



# Consumer Financial Protection Bureau

# ALERT

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## CFPB Issues Rule for Supervising Nonbanks That Allegedly Pose Risks to Consumers

The Consumer Financial Protection Bureau has issued a new [rule](#) outlining procedures for notifying nonbanks that they are being considered for CFPB supervision. The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 grants the CFPB authority to supervise any nonbank that it has reasonable cause to determine has engaged, or is engaging, in potentially unfair, deceptive, or abusive acts or practices that pose risks to consumers with regard to consumer financial products or services. While it claims that it is not required to do so by the Dodd-Frank Act, the CFPB states that the rule was issued in an effort to promote transparency in establishing “an efficient, expeditious, and fair process” by which the Bureau will exercise its supervisory authority.

Under the rule, the CFPB will issue a Notice of Reasonable Cause, which will include a description of the Bureau’s basis for determining that the nonbank entity is engaging, or has engaged, in potentially unfair or illegal practices within the CFPB’s supervisory authority as well as a summary of the documents, records, or other items relied on in initiating the Notice. The nonbank must respond in writing within 30 days of the service of the Notice or risk a default determination that it is subject to the Bureau’s supervision on the grounds that it is engaging, or has engaged, in conduct that poses risks to consumers. In addition to submitting a written response, the nonbank may request an opportunity to provide an oral response to the Notice, appearing before the Bureau by telephone or in person. Alternatively, the nonbank may voluntarily consent to the Bureau’s supervisory authority.

Following this process – which does not provide for discovery – the director of the CFPB will issue a determination whether the CFPB will exercise supervisory authority over the party. The director’s determination will be subject to judicial review. In addition, the rule creates a mechanism for nonbanks to file a petition to terminate the CFPB’s supervisory authority after two years have elapsed.

The rule will become effective 30 days after its publication in the Federal Register.

For more information about the content of this alert, please contact [Michael Mallow](#) or [Michael Thurman](#).

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### *Attorneys*

MICHAEL W. JAHNKE	MJAHNKE@LOEB.COM	212.407.4285
LIVIA M. KISER	LKISER@LOEB.COM	312.464.3170
MICHAEL MALLOW	MMALLOW@LOEB.COM	310.282.2263
MICHAEL A. THURMAN	MTHURMAN@LOEB.COM	310.282.2122