

---

## NDBA Live

### February 5, 2025

---

#### Topics Covered:

- Member Questions
- [Garnishment Procedures](#)
- [AI Policy Developments Under Trump](#)
- [Cryptocurrency Developments Under Trump](#)
- [Trump Fires Rohit Chopra](#)
- [CFPB Cracks Down on Zelle: Fraud Allegations Spark Legal Action](#)
- [1071 Repeal to Protect Small Business Lending Act](#)
- [CFPB Rulemaking Tracker](#)
- [Upcoming Events](#)

DISCLAIMER: THESE MATERIALS PROVIDE GENERAL INFORMATION AND ARE INTENDED FOR EDUCATIONAL PURPOSES ONLY. THESE MATERIALS DO NOT PROVIDE, NOR ARE THEY INTENDED TO SUBSTITUTE FOR, LEGAL ADVICE.

---

#### Member Questions

---

**Question 1:** We have a Certificate of Deposit (CD) for a husband and wife. The husband is the primary owner and interest earnings were recorded under his social security number. Husband died and wife wants to change the CD to a single party account with only her name on it. She does not want to cash it in as it has not matured and she is receiving a good interest rate. Is an addendum and a W-9 acceptable to do for this or how should we handle this?

**Response:** [Chapter 30.1-31 of the North Dakota Century Code](#) governs nonprobate transfers on death. It provides that “on death of a party sums on deposit in a multiple-party account belong to the surviving party”. N.D.C.C. § 30.1-31-09(1). “Rights at death under section 30.1-31-09 are determined by the terms of the account at the death of a party.” N.D.C.C. § 30.1-31-10(1). The term “account” is defined to include a certificate of deposit. N.D.C.C. § 30.1-31-02(1).

In accordance with the foregoing, if the certificate of deposit was a multi-party account owned by husband and wife, upon the husband’s death, the sums belong to the wife.

---

**Question 2:** Can a bank place a hold on a treasury check?

**Response:** I found this answer from the Office of the Comptroller of the Currency's Website: [How long can the bank place a hold on government checks?](#)

---

**Question 3:** We only open UTMA savings accounts for minors, until they are old enough to sign a savings signature card with a parent. So, a couple questions regarding UTMA's.

- First question – If a UTMA account was opened, is there any issue with changing a UTMA account opened by a parent (also the custodian) to a savings account in the parent's name with the minor? Understanding that it would be the custodian parent's responsibility to explain to the courts and minor what happened to the money including any necessary tax paperwork.
- Second question – Is there any issue with backup withholding on a UTMA account?

**Response:**

- Below is Section 47-24.1-16 of the North Dakota Century Code that exempts banks as third parties for actions taken at the direction of a custodian. Note that it requires good faith and no notice of a court order directing otherwise.

**47-24.1-16. Exemption of third person from liability.**

A third person in good faith and without court order may act on the instructions of or otherwise deal with any person purporting to make a transfer or purporting to act in the capacity of a custodian and, in the absence of knowledge, is not responsible for determining:

1. The validity of the purported custodian's designation;
2. The propriety of, or the authority under this chapter for, any act of the purported custodian;
3. The validity or propriety under this chapter of any instrument or instructions executed or given either by the person purporting to make a transfer or by the purported custodian; or
4. The propriety of the application of any property of the minor delivered to the purported custodian.

The link to the entire UTMA Chapter is here: [North Dakota Century Code t47c24.1.](#)

- From what I can see, UTMA accounts are taxable, but I am unfamiliar with the withholding requirements.
-

**Question 4:** We have a software to allow online account opening. We are looking to expand the offering to allow for minors (aged 13-17) to open an account online with an adult co-applicant.

The software includes a section to accept E-Sign, whereas electronic disclosures could be provided. Since the account opening is online itself, that is the only way the software can provide these. The E-Sign Act doesn't speak to consumer age. Since that part isn't so much a contract as it is a service, would there be concerns of a minor acknowledging it? The adult co-applicant is also asked separately to acknowledge this.

The software is also built to require an ID, but as the primary applicant would be under 18, they might not have one. Certainly, recourse for the account would fall to the adult, and we do have CIP options for a minor, such as a birth certificate (although I don't know if the software lists that option). Would it matter if we left this option in and collected ID if available?

**Response:** Generally in North Dakota, “a minor may make any contract other than contracts [relating to real property or any interest therein or relating to any personal property not in that person’s immediate possession or control] in the same manner as an adult, subject only to the minor’s power of disaffirmance.” N.D.C.C. § 14-10-10. The power of disaffirmance generally allows minors to disaffirm contracts up to 1 year after turning 18. *See* N.D.C.C. § 14-10-11.

In accordance with the foregoing, the signature or acknowledgment of the minor may ultimately not be legally binding. However, because an adult co-applicant is also required to sign and acknowledge the E-Sign disclosure, the legal responsibility would fall to the adult, therefore mitigating the risk.

Your last question will be dependent upon what your software allows and your bank’s CIP policy.

---

### **Garnishment Procedures**

1. **Judgment Requirement:** a creditor must first obtain a judgment against the debtor in a court of competent jurisdiction before proceeding with garnishment. N.D.C.C. 32-09.1-02.
  - **Concerns for Banks:** When reviewing the garnishee summons issued after obtaining a judgment, the bank must confirm that the judgment was obtained in a court of competent jurisdiction. So, for example, if the judgment was obtained in a foreign jurisdiction and is not subsequently transcribed to the county in which the property the Plaintiff is seeking to garnish is located, and the bank fails to notice, the bank is exposing itself to liability because complying with the garnishment not only violated their duty of confidentiality under N.D.C.C. § 6-08.1-03, but they could also be sued by their customer for releasing their property without the legal authority to do so.

## 2. **Notice to Debtor:**

**For a garnishment of property:** a copy of the garnishee summons and copies of all papers served on the garnishee bank must be served personally upon the defendant or served by first-class mail no later than ten days after service is made upon the garnishee. N.D.C.C. § 32-09.1-08

**For a garnishment of earnings:** at least ten days before issuing a garnishee summons against the earnings of any person the creditor must serve the debtor with a notice that a garnishee summons may be issued. Failure to serve this notice renders any subsequent garnishment void.

3. **Issuance of Garnishee Summons:** The garnishee summons must state specific information, including the garnishee's obligations, the debtor's details, the judgment amount, and the retention amount. It must also state that the garnishee is to retain the debtor's property, earnings, or money until a writ of execution is served or the debtor authorizes release to the plaintiff.

4. **Service of Garnishee Summons:** The garnishment statutes related to service of a garnishee summons on a bank states that service is only effective if the garnishee summons is served on a specifically named president, vice president, or registered agent.

- **Concerns for Banks:** Banks have a statutorily mandated duty of confidentiality under N.D.C.C. 6-08.1-03. Under this statute, a bank cannot disclose customer information without the consent of the customer or pursuant to valid legal process. So, if a garnishment is served on bank personnel who are not a president, vice president, or registered agent, and that bank provides customer information, they violate this statute and expose themselves to liability. Furthermore, they are statutorily obligated to comply within 20 days of service, failing to do so entitles the plaintiff to a judgment for the lesser of the amount of the plaintiff's judgment or the retention amount.

This results in banks diverting valuable time and resources to garnishments when served because failing to comply with a validly served garnishment could result in a judgment for the entire judgment or retention amount, and if the garnishee summons is not served correctly, they are liable to their customer for disclosing customer information without the authority to do so.

5. **Garnishee's Disclosure:** The garnishee must serve a written disclosure under oath to the plaintiff or plaintiff's attorney within twenty days after valid service of the garnishee summons. The disclosure must detail any indebtedness to the defendant and answer any written interrogatories served with the garnishee summons. N.D.C.C. § 32-09.1-07(3).

- **Concerns for Banks:** failing to respond within twenty days of valid service entitles the Plaintiff to a judgment for the lesser of the amount of the plaintiff's judgment or the retention amount.

6. **Retention of Property:** The garnishee must retain the defendant's nonexempt property, earnings, and money in their possession until a writ of execution is served, the defendant authorizes release, or 360 days pass from the date of service of the summons. N.D.C.C. § 32-09.1-07.
  - **Concern for Banks:** For an earnings garnishment, the maximum part of the aggregate disposable earnings of an individual for any workweek which is subject to garnishment may not exceed the lesser of 25% of disposable earnings for that week or the amount by which disposable earnings for that week exceed 40 times the federal minimum hourly wage N.D.C.C. § 32-09.1-03. Additionally, the maximum amount subject to garnishment must be reduced by \$20 for each dependent family member residing with the garnishment debtor. N.D.C.C. § 32-09.1-03. Therefore, a bank must devote valuable time and resources to ensure they are retaining the appropriate amount of earnings to ensure they are complying with applicable law.
7. **Execution of Judgment:** The plaintiff can serve a writ of execution on the bank for the retained funds or earnings. If not writ of execution is served within 360 days, the garnishment ends, and any property or funds held by the garnishee must be returned to the defendant.
8. The garnishee summons and disclosure statement must serve a written disclosure under oath to the plaintiff or the plaintiff's attorney within twenty days after service of the garnishee summons. This disclosure must detail any indebtedness to the defendant and answer any written interrogatories served with the garnishee summons. N.D.C.C. § 32-09.1-07.

For a Bank the garnishee summons must be served on a specifically named president, vice president, or registered agent. 32-09.1-08(2).

---

### **AI Policy Developments Under Trump**

President Trump's Significant Actions Regarding AI in His First Week in Office:

**1. Repeal of AI Safety Oversight Mandate (January 20, 2025):**

On Inauguration Day, President Trump repealed an executive order issued by President Biden that required AI systems posing national security risks to share the results of safety tests with the Federal Government prior to public release. The repeal signaled a shift toward reducing federal oversight of AI development in favor of faster innovation and deployment.

**2. Launch of the "Stargate" Initiative (January 21, 2025):**

President Trump announced the "Stargate" initiative, which includes up to \$500 billion in private investment to develop AI infrastructure in the United States. The program focuses on building advanced data centers and energy generation facilities to support AI advancements. To expedite these projects, the President declared his intention to use emergency powers to streamline permitting and approval processes, emphasizing a "build fast" approach to AI infrastructure.

**3. Executive Order on Global AI Dominance (January 23, 2025):**

President Trump signed an executive order making it the official policy of the United States to "enhance America's global AI dominance." This directive tasks his advisors with creating an AI action plan to ensure the U.S. remains a global leader in artificial

intelligence. Additionally, it requires a comprehensive review of actions taken under President Biden's AI policies, with instructions to suspend or revoke any initiatives that conflict with the Trump administration's new mandate.

For further details, you can refer to the full text of President Trump's AI executive order here: [Executive Order](#).

---

### **Cryptocurrency Developments Under Trump**

President Trump issued an executive order establishing the Presidential Working Group on Digital Asset Markets to develop a federal regulatory framework for digital assets, including stablecoins, and to evaluate creating a strategic national digital assets stockpile. The group will be chaired by the White House AI and Crypto Czar and include the Treasury Secretary, SEC Chairman, and the heads of other relevant departments and agencies. The order prohibits federal agencies from advancing a central bank digital currency (CBDC) and directs agencies to recommend changes to existing regulations affecting the crypto sector. Promising to make the U.S. the "crypto capital of the planet," Trump aims to halt regulatory overreach and encourage innovation in digital financial technology.

---

### **Trump Fires Rohit Chopra**

President Trump has fired the director of Consumer Financial Protection Bureau, Rohit Chopra.

---

### **CFPB Cracks Down on Zelle: Fraud Allegations Spark Legal Action**

The Consumer Financial Protection Bureau (CFPB) has filed a lawsuit against Early Warning Services LLC (EWS), the operator of Zelle, along with Bank of America, JP Morgan Chase, and Wells Fargo, alleging violations of the Consumer Financial Protection Act (CFPA), the Electronic Fund Transfer Act (EFTA), and Regulation E. The CFPB claims the financial institutions failed to implement timely and effective measures to prevent, detect, and address fraud on the Zelle network. According to the CFPB, the financial institutions prioritized a rapid rollout of Zelle to capture market share but neglected necessary fraud prevention measures, resulting in significant consumer harm. Allegations include failure to authenticate users, block risky transfers, suspend fraudulent accounts, and adequately investigate consumer complaints. Additionally, the CFPB claims EWS delayed creating a formal fraud monitoring program and failed to ensure compliance with Zelle network rules, further exposing consumers to fraud risks.

The American Bankers Association (ABA) has criticized the CFPB's lawsuit, with President Rob Nichols calling it politically motivated and suggesting the bureau is exceeding its statutory authority. Nichols argued that the CFPB has neglected its role in educating consumers on fraud prevention and should focus on targeting scammers and criminals rather than the financial institutions. He contended that the lawsuit undermines the financial industry's efforts and does not prioritize protecting consumers from bad actors. Nichols urged skepticism of the CFPB's actions, claiming they focus more on politics than consumer protection.

---



### **1071 Repeal to Protect Small Business Lending Act**

[A bill to repeal the small business loan data collection requirements under the Equal Credit Opportunity Act](#) (ECOA) has been introduced. Section 1071 of the Dodd-Frank Act amended the ECOA to require financial institutions to compile, maintain, and submit to the CFPB certain data on applications for credit for women-owned, minority-owned, and small businesses. Read more about the small business lending rulemaking [here](#).

---

### **CFPB Rulemaking Tracker**

Attached to these materials is a CFPB Rulemaking Tracker created and published by Nancy Worth. Nancy Worth is a financial services professional and bank regulatory attorney specializing in consumer protection and fair lending. She previously worked for the Office of the Comptroller of the Currency for over 30 years and is currently Of Counsel at Sivon, Natter & Wechsler, P.C. This is a great tool that is being updated on a regular basis. [Link](#).

---

### **Upcoming Events**

NDBA has many exciting and informational events planned for 2025. Below are some special dates to mark on your calendars!

- **Bank Management Conference** | February 12, 2025 | [Register Online](#)
- **Breaking into Banking 101: Fundamentals of Commercial Lending** | February 26, 2025 | Virtual
- **Breaking into Banking 201: Analyzing Repayment Sources** | March 26, 2025 | Virtual
- **Washington Summit** | April 7-9, 2025 | [Details](#)
- **2025 Tri-State Trust Conference** | April 22-24, 2025
- **Opening New Accounts Seminar** | April 23, 2025 | Fargo, ND
- **Opening New Accounts Seminar** | April 24, 2025 | Bismarck, ND
- **2025 Dakota School of Banking** | June 1-6, 2025 | Jamestown, ND
- **2025 Quad States Annual Convention** | June 8-10, 2025 | Rapid City, SD | Full Agenda and Registration Materials Coming in March

## CFPB Rulemaking Tracker

*Last Updated: January 16, 2025*



### CFPB Rulemaking Tracker<sup>1</sup>

Topic	Rule	Citation	Description
<b>2024 AND 2025 FINAL RULES<sup>2</sup></b>			
Credit Reporting/ Medical Debt	Prohibition on Creditors and Consumer Reporting Agencies Concerning Medical Information (Reg V)	<a href="#">90 FR 3276</a> (1/14/2025) Effective 3/17/2025	The rule removes a regulatory exception in Regulation V that had permitted creditors to obtain and use information on medical debts notwithstanding the FCRA prohibition on creditors from considering medical information in eligibility determinations. The final rule also provides that a consumer reporting agency generally may not furnish to a creditor a consumer report containing information on medical debt that the creditor is prohibited from using. Consumer Data Industry Association filed a lawsuit challenging the rule.
Credit/ Mortgage	Residential Property Assessed Clean Energy (PACE) Financing	<a href="#">90 FR 2434</a> (1/10/2025) Effective March 1, 2026	This rule implements EGRRCPA § 307 and amend Regulation Z to address how TILA applies to PACE transactions to account for the unique nature of PACE.
Deposits	Overdraft Lending: Very Large Financial Institutions	<a href="#">89 FR 106768</a> (12/30/2024) Effective 10/1/2025	The rule amends Regulations Z and E to restrict overdraft fees imposed by very large insured institutions and provides additional consumer protections. Among other things, the rule:

<sup>1</sup> This chart does not cover the CFPB's responses to petitions for rulemakings. The CFPB responded to two petitions for rulemaking. The CFPB agreed to join a rulemaking with the Federal Reserve to update Regulation CC ([link](#)) and to start a rulemaking process to define personal loan markets ([link](#)). Also, this chart does not include annual threshold changes. For those changes, see [90 FR 1355](#) (1/3/2025)(Civil Money Penalties); [89 FR 105429](#) (12/27/2024)(Regulation C); [89 FR 95080](#) (12/2/2024) (Regulation Z); [89 FR 94599](#) (11/29/2024) (Regulation V); [89 FR 82934](#) (10/15/2024) (Regulations M and Z); [89 FR 43737](#) (5/20/2024)(Regulation CC). In addition to the rules noted below, note that final rules were also adopted for [Supervisory Appeals Process](#) and [Supervisory Designation Process](#).

<sup>2</sup> In addition to the challenges to the rules noted below, there is ongoing litigation relating to:

- The CFPB's 2022 UDAAP manual (oral arguments in the 5<sup>th</sup> Cir. set for the week of 2/3/2025 in *Chamber of Commerce v. Cons. Fin. Prot. Bur.*), and
- The prepaid card rule (on 11/1/2024, consumer associations filed an amicus brief in support of the CFPB's appeal of the decision in *Paypal v. Cons. Fins. Prot. Bur.*, which found that the CFPB's rule was arbitrary and capricious to include Paypal's digital wallets in the CFPB's rule.

In addition, the CFPB affirmed that the *Payday, Vehicle Title, and Certain High-Cost Installment Loans* rule's payment provisions are set to go into effect on March 30, 2025. See the CFPB's [press release](#) (1/10/2025).

Topic	Rule	Citation	Description
			<ul style="list-style-type: none"> <li>• Applies only to very large financial institutions are insured depository institutions with total assets of more than \$10 billion and any affiliate thereof.</li> <li>• Provides that Fees are deemed not be a finance charge if they are at or below costs and losses related to overdrafts. An institution may determine whether an overdraft charge is at or below costs and losses by either: (1) calculating its own costs and losses using a standard set forth in the rule; or (2) relying on a benchmark fee of \$5.</li> <li>• Requires that overdraft credit cannot be conditioned on consumer repayment by automatic electronic fund transfers, and must be structured as a separate account.</li> </ul> <p>Note: Several trade associations filed a complaint for declaratory and injunctive relief in Southern District for Mississippi, amici have filed appearance, and a motion for preliminary injunction has been briefed; the answer to the complaint is due 2/25/2025</p>
Payments	Defining Larger Participants of a Market for General-Use Digital Consumer Payment Applications	<u>89 FR 99582</u> (12/10/2024) Effective 1/9/2025	This rule defines a market so that it covers providers of funds transfer and wallet functionalities through digital applications for consumers' general use in making payments to others for personal, family, or household purposes. A nonbank covered person qualifies as a larger participant if it facilitates an annual covered consumer payment transaction volume of at least 50 million transactions as defined in the rule, and it is not a small business concern. Larger participants of this market will be subject to CFPB's supervisory authority for compliance with the CFPA and other applicable federal consumer financial laws, such as the EFTA/Reg E. The CFPB anticipates that seven entities will qualify as larger participants.
Personal Data	Required Rulemaking on Personal Financial Data Rights	<u>89 FR 90838</u> (11/18/2024) Effective 1/17/2025	The rule implements the personal financial data rights set forth in the Dodd Frank Act § 1033. Generally, the rule requires a "data provider" to make "covered data" about "covered financial products and services" available in electronic form to consumers and to certain "authorized third parties."

Topic	Rule	Citation	Description
		Compliance dates: Data providers must comply with the requirements in 12 CFR part 1033, subparts B and C beginning 4/1/2026; 4/1/2027; 4/1/2028; 4/1/2029; or 4/1/2030, pursuant to the criteria set forth in §1033.121(c).	<ul style="list-style-type: none"> <li>• With certain exceptions, a “data provider” includes depository institutions (including credit unions) and nondepository institutions that issue credit cards, hold transaction accounts, issue devices to access an account, or provide other types of payment facilitation products or services.</li> <li>• “Covered consumer financial products and services” are those that meet the definition of account under Regulation E, a credit card under Regulation Z, or facilitates payments from such accounts and credit cards (excluding products or services facilitating first party payments).</li> <li>• “Covered data” means transaction data, account balances, information to initiate a payment to or from a Regulation E account, terms and conditions, upcoming bill information, and basic account verification information.</li> <li>• To become an “authorized third party,” a third party must seek access to covered data on behalf of a consumer to provide a product or service that the consumer requested, and must have the consumer’s express consent and meet certain other conditions.</li> <li>• Covered data available must be made available to authorized third parties in a standardized and machine-readable format and in a commercially reasonable manner, including by meeting a minimum response rate with respect to requests for covered data.</li> </ul> <p>This rule is subject to challenge. <i>See Forcht Bank, Kentucky Bankers As’n., and Bank Policy Institute v. Cons. Fin. Prot. Bur.</i>, No. 5:24-cv-00304-DCR (ED KY)(filed 10/23/24; CFPB answer due 1/31/2025)</p>
Credit/ Mortgages	Quality Control Standards for Automated Valuation Models	<u>89 FR 64538</u> (8/7/2024) Effective 10/1/2025	This interagency rule sets forth quality control standards for the use of automated valuation models (AVMs) by mortgage originators and secondary market issuers in determining the collateral worth of a mortgage secured by a consumer’s principal dwelling.

Topic	Rule	Citation	Description
Credit/ Mortgages	Interagency Guidance on Reconsiderations of Value of Residential Real Estate Valuations	<u>89 FR 60549</u> (7/26/2024) Effective 7/26/2024	This interagency guidance highlights the risks associated with deficient residential real estate valuations, and describes how financial institutions may incorporate reconsiderations of value (ROV) processes and controls into their risk management functions.
Nonbanks	Registry of Nonbank Covered Persons Subject to Certain Agency and Court Orders	<u>89 FR 56028</u> (7/8/2024) Effective 9/15/2024)  Implementation dates vary by entity.	This rule requires certain types of nonbank covered persons subject to certain final public orders obtained or issued by a government agency in connection with the offering or provision of a consumer financial product or service to report the existence of the orders and related information to a CFPB registry. Certain supervised nonbanks must also file annual reports regarding compliance with registered orders.
Credit/Small Business Lending	Small Business Lending under the Equal Credit Opportunity Act (Regulation B); Extension of Compliance Dates	<u>89 FR 55024</u> (7/3/2024) Effective 8/2/2024	Due to litigation in <i>Texas Bankers Ass'n v. Cons. Fin. Prot. Bur.</i> , compliance with the Small Business Lending Rule (originally adopted in <u>88 FR 35150</u> (5/31/2023)) was stayed pending a decision in <i>Consumer Financial Services Ass'n v. Cons. Fin. Prot. Bur.</i> Following that decision, and consistent with a July 31, 2023 district court order, the CFPB's interim final rule extends the compliance date to begin to collect data for high volume lenders to 7/18/2025, moderate volume lenders to 1/16/2026, and small lenders to 10/18/2026.
Personal Data	Required Rulemaking on Personal Financial Data Rights; Industry Standard-Setting	<u>89 FR 49084</u> (6/11/2024) Effective 7/11/2024	The CFPB partially finalized its proposed rule on consumer data rights under section 1033 of the Consumer Financial Protection Act. This rule establishes minimum attributes a standard-setting body must possess to receive CFPB recognition, and sets forth an application process for CFPB recognition.
Credit/ BNPL	Use of Digital User Accounts to Access Buy Now, Pay Later Loans	<u>89 FR 47068</u> (5/31/2024) Effective 7/30/2024  Comment period close: 8/01/2024	This interpretive rule addresses the applicability of subpart B of Regulation Z to Buy Now, Pay Later (BNPL) loans. According to the rule, BNPL lenders meet the criteria to be credit card issuers, under the Truth in Lending Act, and so must comply with certain provisions of Regulation Z, subpart B, by: <ul style="list-style-type: none"> <li>• Investigating disputes,</li> <li>▪ Refunding returned products or cancelled services, and</li> <li>▪ Providing billing statements.</li> </ul>

Topic	Rule	Citation	Description
			<p>The CFPB issued Frequently Asked Questions to clarify the specific requirements. See <a href="#">link</a>.</p> <p>This rule is subject to challenge. See <i>Financial Technology Ass’n. v. Cons. Fin. Prot. Bur.</i>, No. 1:24-cv-02966 (DDC)(filed 10/18/2024, CFPB filed its answer on 12/23/2024).</p>
Credit/ Credit Cards	Credit Card Penalty Fees (Regulation Z)	<u>89 FR 19128</u> (3/15/2024)	<p>The rule amends Regulation Z to address late fees charged by large card issuers, defined as those issuers that together with their affiliates that have one million or more open credit card accounts. The rule sets a late fee safe harbor threshold of \$8 for those issuers and provides that the annual inflation adjustments do not apply to this \$8 amount. If a large issuer does not rely on the safe harbor, the rule also specifies that post-charge off collection costs, reserves for potential losses, and certain other charges cannot be used in determining late fees that are a “reasonable proportion of total costs.” This rule is stayed, pursuant to a preliminary injunction issued by the U.S. District Court (ND TX) in <i>Chamber of Commerce v. Cons. Fin. Prot. Bur.</i> On 12/6/2024, the court denied the CFPB’s motions in <i>Chamber of Commerce v. Cons. Fin. Prot. Bur.</i>, to dismiss the Fort Worth Chamber of Commerce, transfer the case to the District of Columbia, and dissolve the preliminary injunction).</p>
<b>2024 AND 2025 ADVISORY OPINIONS AND OTHER ISSUANCES</b>			
Credit/Earned Wage Access	TILA/Reg Z: Consumer Credit Offered to Borrowers in Advance of Expected Receipt of Compensation for Work	<u>90 FR 3622</u> (1/15/2025) Applicable 1/15/2025	<p>The CFPB issued an advisory opinion rescinding the 2020 Advisory Opinion on earned wage access under TILA/Reg Z. The CFPB is rescinding the 2020 Advisory Opinion for two fundamental reasons: (i) its legal analysis is significantly flawed in numerous respects; and (ii) it engendered substantial regulatory uncertainty. The CFPB did not finalize the proposed interpretive rule on these products.</p>

Topic	Rule	Citation	Description
Compliance Assistance	Policy Statement on No-Action Letters and  Policy Statement on Compliance Assistance Sandbox Approvals	<u>90 FR 1970</u> (1/10/2025) Applicable 1/10/2025  <u>90 FR 1974</u> (1/10/2025) Applicable 1/10/2025	The CFPB re-issued the policy statements on No-Action Letters and Compliance Assistance Sandbox Approvals. Both statements include new conditions for participation in either program.
Credit/Credit Cards	Design, Marketing, and Administration of Credit Card Rewards Programs	<u>89 FR 106277</u> (12/30/2024)	In this circular, CFPB indicates that credit card issuers can violate the law if they or their rewards partners devalue earned rewards or otherwise inhibit consumers from obtaining or redeeming promised rewards.
Employment	Background Dossiers and Algorithmic Scores for Hiring, Promotion, and Other Employment Decisions	<u>89 FR 88875</u> (11/12/2024) Circular 2024–06	In this circular, the CFPB states that employers that use consumer reports—both initially when hiring workers and for subsequent employment purposes—must comply with FCRA rules.
Medical Debt	Debt Collection Practices (Regulation F); Deceptive and Unfair Collection of Medical Debt	<u>89 FR 80715</u> (10/4/2024) Effective 12/3/2024  <u>89 FR 94599</u> (11/29/2024) Delays effective date to 1/2/2025 to allow time to brief issues raised in DC District Court.	<p>This advisory opinion reminds debt collectors of their obligation to comply with the Fair Debt Collection Practices Act (FDCPA) and Regulation F’s prohibitions on false, deceptive, or misleading representations or means in connection with the collection of any medical debt and unfair or unconscionable means to collect or attempt to collect any medical debts.</p> <p>The ACA is challenging this rule. <i>See ACA Int’l v. Cons. Fin. Prot. Bur.</i>, No. 1:24-cv-03118 (DDC) (filed 11/1/2024). On 12/16/2024, the court denied ACA’s motion for preliminary injunction and motion for temporary restraining order. The court has issued a schedule for cross-motions for summary judgment.</p>
Deposits	Improper Overdraft Opt-In Practices	<u>89 FR 80075</u> (10/2/2024) Circular 2024–05	In this circular, the CFPB states that a bank or credit union can be in violation of the EFTA and Regulation E if there is no proof that it obtained affirmative consent to enrollment in covered overdraft services.

Topic	Rule	Citation	Description
Credit/ Contract for Deed	Consumer Protections for Home Sales Financed Under Contracts for Deed	<u>89 FR 68086</u> (8/23/2024)	This advisory opinion affirms the applicability of certain consumer protections under TILA and its implementing Regulation Z to transactions in which a consumer purchases a home under a “contract for deed.”
Whistleblower	Whistleblower Protections Under CFPA Section 1057	<u>89 FR 65170</u> (8/9/2024) Circular 2024–04	This circular states that requiring employees to sign broad confidentiality agreements may violate 12 U.S.C. § 5567, the provision protecting the rights of whistleblower employees, and undermine the CFPB’s ability to enforce the law.
Contract Terms	Unlawful and unenforceable contract terms and conditions	<u>89 FR 51955</u> (6/21/2024) Circular 2024-3	This circular stated that persons that include unlawful or unenforceable terms and conditions in contracts for consumer financial products and services violate the prohibition on deceptive acts or practices in the Consumer Financial Protection Act. Notably, the CFPB stated that: <ul style="list-style-type: none"> <li>• Disclaimers in a contract such as ‘subject to applicable law’ do not cure the misrepresentation caused by the inclusion of an unenforceable contract term.”</li> <li>• And, qualifying a provision that purports to waive a consumer right with “except where unenforceable” is unlikely to cure the provision’s misleading or material nature.</li> </ul>
Credit Reporting	Fair Credit Reporting; File Disclosure	<u>89 FR 4167</u> (1/23/2024) Advisory Opinion	This advisory opinion addresses certain obligations that consumer reporting agencies have under § 609(a) of the Fair Credit Reporting Act (FCRA). Specifically: <ul style="list-style-type: none"> <li>• To trigger a consumer reporting agency’s file disclosure requirement, a consumer does not need to use specific language, such as “complete file” or “file.”</li> <li>• Merely providing summary information (e.g., credit scores) does not meet the requirement to “disclose all information in the consumer’s file at the time of the request.”</li> <li>• Consumer reporting agencies must disclose to a consumer both the original source and any intermediary or vendor source (or sources) that provide the item of information to the consumer reporting agency.</li> </ul>



Topic	Rule	Citation	Description
Credit Reporting	Fair Credit Reporting: Background Screening	<u>89 FR 4171</u> (1/23/2024) (effective 1/23/2024) Advisory Opinion	This advisory opinion affirms that consumer reporting agencies must have procedures in place to ensure maximum possible accuracy so that they do not report adverse information beyond the reporting period in FCRA § 605(a)(5). In determining the reporting period, consumer reporting agencies must take into account that: <ul style="list-style-type: none"> <li>the occurrence of the adverse event starts the running of the reporting period for adverse items under FCRA § 605(a)(5);</li> <li>that period is not restarted or reopened by the occurrence of subsequent events; and</li> <li>a non-conviction disposition of a criminal charge cannot be reported beyond the seven-year period that begins to run at the time of the charge.</li> </ul>
Credit Reporting / Credit	Adverse Action Notification Requirements and Proper Use of Sample Forms	<u>89 FR 27361</u> (4/17/2024)	When using artificial intelligence or complex credit models, creditors may NOT rely on the checklist of reasons provided in CFPB sample forms for adverse action notices when those sample reasons do not accurately or specifically identify the reasons for the adverse action.
Remittances	Deceptive Marketing Practices About the Speed or Cost of Sending a Remittance Transfer	<u>89 FR 27357</u> (4/12/2024) Circular 2024-02	Remittance transfer providers may be liable for deceptive marketing about the speed or cost of sending a remittance transfer.
Digital Platforms	Preferencing and Steering Practices by Digital Intermediaries for Consumer Financial Products or Services	<u>89 FR 17706</u> (3/12/2024) Circular 2024-01	Operators of digital comparison-shopping tools and lead generators can violate the prohibition on abusive acts or practices if they distort the shopping experience by steering consumers to certain products or services based on remuneration to the operator or generator.
<b>PROPOSED RULES/ANPRS/OTHER</b>			
Payments/ Digital Assets	Electronic Fund Transfers Through Accounts Established	<u>90 FR 3723</u> (1/15/2025)	In light of interest by electronic fund transfer system market participants to offer new types of products to transfer funds and make purchases through accounts established primarily for personal, family, or household

Topic	Rule	Citation	Description
	for Personal, Family, or Household Purposes Using Emerging Payment Mechanisms	Comment period closes: 3/31/2025	purposes, the CFPB is proposing this interpretive rule to assist companies, investors, and other market participants evaluating existing statutory and regulatory requirements governing EFTs. If finalized, the interpretive rule would clarify that EFTA applies to transactions in virtual currencies in gaming platforms, online sports betting, stablecoin, and digital assets.
Contract Terms	Prohibited Terms and Conditions in Agreements for Consumer Financial Products or Services (Reg AA)	<u>90 FR 3566</u> (1/14/2025) Comment period closes 4/1/2025	The CFPB issued a proposed rule that would explicitly extend the FTC's Credit Practices Rule to entities subject to CFPB's jurisdiction. In addition, the rule would prohibit certain terms and conditions in agreements for consumer financial products or services.
Credit Reporting	Identity Theft and Coerced Debt	<u>CFPB 89 FR 100922</u> (12/13/24) Comment period close: 3/8/2025	Based on a petition by the National Consumer Law Center, the CFPB asked, in an ANPR, for comments on amending Regulation V to expand certain protections against identity theft to victims of domestic violence, elder abuse, and other forms of financial abuse. That is, a rule could potentially extend the relief offered to victims of human trafficking to victims of financial abuse generally.
Credit Reporting	Protecting Americans from Harmful Data Broker Practices	<u>89 FR 101402</u> (12/13/24) Comment period close: 3/3/2025	The proposed rule would expand the coverage of FCRA by: <ul style="list-style-type: none"> <li>• defining data brokers broadly to be any entity that collects, aggregates, sells, resells, licenses, enables the use of, or otherwise shares consumer information with other parties.</li> <li>• defining consumer reporting agency (CRA) and consumer report and</li> <li>• adding other provisions that potentially limit the use of credit header information, expand the consumer consent requirements, narrow what constitutes a permissible purpose, and restrict data aggregation of de-identified information.</li> </ul>
Remittances	Remittance Transfers Under the Electronic Fund Transfer Act	<u>89 FR 79456</u> (9/30/2024) Comment period close: 11/4/2024	The CFPB proposes to amend Regulation E to require certain remittance transfer disclosures – and related model forms – inform senders of remittance transfers that they can direct complaints or unresolved problems with the transfer to the CFPB and the State agency that licenses

Topic	Rule	Citation	Description
			or charters their remittance transfer provider. The rule would also make remittance transfer provider contact information more prominent.
Other	Financial Data Transparency Act Joint Data Standards	<u>89 FR 67890</u> (8/22/2024) Comment period close: 10/21/2024	This interagency rule invites comment on a proposed rule to establish data standards to promote interoperability of financial regulatory data across agencies.
Credit/ Earned Wage Access	Consumer Credit Offered to Borrowers in Advance of Expected Receipt of Compensation for Work	<u>89 FR 61358</u> (7/31/2024) Comment period close: 8/30/2024	This proposed interpretive rule would clarify when earned wage advance products are an extension of credit, subject to Regulation Z.
Mortgage Servicing	Streamlining Mortgage Servicing for Borrowers Experiencing Payment Difficulties	<u>89 FR 60204</u> (7/24/2024) Comment period close: 9/9/2024	The proposed rule would streamline existing mortgage servicing requirements under Regulation X when borrowers seek payment assistance in times of distress, add safeguards when borrowers seek help, and revise existing requirements with respect to borrower assistance. The rule would also require servicers to provide certain communications in languages other than English.
Nonbanks	Registry of Supervised Nonbanks that Use Form Contracts to Impose Terms and Conditions that Seek to Waive or Limit Consumer Legal Protections	<u>88 FR 6906</u> (2/1/2023) Comment period close: 4/3/2023	<p>The proposed rule would require nonbanks subject to its supervisory authority, with limited exceptions, to annually register with the CFPB regarding their use of certain terms and conditions in form contracts for consumer financial products and services that pose risks to consumers. CFPB supervises nonbanks in markets for mortgage lending, payday lending, and private student lending, as well as larger participants in markets for consumer reporting, consumer debt collection, student loan servicing, international money transfers, and automobile financing.</p> <p>Some members of Congress have supported this rule (<a href="#">link</a>), while others have expressed concern, particularly with respect to reporting of arbitration terms (<a href="#">link</a>).</p>