs and a variety of publications. Its membership of more than 2,000 companies includes all elements of real estate finance: independent mortgage banks, mortgage brokers, commercial banks, thrifts, REITs, Wall Street conduits, life insurance companies, credit unions, and others in the mortgage lending field. For additional information, visit MBA's website: www.mba.org.

² Consumer Financial Protection Bureau, Registry of Nonbank Covered Persons Subject to Certain Agency and Court Orders, 88 Fed. Reg. 6088 (Jan. 30, 2023), available at <https://www.govinfo.gov/content/pkg/FR-2023-01-30/pdf/2022-27385.pdf>.

³ Consumer Financial Protection Bureau, Registry of Nonbank Covered Persons Subject to Certain Agency and Court Orders; Proposed Rescission (May 14, 2025), available at <https://www.federalregister.gov/documents/2025/05/14/2025-08345/registry-of-nonbank-covered-persons-subject-to-certain-agency-and-court-orders-proposed-rescission> ("The Bureau believes that, because this

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impact, as the data that is proposed to be collected has not been and would not be published in this form if there is a rescission.

MBA has repeatedly voiced its opposition to the Nonbank Registry Rule's costly and duplicative reporting framework.⁴ We also supported the delay of any upcoming reporting deadlines to provide the CFPB with adequate time to reconsider the costs and statutory basis for the database.⁵ Moreover, MBA has stressed that the CFPB could have instead added the relevant company information and orders to the already comprehensive consumer-facing database maintained by the Conference of State Bank Supervisors' (CSBS) Nationwide Multistate Licensing System (NMLS) Consumer Access portal.

As mentioned above, one of MBA's foremost concerns with the Final Rule is that the information the Bureau sought is already public. For mortgage companies, many of the orders captured in the Final Rule are in the NMLS Consumer Access. As part of its supervisory authority, the Bureau is required – to the fullest extent possible – to use reports that have already been provided to federal and state agencies and other information that has been reported publicly.⁶ Additionally, the Bureau must tailor rules with consideration for the extent of current state supervision.⁷ By downplaying the role of NMLS and similar public registries, the Bureau significantly overestimated the proposal's benefits to consumers. Additionally, the requirement for an individual to attest to compliance with consent orders only serves as a counterproductive and unfair public shaming tool. If fully implemented, this would discourage competent compliance and risk management professionals from serving in these important roles in the mortgage industry.

In sum, consistent with our comments submitted on the proposed rule,⁸ MBA encourages immediate rescission of the NBR Rule.

I. The Bureau's Original Proposal Underestimated Costs and Overestimated Benefits.

If fully implemented, the Final Rule would increase compliance costs for regulated entities. Moreover, the Nonbank Registry would provide negligible benefits given the information the

rule would rescind all information submission requirements under the NBR Rule, regulated entities would benefit from the rescission becoming effective immediately upon publication of a final rule and doing so would not be disruptive to their business operations.”)

⁴ Mortgage Bankers Association, Re: Registry of Nonbank Covered Persons Subject to Certain Agency and Court Orders (Mar. 31, 2023), available at <https://www.mba.org/industry-resources/resource/mba-letter-to-cfpb-on-registry-of-nonbank-covered-persons-subject-to-certain-agency-and-court-orders>.

⁵ Mortgage Bankers Association, Re: Regulatory Freeze Pending Review – Delay Effective Dates of the Registry of Nonbank Covered Persons Subject to Certain Agency and Court Orders (Jan. 22, 2025), available at https://www.mba.org/docs/default-source/advertising/mba-letter-to-cfpb-re-nonbank-registry-final.pdf?sfvrsn=d0e23459_1.

⁶ 12 U.S.C. § 5514(b)(4) (use of existing reports).

⁷ 12 U.S.C. § 5514(b)(2).

⁸ Mortgage Bankers Association, Re: Registry of Nonbank Covered Persons Subject to Certain Agency and Court Orders (Mar. 31, 2023), available at <https://www.mba.org/industry-resources/resource/mba-letter-to-cfpb-on-registry-of-nonbank-covered-persons-subject-to-certain-agency-and-court-orders>.

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Bureau would collect already exists. The Bureau originally estimated that the cost for covered entities to comply with the Final Rule would be minimal, costing entities roughly \$1500 to both register and submit a supervisory report.⁹ This calculation was unrealistically low – it severely underestimated the cost of the internal review and due diligence incurred by the reporting and attestation requirements. This cost was estimated to have next to no impact on consumers, yet the Bureau followed this statement with the acknowledgement that firms could respond to the costs by increasing prices for consumers. Overall, the Bureau failed to conduct an adequate cost-benefit analysis.

The Bureau also overstated the benefits of the NBR Rule. One of the espoused purposes of the Final Rule was to provide information to consumers so they could make informed choices about the companies they engage with. However, many consumers lack the context to fully understand the complexity of alleged violations. Without the background necessary to weigh the seriousness of an order, consumers may not understand or may exaggerate the scope of the harm of the underlying violation. Certainly, some orders will be serious and should inform consumer behavior. However, the registry would also include orders with small penalties which do not reflect on a covered entity's internal governance. Indeed, the registry might have misled customers who might wrongly weigh the number of small, relative technical orders over a singular but more significant issue.

The benefits to enforcement agencies were similarly overstated.¹⁰ As the Bureau noted, the orders published under the proposal are already public.¹¹ Additionally, the Bureau or the appropriate state regulators already ensure compliance with certain orders through supervisory agreements and under the terms of the orders themselves.¹² All of these sources of information already provide agencies with information for enforcement purposes.

II. The Bureau's Nonbank Registry Duplicated Existing Registries.

The types of orders the Bureau sought to obtain and publish are almost entirely captured through the NMLS, which is owned and operated by CSBS and represents the agencies with primary supervisory and licensing responsibility for nonbank mortgage companies. Moreover, the orders are made available to the public in a consumer-facing database. In addition to the NMLS, there are other legal databases and existing registries maintained by individual regulatory agencies that capture most if not all the information the Bureau is attempting to collect. The Bureau specifically acknowledged in its proposal that, "... much public information about such orders already exists."¹³

⁹ 88 Fed. Reg. 6088, 6131-6132.

¹⁰ *Id.* at 6100.

¹¹ *Id.*

¹² See TMX Finance LLC, File No. 2023-CFPB-0001 (Consumer Fin. Prot. Bureau, Consent Order, Feb. 23, 2023), Section XVI.

¹³ *Id.* at 6100.

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The NMLS has been in operation for many years and MBA members are accustomed to its licensing and reporting requirements.¹⁴ The NMLS Company Form (NMLS MU1 Form),¹⁵ for example, asks for reporting companies to provide information on criminal, regulatory, and civil judicial actions. Additionally, as the Bureau's proposal noted, state regulators publish enforcement actions to the NMLS.¹⁶ However, the Bureau's issue with NMLS appears to be that not all orders¹⁷ (i.e., federal orders, to which the CFPB is a party) or all relevant industry sectors it seeks to compile are reported.

The MBA supports the Bureau's efforts to effectively deter unlawful behavior and to identify entities that engage in repeat violations of consumer financial services laws. However, it is unclear how the Bureau shifting the reporting burden to nonbank entities benefits the public given the information is already accessible to the Bureau, consumer groups, trade associations, firms conducting due diligence, the media, and the wider public. As mentioned above, the Bureau is required to the fullest extent possible to use reports that have already been provided to federal and state agencies and information that has been reported publicly.¹⁸ In sum, the Final Rule places a heavy burden on nonbanks, many of which are struggling with resource constraints given the current market, with no clear benefit to consumers and should be repealed.

¹⁴ It is also generally concerning that the Bureau's mention of NMLS Consumer Access is limited, if not absent from its cost-benefit analysis.

¹⁵ NMLS Company Form, Nationwide Multistate Licensing System & Registry, available at [https://mortgage.nationwidelicensingsystem.org/licensees/resources/LicenseeResources/NMLS%20Company%20\(MU1\)%20Form.pdf](https://mortgage.nationwidelicensingsystem.org/licensees/resources/LicenseeResources/NMLS%20Company%20(MU1)%20Form.pdf).

¹⁶ Information About NMLS Consumer Access, Nationwide Multistate Licensing System & Registry (Jan. 26, 2015) available at <https://mortgage.nationwidelicensingsystem.org/slr/common/policy/Documents/InformationAboutNMLSCoconsumerAccess.pdf> (State regulators may post regulatory action information to company and individual records in NMLS. State regulatory actions are administrative, or enforcement actions taken by a state agency in connection with a person or entity that is engaging in a business activity that is regulated by the agency. This information is viewable in NMLS Consumer Access for the public. While some state agencies may add actions taken in previous years against a licensee, the majority are adding only new actions from 2012 or later. To view complete information regarding regulatory actions posted by the state agency, visit the state's website.).

¹⁷ The Bureau's weak rationale is that "while the orders published are already public, they may not all be readily accessible in a comprehensive and collected manner, and *some* of the additional information submitted to the registry may not be readily available to the public."

¹⁸ 12 U.S.C. 5514(b)(4) (use of existing reports). The Bureau also cites CFPB sections 1022(b) and (c) as authority for the proposal. CFPB section 1022(c) provides for monitoring, and CFPB section 1022(c)(4)(B) regarding the methodology used by the CFPB to gather information, provides for the review of preexisting databases. CFPB section 1022(c)(3) does allow the Bureau to release a report and the report must be one of "significant findings." However, no part of the proposal provides any concrete or supportive evidence of a significant finding that justifies creating this database. While the Bureau may collect information from covered entities, subject to the limits enumerated above, the creation of a database by the CFPB is arguably not contemplated in the statute.

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III. Conclusion

Thank you in advance for your consideration of these comments. MBA strongly supports the CFPB's proposal. Should you have questions or discuss further, please contact me at (202) 557-2878 and pmills@mba.org or my colleagues Justin Wiseman at (202) 557-2854 and jwiseman@mba.org or Alisha Sears, at (202) 557-2930 and asears@mba.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Pete Mills". The signature is fluid and cursive, with a large initial "P" and "M".

Pete Mills
Senior Vice President
Residential Policy and Strategic Industry Engagement
Mortgage Bankers Association