September 22, 2025

Submitted via Regulations.gov
Comment Intake
Legal Division Docket Manager
Consumer Financial Protection Bureau
1700 G Street NW
Washington, DC 20552

Re: Defining Larger Participants

The undersigned groups submit these comments on the Consumer Financial Protection Bureau's (CFPB) four advance notices of proposed rulemaking (ANPR) on whether to propose a rule to change the definition of larger nonbank participants in the auto finance, debt collection, credit reporting and international money transmission markets.

The ANPRs suggest that the number of companies potentially subject to being examined by the CFPB could be reduced dramatically:

- From 63 auto finance companies to as few as 5
- From about 36 consumer reporting agencies to as few as 6
- From 2,500 to 3,000 debt collectors to as few as 11
- From about 28 international money transmitters to as few as 4

We oppose reducing the number of companies that are deemed larger participants in these markets. The CFPB has never supervised all companies that meet the larger participant definitions, but having broader definitions gives the CFPB the flexibility to supervise companies if red flags emerge and to understand compliance issues in companies of different sizes. Congress intentionally gave the Bureau the tool of supervising nonbank companies in the wake of the financial disasters of the Great Recession. Lack of oversight of nonbanks wreaked havoc on American households and the economy at large. It is paramount that the CFPB maintain a fulsome and rigorous supervision program in order to adequately protect consumers from financial abuse.

Supervision is a Key Pillar in the CFPB's Congressionally-Designed Structure that Benefits Individuals and Institutions

Supervision has benefits for companies and individual consumers. Individuals benefit from having an effective financial regulator that pays careful attention to whether companies are complying with the law and ensures that harmed consumers receive redress. Supervision also incentivizes corporations to respond to individual consumer complaints and efficiently resolve problems. Because supervision is confidential, companies who are examined and made aware of violations have an opportunity to cooperatively address problems without a public enforcement action. The Bureau's Supervisory Highlights, which summarize its findings without identifying the transgressors, are a helpful guide to examined and non-examined entities.

Scaling back supervision in the ways suggested in these ANPRs will water down the utility of this resource (if it continues to be published at all) because it will examine the conduct of a small number of institutions rather than a representative sample of the market of larger companies.

A fulsome supervision program also promotes fair competition in each of these marketplaces by ensuring that everyone has to play by the same rules. Consistent supervision protects law-abiding companies from being forced to compete with those who violate the law or take advantage of individuals. Notably, in auto finance and international money transfers, nonbank companies compete with banks that provide the same services, but the CFPB is the only federal regulator that supervises their conduct as nonbanks. Banks are supervised by other federal regulators in addition to the CFPB, and scaling back supervision will create an unfair advantage for nonbanks who are not routinely monitored for compliance with the law.

The CFPB's stated reason for reducing nonbank supervision in these marketplaces by narrowing the definition of a larger participant is to "reduce compliance burdens," and "avoid the diversion of CFPB limited resources." But the current definition of a larger participant does not impose unwarranted compliance burdens on companies or determine how the Bureau spends its limited resources. The CFPB can decide not to examine certain larger participants without any definition change. Removing the Bureau's authority to decide who to supervise is a significant misstep that will not serve its ostensible goals. The Bureau should retain its flexibility to identify and respond to a surge of complaints, economic disasters, market shocks, and new products that are designed to evade consumer finance laws. Flexible supervision authority can help the CFPB stave off smaller problems before they turn into bigger problems that harm more and more people. Limiting supervision to the very largest entities will also give the CFPB less information about compliance issues and regulatory burden at smaller companies.

Broad, Flexible Supervision is Necessary for Each of the Four Markets Targeted in the ANPRs

Auto Lending. The ANPR suggests that as few as five auto finance companies could be subject to supervision. Even worse, if the larger participant threshold is raised that high, not a single company that focuses on the subprime lending market would be included, shrouding some of the worst abuses. The auto finance marketplace is facing an urgent moment, as Americans owe over $1.6 trillion in auto debt, defaults and repossessions have increased in recent years, and cars are more expensive than ever. The auto lending industry is already notoriously opaque, and the precarious dynamics of the market mean that lenders' conduct will have increasingly significant impacts on borrowers. This is the time for the CFPB to enhance its supervision of auto lending, not reduce it.

*Consumer Reporting***.** Credit reports and specialty consumer reports may determine whether a consumer can access credit, bank accounts, insurance, government benefits, rental housing, or even a job. But too often these reports are full of erroneous, misleading, or incomplete information. Yet the ANPR suggests increasing the threshold for consumer reporting agencies (CRAs) from $7 million in receipts from consumer reports to as much as $41 million, which would leave only six (6) CRAs as larger participants in this market. While we do not know exactly how much each CRA earns from consumer reports, this change would possibly exclude a number of CRAs that can have a huge impact on a consumer's financial life, such as subprime CRAs (*e.g.*, Clarity), bank account screening CRAs (*e.g*., Early Warning Services) or LexisNexis, which is used by numerous government agencies. Excluding these companies as smaller businesses is not only unjustified but frankly absurd, as they are all owned by large multinational corporations with a profound impact on millions of consumers and more than adequate resources to take on the expenses of compliance.

Debt Collection. The ANPR suggests that as few as 11 debt collectors could be subject to supervision. Debt collection is consistently one of top topics of consumers' complaints to the CFPB. Supervision of a broad range of debt collectors is critical to implementing Congress's vision of a national minimum level of protection for all consumers under the Fair Debt Collection Practices Act (FDCPA) and preventing compliant debt collectors from being competitively disadvantaged in the marketplace. Supervising a broad range of debt collectors is also important because state laws and the ability to enforce these laws vary, and recent Supreme Court decisions about standing in federal court caused a significant decrease in private FDCPA enforcement actions. Additionally, making supervision broadly applicable to debt collectors is especially appropriate given the need to monitor implementation of federal debt collection regulations that took effect in 2021.

*International Money Transfers (Remittances)***.** Limiting the CFPB's supervision to as few as four remittance providers will prevent it from examining mid-size providers and uncovering and correcting potentially serious failures by providers. For example, it seems likely that Chime would not meet a higher lower participant threshold. Yet the CFPB's supervisory activities resulted in an enforcement action against Chime for misrepresenting the speed and cost of transfers, wrongly requiring customers to waive their legal rights, failing to give customers required and timely information about the exchange rate and date of the funds' availability, and failing to investigate or properly take care of errors it made. Reducing the number of supervised providers will likely lead to an increase in violations of the Remittance Rule by some providers, harming consumers, and undermining the purpose of the Consumer Financial Protection Act.

Conclusion

Supervision has returned millions of dollars to the victims of illegal conduct, many of whom had no means of resolving problems on their own. The CFPB's supervision program has also stimulated compliance with the law simply by having a meaningful presence as a financial watchdog that keeps bad practices in check. The potential changes discussed in the ANPRs, if implemented, will send a message to companies that violations of law will be ignored, and to consumers that their most powerful financial watchdog is not going to look out for them.

We welcome the opportunity to discuss these matters in more detail. You can contact Erin Witte at Consumer Federation of America (ewitte@consumerfed.org) or Lauren Saunders at the National Consumer Law Center (lsaunders@nclc.org).

Sincerely,

Consumer Federation of America
National Consumer Law Center, on behalf of its low-income clients

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Economic Action Maryland Fund
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