
NDBA Live

December 10, 2025

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Special Guest: Nancy Worth | Sivon, Natter & Wechsler, P.C.

Please welcome this month's guest, Nancy Worth! She specializes in matters involving federal regulatory agencies and previously served as Special Counsel for the Office of the Comptroller of the Currency (OCC), focusing on federal consumer law and fair lending.

Nancy will be discussing the implications of the anticipated shutdown of the Consumer Financial Protection Bureau (CFPB). A memorandum from Sivon, Natter & Wechsler, P.C. examining the implications for the CFPB's key functions is attached at the end of these materials.

Member Questions

Question 1: We had 2 counterfeit (not altered) checks clear a customer's account, and I'm wondering who is liable. I think we as the paying bank are liable since it is a counterfeit check. If I'm right, what is our obligation to reimburse our customer?

I am working with the depository bank and optimistically anticipate receiving at least some of the funds back, but are we required to make our customer whole in

the meantime? We sent an indemnification agreement requesting funds back, but this case is still pending. If we are required to reimburse the customer regardless of if we receive funds back or not, we want to take care of it.

Response: **You are correct – the paying bank is generally liable for counterfeit checks.**

Whether you have to reimburse your customer depends on some factors, but generally you are liable to your customer for paying an item that is not “properly payable,” and a counterfeit check is not properly payable. This liability to your customer applies regardless of whether you recover funds from the other banks in the collection chain. However, your bank’s liability may be offset depending on the terms of your account agreement and whether your customer timely reported the fraud.

Question 2: We were wondering if you could give us some guidance regarding a UTMA account. We currently have an UTMA account open for a minor that is 10 yrs old. It appears that the Custodian is using the account for her own personal usage by depositing her own payroll checks and tax refunds, then doing cash withdrawals of those funds. I believe there may be special steps we could/should take such as freezing the account or seeking a court order to have a new custodian appointed? Is there any advice you could give us on how to handle this situation?

Response: **If this is a North Dakota account, then it looks like the following is most applicable as to what you can do as far as reporting. Note however that there isn’t complete immunity for a good faith reporting.**

6-08.1-06. Suspicion of unlawful conduct.

1. Nothing in this chapter precludes a financial institution from initiating contact with, and thereafter communicating with and disclosing customer information to, a law enforcement agency when the financial institution reasonably believes that the customer about whom such information pertains:

- a. Is engaged in unlawful activity; or**
- b. Is defrauding the financial institution.**

2. Conviction of the customer or admission by the customer shall be conclusive of the reasonableness of the disclosure for purposes of this section.

3. The burden is on the financial institution to show that at the time the disclosure was made, the disclosure was reasonable for the purposes of this section.

Question 3: In the state of ND, if the sole owner of a Safe Deposit Box passes away, and someone wants to claim the contents with an Affidavit for Collection of Personal property, does the state require an inventory be done first?

I am referencing the two resources linked below. It gives instructions for an Affidavit of Collection of Personal Property and for Affidavit for Access to a SDB, but not whether one is required before the other.

[North Dakota Century Code t30.1c23](#)
[Guidebook-for-Informal-Admin-of-Estate.pdf](#)

Response: The accounting and inventory are the responsibility of the person claiming the small estate. I would however suggest that as a matter of best practices that you do an inventory of the safe deposit box when it is opened and keep it for your future reference.

Federal Regulators Release FAQ Related to Suspicious Activity Reports

Federal banking regulators have released a new [FAQ](#) related to Suspicious Activity Reports (SARs) and other anti-money laundering/countering the financing of terrorism (AML/CFT) considerations.

Avoiding Crypto Scams

With the rise of pig butchering scams, aided increasingly by AI, here are three key tips for avoiding crypto scams:

1. Be cautious of strangers who insist on communicating primarily over WhatsApp, as it usually means they are in a different country.
2. Do not pay additional fees or charges to “release” funds after money has already been lost.
3. Remember that crypto transactions leave a record, so victims should seek help and take action.

[\[Link\]](#)

Fed Official Says Stablecoins Pose Little Risk to Bank Deposits

In a November 2025 speech, Stephen Miran of the Federal Reserve said that the newly regulated payment stablecoins under the Genius Act are unlikely to trigger a significant exodus of deposits from banks because those stablecoins do not pay yield and are not covered by federal deposit insurance.

Notably, the Genius Act prohibits payment stablecoin issuers from paying interest or yield on payment stablecoins, but exchanges or other affiliates can offer yield or rewards, allowing them to bypass the restriction. Accordingly, the American Bankers Association (ABA) and state bankers

associations have sought to expand the prohibition to cover digital asset exchanges, brokers, dealers and affiliated entities.

Coinbase Fined €21 Million for AML/CTF Monitoring Failures

The Central Bank of Ireland (CBI) has fined Coinbase Europe Limited €21.46 million for significant anti-money laundering/counter terrorist financing (AML/CTF) monitoring failures. Between April 2021 and March 2025, Coinbase's transaction monitoring system failed to properly monitor 30 million transactions totaling approximately €176 billion. It took Coinbase nearly 3 years to conduct retrospective reviews of these transactions, which led to 2,708 suspicious transaction reports. This enforcement underscores the expectation that firms maintain robust real time compliance systems and meet all AML/CTF obligations.

Section 1033 Compliance Date Further Delayed

The CFPB's implementation of Section 1033 of the Dodd-Frank Act, which gives consumers rights to access their personal financial data, faces further delays. The U.S. District Court for the Eastern District of Kentucky recently issued an injunction that prohibits the CFPB from enforcing the rule until the CFPB completes its reconsideration of the rule.

CFPB's Reg B Proposal

The CFPB has issued a [proposed rule](#) that would amend Regulation B, the regulation implementing the Equal Credit opportunity Act (ECOA), as follows:

- **Eliminate disparate-impact claims and “effects test”.** The proposed rule would remove the ability to bring claims under ECOA based solely on a neutral credit policy or practice that disproportionately affects a protected class (i.e. disparate-impact or “effects-based” claims). Instead, enforcement under ECOA would be limited to cases involving intentional discrimination (disparate treatment).
 - **Redefine what counts as illegal “discouragement” of credit applicants.** Currently, Regulation B prohibits creditors from making oral or written statements (including advertising) to applicants or prospective applicants that would discourage them from applying for credit on a prohibited basis. The proposed change would tighten that standard: only explicit statements showing discriminatory intent would be covered.
 - **Narrow how for-profit lenders may use special purpose credit programs (SPCPs).** Under the proposed rule, for-profit lenders offering SPCPs would face tighter restrictions. Specifically, they would be prohibited from using certain protected characteristics (race, color, national origin, sex, or combinations thereof) as eligibility criteria for these programs.
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CFPB's Section 1071 Proposal

The CFPB has also issued a [proposed rule](#) revising Section 1071's small-business lending data rule, which would narrow the scope of data collection and focus on larger core lenders. In part, the rule:

- Excludes merchant cash advances, agricultural lending and small-dollar loans from the definition of a covered credit transaction.
- Excludes Farm Credit System lenders from coverage and raises the origination threshold from 100 to 1,000 covered credit transactions for each of 2 consecutive years.
- Removes denial reasons data point.
- Decreases the gross annual revenue threshold in the rule's definition of a small business from \$5 million or less to \$1 million or less.
- Extends the rule's compliance date provisions to January 1, 2028 for all financial institutions that remain covered by the rule.

Fed Releases Information Regarding Enhancements to Bank Supervision

The Federal Reserve Board has issued a [Statement of Supervisory Operating Principles](#) directing examiners to prioritize material financial risks, reduce duplication between overlapping exams, and streamline how issues are remediated.

Fed Releases December 2025 Supervision and Regulation Report

The Federal Reserve Board has released its [Supervision and Regulation Report](#), which describes the U.S. banking system as broadly healthy and resilient as of mid-2025. The report also identifies the regulatory and policy actions taken by the Federal Reserve in the last year, supervisory developments, and bank application activities for various transactions, including mergers and acquisitions.

Trump Announces \$12B in Aid to Farmers

The Trump administration has announced a U.S. Department of Agriculture (USDA)-backed \$12 billion bridge payment package intended to support U.S. farmers affected by trade market disruptions and rising production costs. Of that total, up to \$11B is earmarked for the Farmer Bridge Assistance (FBA) Program, which provides relief to row-crop farmers, while the remaining \$1B is reserved for specialty crops and other producers. Payments under the FBA Program are expected to be disbursed by February 28, 2026.

Upcoming Events

NDBA has many exciting and informational events planned. Below are some special dates to mark on your calendars!

- **Midwest Economic Forecast Forum** | January 14, 2026 | Virtual
- **NDBA Bank Management Conference** | February 13 & 14, 2026 | Fairmont Scottsdale Princess, Scottsdale, AZ
- **2026 Washington Summit** | March 9-11, 2026 | Marriott Marquis, Washington, DC
- **Dakota School of Lending Principles** | April 7-10, 2026 | Ramkota Hotel, Pierre, SD
- **Opening New Accounts Seminars** | April 22 & 23, 2026
- **Tri-State Trust Conference** | April 27-29, 2026 | Holiday Inn, Fargo
- **FDIC Directors College** | May 19, 2026 | Radisson Hotel, Bismarck
- **Dakota School of Banking** | May 31 – June 5, 2026 | University of Jamestown, Jamestown, ND
- **NDBA/SDBA Annual Convention** | June 15-17, 2026 | Bismarck, ND
- **National School for Beginning Ag Lenders** | June 22-25, 2026 | Spearfish SD
- **NDBA Ag Credit Conference** | October 1-2, 2026 | Hilton Garden Inn, Fargo

TO: CLIENTS

FROM: SIVON, NATTER & WECHSLER, P.C.

DATE: DECEMBER 2, 2025

RE: KEY IMPLICATIONS IF CFPB IS NO LONGER OPERATIONAL

In a pending case brought by the union representing CFPB employees, the Administration has informed the court that CFPB will run out of funding early next year and that the Administration will not seek additional funding for the agency.¹

This memorandum examines the implications for the CFPB's key functions – rulewriting, supervision, enforcement, and publication of market data² – should the agency cease operations in early 2026.³

1. Rulewriting Authority

The Dodd-Frank Act provides the CFPB with exclusive authority to prescribe rules implementing federal consumer financial laws.⁴ These laws include ECOA, EFTA, FDCPA, FCRA, HMDA, RESPA, SAFE, TISA, and TILA, as well as the Consumer Financial Protection Act, which includes UDAAP and consumer rights to access information (Section 1033 of the Dodd-Frank Act).⁵

¹ Nat'l Treasury Employees Union v. Vought, No. 25-cv-381 (D.D.C. 2025). The Administration asserts that it has no obligation under federal law to provide funding since funding for CFPB is transferred from Federal Reserve Board "earnings" and the Board has no earnings at this time.

² This memorandum does not address the CFPB's consumer complaint function. As the FTC and the prudential banking agencies have complaint functions, these would continue to function should the CFPB shutdown.

³ The memorandum does not address the merits of the Administration's position on continued funding for CFPB. Also, the memorandum does not address the possibility that Acting CFPB Director Vought could rely on seconded staff from other agencies to perform some CFPB duties, including statutorily mandated responsibilities and finalizing open rulemakings. We view that as a possibility on a short-term basis, perhaps to finish certain priority rulemakings, but it is unclear if that is a long-term solution.

⁴ 12 U.S.C. § 5512. This memorandum does not address statutory requirements for joint rulemakings with other agencies, or the rules promulgated under these authorities. *See e.g.*, 12 U.S.C. § 3353 (minimum requirements for appraisal management companies), 12 U.S.C. § 3354 (automated valuation models).

⁵ 12 U.S.C. § 5481. In addition to the list above, enumerated federal consumer financial laws include GLBA privacy provisions, the Alternative Mortgage Transaction Parity Act, the Interstate Land Sales Act, and a few other statutory provisions. Also, certain rulemakings (including those relating to appraisals) have been

No agency has back up authority to write rules pursuant to these authorities for all market participants.⁶ Therefore, if CFPB ceases operations, rules for which it has exclusive authority would be frozen in place. Other agencies – state and federal – are charged with enforcing these rules but cannot formally interpret or amend them.

Pending Rules

CFPB is actively reviewing amendments to several existing rules that are within the exclusive jurisdiction of the agency. If changes to these rules are not finalized before the agency closes, the existing rules would remain in force. These pending rules include:

- Reconsideration of the 1033 rulemaking, which would reopen issues relating to - who can be a “representative” making a request on behalf of the consumer; the approach to the assessment of fees to defray the costs incurred by a “covered person” in responding to a customer driven request; data security; and data privacy. An advanced notice of proposed rulemaking was issued in August, and reportedly the CFPB is working on a proposed rule.⁷
- Amendments to the Regulation B/ECOA rule (removing the effects test/disparate impact to prove violations, narrowing what constitutes discouragement, and eviscerating special purpose vehicles). A proposed rule was issued in November, with comments due December 15th.
- Amendments to the Small Business Rule/1071 Rule to reduce the number of reporters by 90 percent (although the proposed rule anticipates that 90 percent of loan originations still would be covered) by excluding merchant cash advances, agricultural lending, and small dollar loans, and by raising the reporter thresholds. Additionally, the number of data points would be reduced. A proposed rule was issued in November, with comments due December 15th.
- Amendments to several rules on larger participants by raising the threshold to be a covered participant, which could have the effect of reducing supervision of nonbanks.⁸ These rules have been proposed, but not finalized. Additionally,

drafted jointly with other agencies, and the extent to which these rules could be amended without the CFPB is unclear.

⁶ Note the FRB retains authority to write rules under TILA for certain motor vehicle dealers, and jointly issues rules with the CFPB on Regulation Z and Regulation M thresholds. See e.g., 89 FR 82938, 82939 (Oct. 15, 2024). Also, the CFPB is required to consult with other agencies for certain rulemakings.

⁷ [90 Fed. Reg. 40986](#) (Aug. 22, 2025).

⁸ The CFPB is considering raising the threshold for a nonbank to be a larger participant, and therefore subject to CFPB supervision. See [90 Fed. Reg. 38409](#) (Aug. 8, 2025) (consumer reporting market); [90 Fed. Reg. 38412](#) (Aug. 8, 2025) (international money transfer market); [90 Fed. Reg. 38415](#) (Aug. 8, 2025) (auto financing market); [90 Fed. Reg. 38418](#) (Aug. 8, 2025) (consumer debt collection market). With respect to the legal standard, see [90 Fed. Reg. 41520](#) (Aug. 26, 2025)

there is a proposal on the legal standard applicable to supervisory designation proceedings.

- Amendments to the rules applicable to the Civil Penalty Fund, so that funds for victims that cannot be found could be used for purposes other than education and financial literacy. A proposed rule was issued in June.⁹

The CFPB also has several other rulemakings on its semi-annual regulatory agenda that may or may not receive attention before a shut down.¹⁰

Inflation Adjustments

Under certain statutes, the CFPB is required to adjust certain thresholds for inflation.¹¹ Also, under various authorities, the CFPB has promulgated rules that require annual adjustments in certain fees and thresholds, including those relating to the definition of small business in the 1071 rule,¹² the exemption for consumer leases,¹³ civil penalties,¹⁴ and various thresholds and fees in Regulation Z.¹⁵ If the CFPB is not operational, these thresholds would be frozen in place. For example, without an adjustment for inflation, more consumer loans will become subject to Regulation Z disclosures, and more mortgage loans will become treated as high cost mortgages.

2. Supervision

Large Banks

The CFPB has *exclusive* authority to supervise depository institutions with total assets of more than \$10 billion for compliance with federal consumer financial laws. While the statute requires the Bureau to coordinate with the prudential regulators and state banking regulatory authorities in examinations and requiring reports, those agencies do not have general back-up authority to examine for compliance with federal consumer

⁹ 90 Fed. Reg. 25904 (June 18, 2025) (avail. at <https://www.govinfo.gov/content/pkg/FR-2025-06-18/pdf/2025-11248.pdf>) (Civil Penalty Fund).

¹⁰ The CFPB's Spring Agenda (avail. at this [link](#)) contained 24 rulemakings of which 5 have been finalized.

¹¹ The required adjustments include those contained in 15 U.S.C. § 1602 (high cost mortgage), 15 U.S.C. § 1603 (Regulation Z threshold), 15 U.S.C. § 1667 (threshold for consumer leases), 15 U.S.C. § 1681j(f) (charges for additional consumer credit reports).

¹² 12 C.F.R. § 1002.106.

¹³ 12 C.F.R. Part 1013 (threshold for consumer leases).

¹⁴ 12 C.F.R. § 1083.1 (civil penalties).

¹⁵ Regulation Z requires annual adjustments, including those relating to the threshold for consumer credit (12 C.F.R. § 1026.3), the definition of high-cost mortgages (12 C.F.R. § 1026.32); the asset threshold applicable to higher priced mortgages (12 C.F.R. § 1026.35); certain thresholds in the ability to repay rule (12 C.F.R. § 1026.43), limits on penalty fees on credit cards (12 C.F.R. § 1026.52), minimum interest charge (12 C.F.R. § 1026.60).

financial laws.¹⁶ Thus, in the event the agency ceases to function, these institutions would no longer be subject to consumer compliance examinations by the CFPB.

It is possible that, if the CFPB ceases operations, the federal prudential banking regulators will take the position that it is within their safety and soundness supervisory authority to examine for compliance with consumer laws.¹⁷ Separately, the prudential regulators have authority to examine for compliance with UDAP under the FTC Act. Thus, the federal banking agencies may find ways to examine for consumer compliance, through a combination of safety and soundness and UDAP authority.

Certain Nonbanks

The CFPB supervises certain nonbanks, including mortgage originators and servicers, payday lenders, student lenders, and larger participants in certain markets,¹⁸ for compliance with federal consumer financial laws. The CFPB must use existing reports that have been provided to a federal or state agency, but no agency has backup examination authority of these entities for compliance with federal consumer financial laws. If the CFPB is no longer operational, these entities will not be examined for compliance with these laws.

3. Enforcement

Under the Dodd-Frank Act, the CFPB has *primary* enforcement authority with respect to the federal consumer financial laws for the entities it supervises (large depository institutions and certain nonbanks). Thus, if the CFPB is no longer operational enforcement actions likely will diminish. They will not cease entirely, however, because state AGs and the Federal Trade Commission have their own enforcement powers, as do the prudential banking agencies.

Under Dodd-Frank, any federal agency authorized to enforce a federal consumer financial law may refer a matter to the CFPB, but it is in CFPB's sole discretion as to whether to pursue it. If, however, the CFPB does not pursue the referral, a federal agency may exercise back-up enforcement authority by initiating enforcement actions and

¹⁶ See *supra*, n.19 and accompanying text. The prudential regulators have back up supervisory authority in certain circumstances related to enforcement actions.

¹⁷ We note that the OCC and FDIC has taken the position that an unsafe or unsound practice is one that "(1) is contrary to generally accepted standards of prudent operation; and (2)(i) if continued, is likely to (A) materially harm the financial condition of an institution; or (B) present a material risk of loss to the DIF; or (ii) materially harmed the financial condition of the institution." And, an MRA is only warranted when the act or practice is one that "(1)(i) is contrary to generally accepted standards of prudent operation; and (ii)(A) if continued, could reasonably be expected to, under current or reasonably foreseeable conditions, (1) materially harm the financial condition of the institution; or (2) present a material risk of loss to the DIF; or (B) has already caused material harm to the financial condition of the institution; or (2) is an actual violation of a banking or banking-related law or regulation." See *Unsafe or Unsound Practices, Matters Requiring Attention*, [90 Fed. Reg. 48835](#) (Oct. 30, 2025) (proposed rule).

¹⁸ By regulation, the CFPB has identified larger participants in the following markets: debt collection; credit reporting; auto financing; and international money transfers.

exercising supervision with respect to that action.¹⁹ Arguably, if the CFPB is not operational, that is functionally the same as the CFPB not pursuing an action, and the prudential regulator may proceed with its enforcement action.

Additionally, the individual federal consumer protection laws detail administrative enforcement. For example, under TILA, the CFPB has authority to enforce it for non-banks and large depository institutions, while the prudential regulators have enforcement authority for smaller depository institutions. In addition, the FTC and the state attorneys general can enforce the Consumer Financial Protection Act (however the authority to enforce the CFPA against national banks and federal thrifts is more limited). Also, several of these laws include a private right of action. Additionally, states have their own consumer financial protection laws, and it is likely states' enforcement efforts would increase in the absence of the CFPB.²⁰

Recently, in anticipation of a potential shutdown, there have been reports that the CFPB is transferring a handful of enforcement actions and pending litigation to DOJ, although the authority to do so is not entirely clear. The CFPB seems to be relying on the fact that DOJ has litigation authority for all laws.²¹ However, this ignores the caveat that – DOJ is charged with the conduct of litigation in which the United States or an agency is a party “except as otherwise authorized by law”²² – and Dodd-Frank otherwise provided for the CFPB to have the authority to litigate. The Dodd-Frank Act does not expressly provide back up authority to DOJ to enforce or otherwise interpret federal consumer financial laws. Indeed, in creating the CFPB, the Dodd-Frank Act gave the CFPB independent litigating authority to bring civil actions, while providing that the CFPB notify and coordinate with DOJ so as not to create conflicts or impede the ability of DOJ to bring criminal actions.²³

4. Market Data

The CFPB maintains and publishes market data for a variety of purposes, and access to this data would be affected by an agency shutdown.

APOR

On a weekly basis, the CFPB publishes the Average Prime Offer Rate (APOR), which is based on survey data for eight mortgage products. The CFPB has long published these rates which serve as the basis for determining regulatory compliance with certain mortgage rules, including determining if a mortgage is a high cost mortgage (12 C.F.R. § 1026.32), higher priced mortgage (12 C.F.R. § 1026.35), higher priced covered transaction for purposes of the ability to repay rule (12 C.F.R. § 1026.43) and how the mortgage should

¹⁹ 12 U.S.C. § 5515(c).

²⁰ For example, several state AGs recently [announced an inquiry into the Buy Now, Pay Later \(BNPL\) market](#). The AGs are asking BNPL providers several questions regarding pricing, disputes, complaints, ability to repay, payments, delinquencies, and any efforts made to comply with subpart B of TILA.

²¹ 28 U.S.C. §§ 516, 519, 547.

²² 28 U.S.C. § 516

²³ 12 U.S.C. §§ 5564, 5566.

be reported for HMDA reporting (12 C.F.R. pt. 1003).²⁴ Whether a loan meets certain criteria also may affect eligibility for certain securitizations. In July 2025, the Intercontinental Exchange (ICE) began making ICE APOR available through its platform.²⁵ Thus, if the CFPB ceases to publish APOR, mortgage lenders may have access to an alternative or may calculate APOR themselves.²⁶ No statutory or regulatory change is needed, although compliance may be more expensive and more difficult.

HMDA

The CFPB's collection, processing, and publication of HMDA data is electronic, and the CFPB makes HMDA data available on its website and on the website it manages on behalf of the FFIEC.

HMDA data provides the public with information on the home mortgage lending activities of particular reporting entities and on activity in their communities. These disclosures are used by local, state, and federal officials to evaluate housing trends and issues and by community organizations to monitor financial institution lending patterns. HMDA data is also used, in conjunction with other sources, in connection with the National Mortgage Data Base, which provides loan-level data on mortgages for research and other purposes. Additionally, HMDA data has been used by the federal supervisory agencies in their fair lending and CRA examinations.

By statute, HMDA data is submitted to the Bureau or the appropriate regulator, and CFPB is charged with promulgating rules on the format, collection and submission of the data.²⁷ Regulation C implements the requirement to submit to the appropriate regulator.²⁸ In practice, the regulator charged with implementing HMDA, has collected HMDA data on behalf of all the agencies and each federal regulator charged with collecting the data contributes to the cost of the collection process. And, HMDA disclosures are made public on the FFIEC's website.²⁹

If the CFPB is not operational, the collection of HMDA data would need to be transferred to another agency or agencies, and the transition could be difficult from an operational standpoint – even though no regulation or statute prohibits such a transition. Any gaps in collection could affect the transparency of mortgage data used by the mortgage markets, the public, and governmental agencies. Additionally, these agencies would be unable to make any modifications to the format, collection or submission of the data.

²⁴ For a further description of these rates, see <https://ffiec.cfpb.gov/tools/rate-spread/methodology>.

²⁵ See <https://ir.theice.com/press/news-details/2025/ICE-Launches-Average-Prime-Offer-Rates-APOR-Index/default.aspx>.

²⁶ See 12 C.F.R. § 1003, Supp I, Comment 4(a)(12)-2 for information on the rate-spread calculator. See also, [HMDA Rate Spread Calculator](#) (noting beginnings of the calculator so as to facilitate reporting rate spreads effective for the 2004 HMDA date).

²⁷ 12 U.S.C. § 2803(h).

²⁸ 12 C.F.R. § 1003.5(a).

²⁹ [HMDA - Home Mortgage Disclosure Act](#). The CFPB maintains this website on behalf of the FFIEC and HUD.

Credit Card Databases

TILA requires electronic posting of credit card agreements and submission to the CFPB.³⁰ The CFPB's regulations set forth who must submit agreements to the database.³¹ The CFPB also produces a semi-annual Terms of Credit Card Plans (TCCP) survey, comparing terms on over 150 issuers.³²

If the CFPB is not operational, it is unclear how issuers would comply with the requirement to submit agreements unless this function is otherwise transferred by an amendment to TILA. Nor is it clear how the TCCP would be produced, and it would become more difficult to compare credit card terms.

Other Databases

The CFPB also maintains databases relating to prepaid card agreements, auto loan credit terms, and other topics.³³ The absence of these reports could also affect market transparency.

Reports

The Dodd-Frank Act mandated that the CFPB produce certain reports, such as those relating to semi-annual reports to Congress, annual reports on fair lending, consumer response, financial literacy, remittances, and ombudsman activities.³⁴ Further, certain specific statutes require annual reporting on all regulator's violations.³⁵

If the CFPB is not operational, these reports likely will not be made, unless Congress designates, by statute, another regulator to have the authority for administering the relevant regulation and the related reporting requirements. The last time that such a transfer happened in the consumer financial regulatory space was in the Dodd-Frank Act when the CFPB assumed responsibility for administering regulations from a number of agencies, including from the Federal Reserve (the prior administrator for ECOA, HMDA, TILA, EFTA).

³⁰ 15 U.S.C. § 1632 1637(h).

³¹ 12 C.F.R. § 1026.58.

³² [Terms of Credit Card Plans \(TCCP\) survey | Consumer Financial Protection Bureau.](#)

³³ [Public Data Inventory | Consumer Financial Protection Bureau.](#)

³⁴ See e.g., 12 U.S.C. 5493 (other sections of the Dodd-Frank Act also reference these reports).

³⁵ These reports relate to unfair or deceptive credit card practices and common violations of TILA (15 U.S.C. § 1616), EFTA (15 U.S.C § 1693p), and ECOA (15 U.S.C. § 1691f).