

CFPB Supervision Alert: CFPB Proposes Legal Standard for Nonbank Supervision Proceedings

August 29, 2025 | [Lucy E. Morris](#) and [Kristen Yarows](#)

On August 26, 2025, the Consumer Financial Protection Bureau published a proposed rule in the [Federal Register](#) that would define "risks to consumers" and bind the Bureau in proceedings to designate nonbanks for Bureau supervision. Section 1024(a)(1)(C) of the Consumer Financial Protection Act authorizes the CFPB to supervise a nonbank covered person that the CFPB "has reasonable cause to determine . . . is engaging, or has engaged, in conduct that poses risks to consumers with regard to the offering or provision of consumer financial products or services." The CFPB does not currently define what constitutes risks to consumers, but this proposed rulemaking seeks to change that.

In February 2024, the CFPB published its first risk-based supervision order. In the order, the CFPB noted that section 1024(a)(1)(C) does not specify the character or magnitude of "risks to consumers" because Congress intended to grant the CFPB significant discretion in determining whether the risks posed by an institution merit supervision. The CFPB looked to the dictionary definition of "risk" and used unverified consumer complaints to make its determination. The new proposed rule seeks to remove this discretion and provide clarity to nonbank entities about the CFPB's standard.

In the new Federal Register notice, which the Bureau issued without any press, the CFPB highlighted three concerns about the current process of issuing orders in individual cases. First, the ad hoc nature of individual orders creates a danger that the CFPB's application of "risks to consumers" may not be consistent between orders. Second, because of this possible inconsistency, the CFPB may depart from an existing precedent in a later case. Third, without a clear definition and framework of what constitutes "risks to consumers," the CFPB might not conform to the best reading in individual cases.

The proposed rule would explain that, for purposes of section 1024(a)(1)(C), "conduct that poses risks to consumers" consists of conduct that: (a) presents a high likelihood of significant harm to consumers; and (b) is directly connected to the offering or provision of a consumer financial product or service. In proposing this standard, the Bureau expressed the view that it should not expend supervisory resources on issues that are "speculative in likelihood or trivial in impact." The Bureau requests comment on all aspects of this standard. It specifically requests comment on whether "risks to consumers" must be potential violations of law in the context of Section 1024(a)(1)(C).

The Bureau notes that to date, it has only exercised this supervisory authority over fewer

than twenty covered entities, and it expects that under the proposed rule, it will be even less likely to designate an entity for supervision. The public can submit comments on the proposed rule until September 25, 2025. The Bureau has previously estimated that entities will spend approximately \$27,000 in labor costs to comply with a supervisory examination, and the Bureau requests comments that provide additional data regarding this estimate.

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