Submitted electronically

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Office of Management and Budget
725 17th Street NW
Washington, DC 20503

Re: Executive Office of the President, Office of Management and Budget (OMB) Request for Information: Deregulation
(Document Number: 2025-06316)

The Financial Technology Association (FTA) appreciates the opportunity to respond to this Request for Information (RFI) from the Office of Management and Budget (OMB) regarding the identification and rescission of unnecessary, outdated, unlawful, or unduly burdensome regulations. We commend OMB for taking proactive steps to solicit input from stakeholders across the country and recognize this as an important opportunity to advance regulation that benefits consumers and small businesses by facilitating innovation and competition.[1] We further recognize that the Consumer Financial Protection Bureau (CFPB) recently announced its planned withdrawal of certain guidance, interpretive rules, policy statements, and advisory opinions.[2] Many of our below recommendations align with the CFPB's action—we accordingly will keep such recommendations in this letter to help substantiate reasons for rescission or revision as the Bureau continues its review of guidance and related materials, including in one instance where we advocate for maintaining a 2020 Advisory Opinion.

FTA is a network of fintech leaders shaping the future of finance. We champion the power of technology-driven financial services to catalyze innovation and advocate for modernized policies and regulations that reflect this digital transformation. Our members are committed to advancing the responsible use of technology, which significantly improves the industry's ability to offer innovative financial products while maintaining robust compliance with regulatory standards.

[1] Office of Management and Budget (OMB) (2025) 'Request for information: Deregulation,' *Federal Register*, 90 FR 15481. Available at: https://www.federalregister.gov/documents/2025/04/11/2025-06316/request-for-information-deregulation.
[2] Consumer Financial Protection Bureau (CFPB) (2025) 'Interpretive Rules, Policy Statements, and Advisory Opinions; Withdrawal.' Available at: https://public-inspection.federalregister.gov/2025-08286.pdf?utm_campaign=pi+subscription+mailing+list&utm_medium=email&utm_source=federalregister.gov.

However, legacy and the past Administration's regulatory agendas too often display a structural bias against new entrants and innovators—resulting in duplicative, outdated, flawed or ill-fitting regulations that impose unnecessary compliance burdens and impede consumer-focused innovation. Regulation should instead ensure that the U.S. remains the home of financial innovation and that individuals and businesses benefit from a modern, inclusive, and competitive financial system. This comment outlines specific opportunities across agencies to help modernize and right-size oversight, preserve consumer protections, and ensure that the U.S. remains the global leader in financial innovation.

1. **Rescind Flawed and Unnecessary Regulations That Chill Innovation and Competition:** A growing set of regulations and regulatory actions—such as rules, guidance, circulars, policy statements, and interpretive rules—impose compliance risks and legal uncertainty for innovative financial service providers without delivering meaningful gains in consumer protection. These actions too often exceed statutory authority, violate due process or confidentiality protections, duplicate existing oversight, or create barriers for state-regulated entities. The Administration should rescind these flawed regulatory actions in order to restore legal clarity, preserve competitive neutrality, and foster a more innovation-enabling environment.

2. **Modernize Oversight, Ensure Innovation and Competition, and Facilitate Financial Technology by Revisiting Key Regulations:** Fintech tools, products, and services fill critical gaps in financial services and provide improved services to consumers, small businesses and the broader economy. They should not face duplicative, ambiguous, or biased rules that ignore digital realities and impede further development. For this reason, select rules—such as the customer identification program rule, the small business lending data rule, and impersonation liability proposals—should be revised or reopened to provide consumers and small businesses maximum benefit and ensure an innovative and competitive financial services landscape.

3. **OMB Should Advance a Proactive Agenda to Modernize and Right-Size Financial Regulation In Support of Innovation and Competition**: A coordinated regulatory strategy across agencies is essential to foster innovation, reduce fragmentation, and ensure frameworks that reflect evolving technologies and opportunities. OMB should accordingly support a roadmap that codifies innovation offices, enables scalable public-private collaboration, promotes agency use of broad chartering authorities, reforms CSI-sharing rules, and supports a modern payments architecture—including through broader access to Federal Reserve payments systems, including FedNow, and the development of an optional federal payments charter.

I. Regulators Should Rescind Flawed and Unnecessary Regulations That Chill Innovation and Competition

Financial services providers have faced in recent years an increase in flawed rulemakings, overly broad interpretations and ambiguous guidance, duplicative proposals, and rigid frameworks that impose significant compliance burdens—particularly on fintech providers, bank-fintech partnerships, and innovative digital tools. These actions fail to foster the innovation OMB's RFI seeks to promote and should be rescinded to restore regulatory clarity, fair competition, and an innovative landscape. We accordingly recommend rescinding the following:

Consumer Financial Protection Bureau (CFPB)

- ***Rescind the Registry of Nonbank Covered Persons Subject to Certain Agency and Court Orders (12 CFR Part 1092).***[3]

  The CFPB's final rule unfairly targets certain nonbank providers and puts them at a competitive disadvantage relative to other providers that are exempted from the rule.[4] This approach undermines innovation and competition, while demonstrating clear animus against nonbank fintech companies. Additionally, the rule imposes undue and unnecessary costs on a particular segment of financial services providers, and unfairly implies that such providers pose a greater risk of harm to consumers than some of their competitors. This is even more problematic given the fact these providers are already well-regulated at both the state and federal level.

  We appreciate the Bureau's recent statement providing regulatory relief to certain entities covered under the rule[5] and would accordingly urge the Bureau to freeze all efforts to publish information provided under the rule and rescind it for the following reasons: (1) the rule exceeds the Bureau's statutory authority and market monitoring powers; (2) the rule is arbitrary and violates a rational cost/benefit analysis since it is not needed, nor

[3] Conference of State Bank Supervisors (CSBS) (2023) *CFPB should reconsider nonbank registry*. Available at: https://www.csbs.org/cfpb-should-reconsider-nonbank-registry.

[4] The arbitrary targeting of nonbanks is underscored by the fact that banks have been subject to some of the largest and most significant regulatory orders relating to consumer protection violations. For example, in December 2022, the Bureau fined one of the largest banks $3.7 billion for "widespread mismanagement of auto loans, mortgages, and deposit accounts." See Consumer Financial Protection Bureau (CFPB) (2022) *CFPB orders Wells Fargo to pay $3.7 billion for widespread mismanagement of auto loans, mortgages, and deposit accounts*. Available at: https://www.consumerfinance.gov/about-us/newsroom/cfpb-orders-wells-fargo-to-pay-37-billion-for-widespread-mismanagement-of-auto-loans-mortgages-and-deposit-accounts/.

[5] Consumer Financial Protection Bureau (CFPB) (2025a) *CFPB offers regulatory relief from registration requirements for small loan providers*. Available at: https://www.consumerfinance.gov/about-us/newsroom/cfpb-offers-regulatory-relief-from-registration-requirements-for-small-loan-providers/.

effective, in protecting consumers; (3) the rule is arbitrary and violates a rational cost/benefit analysis since it will undermine effective compliance; and (4) the rule violates the U.S. federalist system by placing the Bureau above independent state-level regulators, which have objected to the rule.[6] Please see FTA's prior comment letter regarding this rule for more details on why rescission is an appropriate remedy.[7]

- ***Withdraw Proposed Interpretive Rule regarding Truth in Lending (Regulation Z); Consumer Credit Offered to Borrowers in Advance of Expected Receipt of Compensation for Work (89 FR 61358).***[8]

  Earned wage access ("EWA") is an important innovation demanded by a growing number of Americans looking for alternatives to high-cost traditional credit options, such as payday loans. As the CFPB noted in its proposed interpretive rule, EWA products and services have "important distinctions" from traditional credit products. These legal distinctions, unique characteristics, and critical benefits to American consumers of EWA products require a holistic, tailored approach to policymaking that affords stakeholders a fair opportunity to inform a final legislative and regulatory framework. When an innovative and low-cost product category like EWA is working well for consumers, a regulator should not act to impede or alter the well-functioning market.

  Unfortunately, the proposed interpretive rule, which applies ill-fitting credit laws that were not drafted with EWA products in mind, is already impacting the market and restricting consumer access to products that improve consumers' financial health. Recently, the proposed rule has been cited by litigants to support application of credit laws that are not fit-for-purpose and was relied upon by a Judge in denying a motion to dismiss an action against an EWA provider.[9] While such reliance is inappropriate for a proposed—and not final—interpretive rule, it underscores the importance of immediate Bureau action to avoid further harming and distorting the market for EWA services. The Bureau should accordingly promptly withdraw the proposal for the following reasons: (1) EWA products are distinct from traditional credit options, such as payday loans, and offer Americans

[6] Conference of State Bank Supervisors (CSBS), 2023
[7] Financial Technology Association (FTA) (2023a) *FTA comment on the CFPB's proposed registry of nonbank covered persons subject to certain agency and court orders*. Available at: https://www.ftassociation.org/wp-content/uploads/2023/03/FTA-Comment-on-the-CFPBs-Proposed-Orders-Registry-.pdf.
[8] Financial Technology Association (FTA) (2024a) *FTA Comment Letter Re: The CFPB request for comment on its Earned Wage Access Proposed Interpretive Rule (Docket No. CFPB-2024-0032)*. Available at: https://www.ftassociation.org/wp-content/uploads/2024/08/FTA-EWA-Interpretive-Rule-Comment-Letter.pdf.
[9] *Orubo et al v. ActiveHours, Inc. Case # 5:24-CV-04702* (N.D. Cal. Apr. 30, 2025)*; Order on motion to dismiss Order on Administrative Motion per Civil Local Rule 7-11*. Available at: https://www.pacermonitor.com/public/filings/D6YNB3IY/Orubo_et_al_v_Activehours_Inc__candce-24-04702__0040.0.pdf.

significant financial health benefits; (2) given the consumer benefits of EWA, and existing state and federal efforts to create holistic and tailored legal frameworks for such products, the Bureau should defer to the policymaking function of the legislature; and (3) the proposal contradicts CFPB precedent and other governmental actions by imposing, without fair process and analysis, new substantive legal requirements that will restrict access, steer consumers to high-cost products, and fail to protect consumers.

Please see FTA's prior comment letter regarding this rule for more details on why withdrawal is an appropriate remedy.[10] FTA further urges reinstatement of the CFPB's prior 2020 advisory opinion regarding certain EWA products, which helped provide incremental clarity to the industry and recommends expansion of this determination to cover all EWA products.[11] Reinstating this advisory opinion pending expansion would increase certainty and maintain the status quo prior to the last Administration's flawed proposed interpretive rule.

- ***Rescind Truth in Lending (Regulation Z); Use of Digital User Accounts To Access Buy Now, Pay Later Loans – Interpretive Rule (89 FR 47068).***

  The CFPB's Interpretative Rule (89 FR 47068) applying Regulation Z's credit card protections to Buy Now, Pay Later (BNPL) products accessed through digital user accounts should be rescinded. FTA appreciates the Administration's prior commitment to such action and recent statement relating to the rule's enforcement.[12] While FTA supports consumer protections for BNPL, the Rule imposes ill-fitting obligations on BNPL products that were designed for revolving credit cards, not short-term, zero-APR installment loans.

  BNPL products are fundamentally different from credit cards—they are closed-end, short-term, underwritten per transaction, and typically carry no interest or revolving debt. Applying open-end credit rules designed for credit cards to BNPL creates confusion,

[10] Financial Technology Association (FTA), 2024a
[11] Consumer Financial Protection Bureau (CFPB) (2020) 'Truth in Lending (Regulation Z); Earned wage access programs,' *12 CFR Part 1026* [Preprint]. Available at: https://files.consumerfinance.gov/f/documents/cfpb_advisory-opinion_earned-wage-access_2020-11.pdf.
[12] Culhane, J.L., Jr and Schuster, J.J. (2025) *CFPB plans to revoke BNPL interpretive rule, Consumer Finance Monitor*. Available at: https://www.consumerfinancemonitor.com/2025/03/28/cfpb-plans-to-revoke-bnpl-interpretive-rule/. *See also* Consumer Financial Protection Bureau (CFPB) (2025b) *CFPB announcement regarding enforcement actions related to Buy Now, Pay Later Loans | Consumer Financial Protection Bureau*. https://www.consumerfinance.gov/about-us/newsroom/cfpb-announcement-regarding-enforcement-actions-related-to-buy-now-pay-later-loans/.

burdens compliance, and risks undermining a consumer-friendly alternative to legacy credit products.

The rule is also procedurally flawed. It imposes new substantive requirements without adhering to the Administrative Procedure Act or Dodd-Frank Act rulemaking standards. It became effective before the public comment period closed, lacks proper cost-benefit analysis, and fails to address key operational ambiguities—such as who qualifies as the "issuer" or which disclosures apply in multi-product environments. This raises significant legal and compliance risk for BNPL providers without demonstrable consumer protection benefits.

Please see FTA's prior comment letter regarding this rule for further detail on why rescission is necessary.[13]

- ***Withdraw Proposed Rule Protecting Americans From Harmful Data Broker Practices (Regulation V) (89 FR 101402).***

  FTA has repeatedly advised the Bureau that its data broker proposals go well beyond the agency's statutory mandate and will be harmful to financial institutions' efforts to detect and prevent fraud.[14] The Bureau should accordingly withdraw the proposal for the following reasons: (1) fraud prevention tools used throughout the industry will be impacted by this proposal and its expansion of dispute rights, including by redefining credit header data and consumer permissioned sharing as covered under FCRA; (2) consumer-permissioned data sharing should not be considered "assembling or evaluating" under the FCRA as it is communicated by a consumer, not a consumer reporting agency; (3) de-identified data should not be considered a consumer report and is currently used for pro-consumer purposes; (4) the proposal's requirements around written instructions and

[13] Financial Technology Association (FTA) (2024b) *FTA Comment Letter re Truth in Lending (Regulation Z); Use of digital user accounts to access Buy Now, Pay Later Loans (Docket No. CFPB-2024-0017)*. Available at: https://www.ftassociation.org/wp-content/uploads/2024/08/FTA-BNPL-IR-Comment-Letter-vF.pdf.

[14] Financial Technology Association (FTA) (2025a) *FTA Comment Letter re: CFPB's Protecting Americans from Harmful Data Broker Practices Proposal (Regulation V) (Docket No. CFPB–2024–0044 or RIN 3170–AB27).* Available at: https://www.ftassociation.org/wp-content/uploads/2025/03/FTA-Comment-Letter-on-CFPB-Data-Broker-Proposal.pdf; *See* Financial Technology Association (FTA) (2023b) *FTA comment on the CFPB's outline of proposals and alternatives under consideration related to the consumer reporting rulemaking*. Available at: https://www.ftassociation.org/wp-content/uploads/2023/10/FTA-Data-Broker_FCRA-SBREFA-Response-Letter-vF.pdf; *See also* Financial Technology Association (FTA) (2023c) *FTA comment on CFPB request for information regarding data brokers and other business practices involving the collection and sale of consumer information*. Available at: https://www.ftassociation.org/fta-comment-on-cfpb-request-for-information-regarding-data-brokers-and-other-business-practices-involving-the-collection-and-sale-of-consumer-information/.

separate authorizations will add additional friction to products and services; and (5) any future action should account for the various data-related frameworks already in place.

Please see FTA's prior comment letter regarding this rule for more details on why withdrawal is an appropriate remedy.[15]

- ***Withdraw Proposed Rule Prohibited Terms and Conditions in Agreements for Consumer Financial Products or Services (Regulation AA) (90 FR 3566) and Registry of Supervised Nonbanks That Use Form Contracts To Impose Terms and Conditions That Seek To Waive or Limit Consumer Legal Protections (88 FR 6906).***[16]

  In 2023, the CFPB proposed yet another dragnet-style registry that would purport to collect a broad range of contractual terms and conditions.[17] Likely in response to the many public comment letters that highlighted the inherent flaws and overreach embodied in the proposal, the Bureau took no further action. Instead, in the eleventh hour of the prior Administration's term, the Bureau issued a new proposal titled "Regulation AA."[18] Because both proposals relating to contractual terms and conditions are flawed and unnecessary, they should each be respectively withdrawn.

  With respect to the registry proposal, it unfairly targets certain nonbank providers and puts them at a competitive disadvantage relative to other providers exempted from the proposed rule. The proposal imposes undue and unnecessary costs on a segment of financial services providers, and implies that such providers pose a greater risk of harm to consumers than some of their competitors, including with respect to contractual clauses that are legal and widely used in form contracts by banks and nonbanks alike. To this end, it is not only arbitrary, but also improper to suggest that legal contract clauses entered into between a consumer and a financial services provider are an indicator of potential risk to consumers. The proposal, which exceeds the Bureau's statutory authority and abuses its market monitoring function, should accordingly be officially withdrawn.

[15] Financial Technology Association (FTA), 2025a
[16] Financial Technology Association (FTA) (2025b) *FTA comment on CFPB's proposed rule on Prohibited Contractual Provisions (Regulation AA)*. Available at: https://www.ftassociation.org/wp-content/uploads/2025/04/FTA-Comment-Letter-on-CFPB-Contractual-Prohibitions-Proposal.pdf.
[17] Consumer Financial Protection Bureau (CFPB) (2023) 'Registry of supervised nonbanks that use form contracts to impose terms and conditions that seek to waive or limit consumer legal protections,' *Federal Register*, 12 CFR Part 1092 (Docket No. CFPB-2023-0002). Available at: https://www.federalregister.gov/documents/2023/02/01/2023-00704/registry-of-supervised-nonbanks-that-use-form-contracts-to-impose-terms-and-conditions-that-seek-to.
[18] Consumer Financial Protection Bureau (CFPB) (2025c) *Prohibited terms and conditions in Agreements for Consumer Financial Products or Services (Regulation AA), Federal Register*. 12 CFR Part 1027. Available at: https://public-inspection.federalregister.gov/2025-00633.pdf.

With respect to the Regulation AA proposal, as FTA recently argued, it should similarly be withdrawn due to a number of dispositive defects, including because it: (1) violates a number of recent White House Executive Orders; (2) unnecessarily duplicates existing legal obligations; and (3) introduces ambiguous and overbroad new prohibitions beyond the Bureau's authority, lacks a proper evidentiary record, and contains a deficient cost/benefit analysis.

Please see FTA's prior comment letters regarding the proposed registry rule[19] and the Regulation AA proposal[20] for more details on why withdrawal is an appropriate remedy in each instance.

- ***Withdraw Supervisory Authority Over Certain Nonbank Covered Persons Based on Risk Determination; Public Release of Decisions and Orders (87 FR 70703 and 87 FR 25397).***[21]

  Absent notice and comment, the CFPB issued a final rule in April 2022 allowing the Agency to make public its determination that it has reasonable cause to determine that a particular nonbank entity 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. Prior to this rule, such nonbanks could expect that any such determination would remain confidential.

  By making the determination public, the Bureau is essentially telling the public that the specific nonbank is subject to Bureau supervision because the Bureau has found that it poses risks to consumers – with the obvious implication that the Bureau intends to address those risks through supervisory or enforcement action against the affected entity. This change in confidentiality substantially affects the interests of any nonbank whose determination is made public. Unlike other supervised firms, the affected entity must now combat a public perception of noncompliance and consumer harm without having any specific allegations levied against it. The affected company's relationships with customers and investors will certainly be affected. Additionally, the affected company has no ability to clear its name in the event that there is ultimately no action by the Bureau, as the results

[19] Financial Technology Association (FTA) (2023d) *RE: FTA comment on the CFPB's proposed nonbank registration and collection of contract information*. Available at: https://www.ftassociation.org/wp-content/uploads/2023/03/FTA-Comment-on-the-CFPBs-Proposed-TC-Registry-1-1.pdf.
[20] Financial Technology Association (FTA), 2025b.
[21] Financial Technology Association (FTA) (2022a) *RE: FTA comment on public release of decisions and orders (Docket No. CFPB-2022-0024)*. Available at: https://www.ftassociation.org/wp-content/uploads/2022/06/FTA-Letter-on-CFPB-Nonbank-Rule-final.pdf.

of any Bureau examination would be barred from disclosure under 12 C.F.R. § 1070.42 as confidential supervisory information.

This rule should accordingly be withdrawn as it is procedurally defective since it was issued as final, absent notice and comment. It also unfairly, arbitrarily, and disparately subjects nonbanks to rules that violate well-established norms regarding the treatment of confidential supervisory information. Please see FTA's prior comment letter regarding this rule for more details on why withdrawal is an appropriate remedy.[22] The Bureau in the meantime should further halt any current efforts to designate nonbanks under this rule and protect all related confidentiality.

- ***Rescind Circular (2024-01) on "Preferencing and steering practices by digital intermediaries for consumer financial products or services" and Circular (2024-03) on "Unlawful and unenforceable contract terms and conditions."***

  FTA urges the Bureau to rescind Circular (2024-01) and Circular (2024-03) as they unfairly target digital and nonbank companies, exceed the CFPB's statutory authority, and create ambiguity. Circular 2024-01 is a clear example of overreach into legitimate business models of digital intermediaries, stifling competition and consumer choice by dictating how platforms present offers. Similarly, Circular 2024-03 unnecessarily increases compliance burdens and introduces ambiguity. These circulars hinder innovation, undermine consumer choice and market competition, and impose undue regulatory burdens on digital and nonbank firms without clear evidence of widespread consumer harm.

- ***Rescind Statement of Policy Regarding Prohibition on Abusive Acts or Practices (88 FR 21883).***

  The Bureau should rescind its Statement of Policy Regarding Prohibition on Abusive Acts or Practices (88 FR 21883) because it includes an overly expansive interpretation of the abusiveness standard, which creates significant uncertainty for both traditional and digital financial service providers. This overbroad interpretation, extending beyond the statutory intent of the Dodd-Frank Act, hinders innovation and product development as companies are unable to predict what practices might be deemed abusive. The lack of clarity increases compliance burdens and the risk of enforcement actions, chilling the introduction of beneficial financial products and services for consumers across the financial landscape.

[22] Financial Technology Association (FTA), 2022a.

- ***Rescind Policy Statement on No-Action Letters (90 FR 1970) and Policy Statement on Compliance Assistance Sandbox Approvals (90 FR 1974).***

  The Bureau should rescind its Policy Statement on No-Action Letters and the Policy Statement on Compliance Assistance Sandbox Approvals given their overly restrictive nature, which undermines innovation and discourages direct engagement between firms and the CFPB. These policies, ostensibly intended to foster innovation, have instead created cumbersome processes that fail to provide the intended flexibility and clarity for firms looking to develop and test new financial products and services. By hindering the ability of companies to proactively seek regulatory feedback and safe harbors, these policy statements stifle the very innovation they aim to promote and limit opportunities for the CFPB to gain valuable insights into emerging financial technologies and business models.

- ***Rescind Electronic Fund Transfers FAQs pertaining to compliance with the Electronic Fund Transfer Act (EFTA) and Regulation E.***

  The Bureau should rescind the EFT FAQs published on June 4, 2021. These FAQs are misaligned with the statutory definition of unauthorized electronic fund transfer as articulated in 15 U.S. Code § 1693a, as the interpretation in the FAQs dramatically expands the scope of what counts as "unauthorized," making institutions liable for fraud the consumer technically "authorized." Scoping such fraudulent inducement cases into Regulation E effectively turns financial institutions and fintechs into insurers. The expansive view of Regulation E applicability imposes significant litigation risk and fraud loss liability on financial institutions and fintechs. Regulation E was never intended to cover such third-party scams. Holding institutions liable for fraudulent inducement cases could promote moral hazard and increase fraud costs. Furthermore, the FAQs were improperly issued as they include substantive regulatory changes that did not go through the proper APA process, including notice and comment.

Financial Stability Oversight Council (FSOC)

- ***Rescind Analytic Framework for Financial Stability Risk Identification, Assessment, and Response and Guidance on Nonbank Financial Company Determinations.***[23]

[23] Financial Technology Association (FTA) (2023e) *Re: FTA comment on the FSOC's proposed Analytic Framework for Financial Stability risk identification, Assessment, and Response and authority to require supervision and regulation of certain nonbank financial companies*. Available at: https://www.ftassociation.org/wp-content/uploads/2023/07/FTA-Comment-on-the-FSOCs-Proposed-Analytic-Framework-for-Financial-Stability-Risk-Identification-Assessment-and-Response.pdf.

Nonbank financial technology companies are a primary source of competition to legacy providers that have failed to serve traditionally unserved or underserved American consumers and small businesses. While fintech competitors are still dwarfed in size, scale, scope, and interconnectedness by large banks and traditional financial institutions ("FIs"), they are subject to robust oversight by state and federal financial regulators based on the same activities-based and entity-based regulatory frameworks that are consistent with those governing other participants in the U.S. financial services industry.

FSOC was established by Congress to identify and mitigate the most serious of risks that rise to the level of being both "systemic" and a "threat" — a high-bar intended to address risks of the greatest magnitude. Great care should accordingly be applied in not broadening the FSOC's framework and related entity designation authority, especially in a way that would impede healthy competition and innovation and when fintech providers are already subject to robust regulation and oversight by multiple federal, state, and local authorities.

FSOC should accordingly rescind its analytic framework and guidance to avoid their arbitrary and capricious application in favor of prior activities-based frameworks. FSOC should further clearly recognize existing federal, state, and local regulation as mitigating the potential for systemic risks and being responsive to new risks as they arise.

Please see FTA's prior comment letter regarding the analytics framework and nonbank guidance for more details on why rescission is an appropriate remedy.[24]

Federal Trade Commission (FTC)

- ***Withdraw or Revise Proposed "Means and Instrumentalities" Amendment to the Trade Regulation Rule on Impersonation of Government and Businesses (Impersonation Rule) (89 FR 15072).***

  The FTC has proposed the Means and Instrumentalities Amendment to the Impersonation Rule, which would impose liability on a party that has "knowledge or reason to know" that its goods or services will be used improperly by an impersonator. While this knowledge requirement may be intended to prevent strict liability against third parties who supply goods or services, we are concerned that it lacks sufficient clarity and could expose legitimate firms to inappropriate penalties. To avoid this result, we recommend that the FTC define the phrase "knowledge or reason to know" based upon a definition adopted by the Small Business Administration ("SBA"). As part of a regulation that addresses the submission of false claims and statements, SBA has defined the phrase "know or have

[24] Financial Technology Association (FTA), 2023e.

reason to know" to mean that a person: (i) has actual knowledge that the claim or statement is false, fictitious, or fraudulent; (ii) acts in deliberate ignorance of the truth or falsity of the claim or statement; or (iii) acts in reckless disregard of the truth or falsity of the claim or statement.[25] Additionally, we recommend that the FTC state that the liability standard is not intended to reach a party that makes a good faith effort to adopt and implement policies and procedures designed to prevent impostors from using the party's goods or services in violation of the Impersonation Rule.

Please see FTA's prior comment letter regarding this proposed rule for more details on why withdrawal or revision is an appropriate remedy.[26]

Securities and Exchange Commission (SEC)

- ***Rescind Proposed Rule re: Conflicts of Interest Associated With the Use of Predictive Data Analytics by Broker-Dealers and Investment Advisers (88 FR 53960).***

  Fintech and digital innovation is lowering costs of investment advisory and trading services, increasing market participation and retail investor access to investment advice, improving compliance, introducing competition with legacy business models, and promoting capital formation. Much of this investor-centric innovation is predicated on responsible development and adoption of technology, including AI technology, which permits enhanced investor access to information and investor engagement, including with respect to financial education and advice.

  Unfortunately, the Commission's proposed rule moves in the opposite direction. Rather than regulating conduct, the Proposal regulates innovation and penalizes firms adopting modern technologies as compared to those using outdated, inefficient, legacy models. This type of blanket technology-targeted regulation fails to solve clearly identifiable harms and will serve to limit, steer, and even preclude further innovation. The Proposal is overbroad, duplicative and unnecessary given existing regulations, and unfairly and unequally targets technology-based business models to the harm of investors. The proper remedy is accordingly full rescission of the proposed rule.

[25] 13 C.F.R. § 142.6.
[26] Financial Technology Association (FTA) (2024c) *FTA Comment Letter Re Impersonation SNPRM, R207000*. Available at: https://www.ftassociation.org/wp-content/uploads/2024/04/FTA-comment-letter-re-Impersonation-Rule-vF.pdf.

Please see FTA's prior comment letter regarding this proposed rule for more details on why rescission is the appropriate remedy.[27]

II. Regulators Should Modernize Oversight, Ensure Innovation and Competition, and Facilitate Financial Technology by Revisiting and Revising Key Regulations

To foster a dynamic and inclusive financial ecosystem, regulators must proactively modernize their oversight frameworks to keep pace with technological advancements and financial services innovation. Outdated or ill-suited regulations can inadvertently stifle responsible innovation, limit competition, and impede the deployment of transformative technologies like artificial intelligence, digital identity and compliance solutions, and emerging fintech tools. A critical review and strategic assessment of existing rules is essential to unlock the potential of financial services innovation, while upholding robust consumer protections and market integrity. The following recommendations for amending or replacing specific regulations aim to achieve this balance, paving the way for a more dynamic, accessible, and competitive financial future:

Department of the Treasury / Financial Crimes Enforcement Network

- ***Revisit and Revise Request for Information and Comment on Customer Identification Program Rule Taxpayer Identification Number Collection Requirement (89 FR 22231).***

  The FinCEN RFI should be revisited and revised to address the outdated Customer Identification Program (CIP) requirements, which impose undue burdens on financial institutions, particularly in the digital age. Specifically, the requirement for providers to collect all nine digits of a customer's Social Security Number should be immediately halted as it undermines consumer privacy, increases data breach risks, and deters participation in digital financial services. As Acting FDIC Chair Hill has recently supported, excepting providers from this full requirement would alleviate unnecessary friction and costs, promoting a more efficient and streamlined customer onboarding process.[28] This change would better align with the realities of modern digital transactions and reduce unnecessary regulatory burden on institutions.

  To modernize identity verification and ensure both security and efficiency, FinCEN should pursue a joint rulemaking to allow for the collection of only the last four digits of a

[27] Financial Technology Association (FTA) (2023f) *FTA comment on the SEC's proposed rulemaking regarding conflicts of interest associated with the use of predictive data analytics by Broker-Dealers and investment advisers*. Available at: https://www.ftassociation.org/wp-content/uploads/2023/10/FTA-SEC-PDA-NPR-Response-vF.pdf.
[28] Federal Deposit Insurance Corporation (FDIC) (2025) *Acting Chairman Travis Hill expresses support for enhancing flexibility with respect to customer identification program requirements*. Available at: https://fdic.gov/news/press-releases/2025/acting-chairman-travis-hill-expresses-support-enhancing-flexibility.

customer's Social Security Number, or explore other innovative methods for digital identity verification. This approach would maintain the integrity of the CIP framework by providing sufficient information for identification purposes, while simultaneously reducing the amount of sensitive data that institutions must collect and store, thereby mitigating the risk of data breaches. Modernizing CIP in this way would foster innovation in the financial sector, encourage the adoption of new technologies, and enhance the overall customer experience.

By adopting these changes, FinCEN can update the CIP rule to reflect the current technological landscape, reduce regulatory burdens, and enhance both security and efficiency. Please see FTA's prior comment letter regarding this interpretation and request for information and comment for more details.[29]

- ***Update AML Program Requirements and National AML/CFT Priorities Process to Reflect Risk-Based Approach.***

  FTA members, including banks, MSBs, broker-dealers, and other entities covered by the Bank Secrecy Act (BSA), recognize the importance of the program rule for setting the parameters of an institution's efforts to detect and deter illicit financial activity. To that end, FTA supports policymaker's efforts to emphasize the risk-based nature of anti-money laundering/countering the financing of terrorism (AML/CFT) compliance programs. We believe that the rule should be revised to (i) expressly allow covered financial institutions to redeploy compliance resources from low-priority to high-priority efforts, and (ii) apply a good-faith standard to program requirements.

  Relatedly, we believe FinCEN should reconsider how it establishes and revises National AML/CFT Priorities. The intent of creating a priorities-led regime was to provide financial institutions with guidance on the illicit financial activity that law enforcement is particularly focused on. However, currently, the list of priorities is relatively broad and doesn't provide the level of detail needed for many financial institutions to calibrate their programs effectively. Instead, we encourage FinCEN to leverage a framework similar to the interagency process used for the National Intelligence Priorities Framework (NIPF). Such a process could be used to specify what illicit financial risks FinCEN wants financial institutions to address, how different types of companies can address relevant priorities for their business activities, and provide additional information on relevant bad actors. In turn,

[29] Financial Technology Association (FTA) (2024d) *Request for information and comment on Customer Identification Program Rule Taxpayer Identification Number Collection Requirement (Docket number FINCEN-2024-0009)*. Available at: https://www.ftassociation.org/wp-content/uploads/2024/05/FTA-to-FinCEN-on-CIP-rule-RFI-vF.pdf.

financial institutions' suspicious activity and currency transaction reports could be leveraged to identify the types of risks specific to certain financial institutions and activities, allowing FinCEN to measure trends from BSA reporting and work with institutions to address emerging threats.[30]

- ***Modernize and Streamline AML/CFT Reporting Requirements.***

  The existing AML/CFT regime includes outdated regulations that fail to account for new, technology-driven entrants to the financial services sector. As is well documented, FinCEN receives more data than it can adequately consume, and much of the data does not serve regulatory or law enforcement interests. To reduce the burden of sharing unhelpful information, FinCEN should: (i) modernize the criteria that trigger SAR filing obligations and remove any that are obsolete or which offer little law enforcement or national security value based on statistical rather than anecdotal evidence; (ii) specify the scope of the type of conduct and clarify the level of suspicion or evidence of that conduct that triggers an obligation to file a SAR to reduce defensive filing; (iii) clarify that after the institution reaches the requisite level of suspicion to file a SAR, it is not required to conduct a further review of additional transactions or counterparties related to the filing unless and until the SAR generates engagement with law enforcement; and (iv) carve out categories of information that can be excluded from reporting.[31]

Consumer Financial Protection Bureau (CFPB)

- ***Reopen and Revise Small Business Lending Rule (Regulation B) (89 FR 76713).***

  The CFPB's Small Business Lending Rule (Regulation B) should be reopened and revised in light of ongoing litigation and industry concerns regarding its unintended consequences. Court challenges have raised significant questions about the rule's compliance burdens and its potential to reduce access to credit for small businesses.

  Specifically, the rule's rigid data collection requirements fail to sufficiently account for differences in lender size, business models, and operational capacity, disproportionately burdening innovative and mission-driven finance providers. Furthermore, the lack of flexibility in data reporting standards could discourage market participation and reduce the

[30] Financial Technology Association (FTA) (2024e) *FTA Comment Letter re FINCEN's Anti-Money Laundering and Countering the Financing of Terrorism Programs Proposal (Docket No. FINCEN–2024–0013)*. Available at: https://www.ftassociation.org/wp-content/uploads/2024/09/FTA-AML-Program-Rule-Letter.pdf.
[31] Financial Technology Association (FTA) (2022b) *Response to request for information on review of Bank Secrecy Act regulations and guidance*. Available at: https://www.ftassociation.org/wp-content/uploads/2022/02/FTA_Fincen-Comment-Letter-2.14.22-1.pdf.

diversity of small business financing options available to underserved communities, including from fintech providers.

To mitigate these risks the CFPB should revisit the rule to better tailor reporting obligations, streamline requirements for smaller and emerging lenders, and ensure that aggregated data is published in a way that advances fairness and understanding of small businesses' credit needs without compromising privacy or deterring participation. Revising the rule would foster a more inclusive and competitive small business lending environment, supporting broader access to affordable credit.

Please see FTA's prior comment letter regarding the proposed rule for additional recommendations.[32]

- ***Clarify Prequalification Commentary Under Regulation B.***

  The CFPB should revise its commentary on prequalification under Regulation B to clarify that adverse action notices are not required where consumers seek prequalification from multiple creditors (such as through comparison-shopping platforms) or when soft credit inquiries are used. The current interpretation creates unnecessary friction in digital credit marketplaces and discourages the use of consumer-permissioned tools that promote transparency, competition, and informed borrower choice.

- ***Reopen Payday, Vehicle Title, and Certain High-Cost Installment Loans Final Rule to Exempt BNPL Products and Enhance Definitional Clarity (85 FR 44382).***

  The CFPB's Final Rule on Payday, Vehicle Title, and Certain High-Cost Installment Loans should be reopened and revised to reflect the distinct characteristics and growing use of Buy Now, Pay Later (BNPL) products. At the time that the rule was finalized, the BNPL industry was nascent and BNPL products were not appropriately considered in the rule's scope or impact analysis. As a result, applying this framework to BNPL products risks undermining a low-cost, consumer-friendly alternative to traditional, high-cost credit options.

  Today, BNPL has evolved into a widely used, low-cost, short-term credit option that offers consumers flexible payment alternatives without the high fees or compounding interest associated with traditional credit products. Absent a specific exemption, the current rule

[32] Financial Technology Association (FTA) (2022c) *Response to request for comment on proposed rule for small business lending data collection under the Equal Credit Opportunity Act (Regulation B)*. Available at: https://www.ftassociation.org/wp-content/uploads/2024/09/FTA_Response-to-DF-1071-Proposal-1.6.22-1.pdf.

risks jeopardizing the sustainability of BNPL offerings that have demonstratively benefited consumers by enhancing financial flexibility, reducing reliance on revolving credit, and expanding access to responsible payment options.

The CFPB should further revise its payday rule to enhance definitional clarity relating to its application to BNPL products, particularly concerning debit attempt restrictions. We appreciate its recent statement indicating that it is considering this.[33] Currently, the rule's limitations on debit attempts may not adequately consider partial payments, which can be a valuable tool for consumers seeking to manage their repayment obligations. This lack of consideration will create unnecessary compliance burdens and potentially restrict access to flexible repayment options for borrowers.

Please see FTA's Just the Facts: Buy Now Pay Later (BNPL) for further details on BNPL products.[34]

- ***Revise Regulation E for Variable Interest Payments.***

  The Bureau should reopen and revise Regulation E to address specific compliance challenges providers face with preauthorized electronic fund transfers (EFTs) involving varying amounts. While the regulation requires 10-days advance notice to consumers when a preauthorized EFT will vary from the authorized amount, it does not appropriately exclude interest payments that naturally fluctuate based on consumer withdrawals or deposits. It is nearly impossible for institutions to predict and provide advance notice under these circumstances. This undermines consistent compliance with the advance notice requirement. To address this, the Bureau should explicitly exclude interest payments from the definition of a preauthorized EFT, either in whole or specifically regarding the advance notice requirement for varying payments.

- ***Revise Debt Collection Practices Final Rule (Regulation F).***

  Regulation F should be revisited and revised to remove unworkable restrictions and modernize communication standards. The regulation's prohibition on collecting time-barred debt is overly rigid given that the expiration of a statute of limitations often involves a nuanced mix of legal and factual analysis—ranging from default dates to tolling rules. The CFPB should permit good-faith collection of such debts, subject to consumer protections, rather than impose a blanket prohibition. Additionally, the Bureau should

[33] Consumer Financial Protection Bureau (CFPB), 2025a
[34] Financial Technology Association (FTA) (2024f) *Just the facts: Buy now Pay Later (BNPL)*. Available at: https://www.ftassociation.org/just-the-facts-buy-now-pay-later-bnpl/.

simplify Regulation F's electronic communication requirements, which are overly prescriptive and deter responsible digital outreach.

- ***Modernize the E-SIGN Act and Compliance Requirements.***

  The E-SIGN Act and its implementing regulations should be revised to reflect the realities of today's digital financial ecosystem. Various federal regulations incorporate E-SIGN's cumbersome consent procedures prior to electronic delivery of required notices. These outdated requirements—including cumbersome disclosures and tests—impose unnecessary friction on consumers and digital service providers. Regulations that reference E-SIGN should accordingly be updated to allow simple consumer consent by any reasonable means, and for natively digital products, consent should be deemed implied by law. And, electronic delivery of notices and related documents should not be subject to onerous and unnecessary E-SIGN procedures. These revisions would modernize consumer communications and better align with how people engage with financial services today.

Federal Deposit Insurance Corporation (FDIC)

- ***Revise FDIC's Proposed Recordkeeping for Custodial Accounts Rule (89 FR 80135).***

  The FDIC's Proposed Rule on Recordkeeping for Custodial Accounts (89 FR 80135) should be revisited and revised to better tailor its scope and requirements to the specific risks it seeks to address. FTA is supportive of clear recordkeeping standards and is supportive of the rule's objectives. As proposed, however, the rule is overbroad in places and risks imposing substantial compliance obligations on deposit accounts that are not structured to deliver pass-through deposit insurance—such as those used by money transmitters, broker-dealers, and payment networks.

  While FTA supports strong recordkeeping practices for custodial accounts that are structured to deliver FDIC pass-through deposit insurance, the rule applies broad requirements to accounts that pose no such risks to depositors or the Deposit Insurance Fund. Moreover, key elements of the rule—such as mandates for real-time beneficial ownership access, daily reconciliations, and third-party recordkeeping obligations—are impractical and unworkable in many operational settings. The rule's cost-benefit analysis further fails to adequately assess these burdens or the diversity of custodial account structures.

  To mitigate these risks, the FDIC should revise the proposed rule to apply only to custodial deposit accounts structured for pass-through deposit insurance and ensure that operational requirements are feasible and risk-based. These changes would protect depositors without

imposing undue burdens that chill innovation, raise operational risks, or limit consumer access to modern financial services.

Please see FTA's prior comment letter regarding this proposed rule for additional detail on why revision is necessary.[35]

Securities and Exchange Commission (SEC)

- ***Revise the SEC's 2020 Marketing Rule.***

Another area of concern is the SEC's 2020 Marketing Rule (Rule 206(4)-1), which imposes certain ambiguous and overly complex requirements on investment advisers. For example, certain requirements for testimonials and third-party ratings, while modernized in theory, still impose highly technical disclosure and diligence obligations that discourage their use and have limited benefits to clients (e.g., disclosing specific compensation amounts for testimonials where a disclosure that compensation was provided should suffice). Moreover, the SEC has provided limited practical guidance or safe harbors, which compounds the risk of enforcement for firms attempting good-faith compliance. Because the industry has already devoted substantial resources over the past few years to complying with the rule, we do not recommend repealing or substantially amending it. Rather, the SEC could issue clarifying guidance that supports a more pragmatic and workable approach to issues such as performance advertising, testimonials and endorsements, and third-party ratings.

Social Security Administration (SSA)

- ***Revise eCBSV Guidance.***

The Social Security Administration operates the electronic Consent Based Social Security Number Verification (eCBSV) service, a key tool to validating an individual's social security number in connection with applicable KYC/CIP requirements. However, Social Security Administration staff have taken an interpretive position that only a person 18 and over may authorize an institution to verify their own social security number. This interpretation, which is inconsistent with how the SSA provides access to records generally (see, e.g., 20 CFR 401.40(a)), impedes the ability of financial institutions to validate individuals under 18 who may, for example, be looking for financial services in connection

[35] Financial Technology Association (FTA) (2025c) *FTA Comment Letter re: The FDIC's request for comment on its notice of proposed rulemaking for custodial deposit accounts (Docket No. RIN 3064-AG07)*. Available at: https://www.ftassociation.org/wp-content/uploads/2025/01/FTA-Comment-Letter-on-FDIC-Custodial-Deposit-Accounts-Proposal.pdf.

with getting paid from their first job. SSA should review this position and provide guidance that a person under 18 is capable of authorizing a financial institution to simply validate their own information through eCBSV.

III. OMB Should Advance a Proactive Agenda to Modernize and Right-Size Financial Regulation In Support of Innovation and Competition.

To foster a regulatory environment that supports innovation and competition, OMB should spearhead a proactive agenda aimed at modernizing and right-sizing financial regulation. This involves a coordinated effort to update outdated regulations and promote a more balanced approach that encourages responsible innovation while safeguarding consumers and market stability. Such an agenda is crucial for enabling the financial sector to evolve and effectively meet the changing needs of businesses and individuals in the digital age. This agenda should be structured around the following key recommendations:

- **Promote Bank-Fintech Partnerships:** Regulators should actively facilitate and encourage partnerships between banks and fintech companies. They should also emphasize the importance of balanced oversight that takes into account the robust state and federal regulatory frameworks already in place, ensuring that innovation is not stifled by unnecessary, punitive, or duplicative regulation and supervision. Please see FTA's prior comment letter regarding the importance of bank-fintech partnerships and policy measures to advance their positive impact on consumers, small businesses, and the broader economy.[36]

- **Expand and Codify Financial Innovation Offices:** A key component of this modernization effort should be the expansion and codification of financial innovation offices within agencies such as the CFPB, SEC, CFTC, OCC, FDIC, Federal Reserve, and NCUA. These offices should be empowered to conduct pilots and establish sandboxes, and to establish public-private advisory committees under the Federal Advisory Committee Act (FACA). By providing a structured framework for experimentation, learning, and collaboration, these offices can help to identify and address potential regulatory barriers to innovation, while also ensuring that new products and services are developed within the regulatory perimeter. Such efforts can further ensure that agencies hire technical and subject matter experts who can help keep pace with digital innovation.

[36] Financial Technology Association (FTA) (2024g) *FTA Comment Letter Re: Request for information on Bank-Fintech arrangements involving banking products and services distributed to consumers and businesses (Docket ID OCC-2024-0014; Docket No. OP-1836; RIN 3064-ZA43)*. Available at: https://www.ftassociation.org/wp-content/uploads/2024/10/FTA-Letter-on-Fintech-Bank-Arrangements-RFI.pdf.

- **Advance Banking Competition through De Novo Bank Chartering:** State and federal bank regulators should use their broad authority to charter de novo banks, including those pursuing novel or focused banking services. This would foster greater competition and innovation within the banking sector, allowing for the emergence of new business models and specialized institutions that can better serve the evolving needs of consumers and businesses. The Federal Reserve should recognize the broad-range of types of chartered entities, including special purpose and non-depository banks, by granting access to Fed master accounts and the payments system.

- **Advance Payment System Innovation:** The advancement of an optional federal payments charter and the expansion of access to Federal Reserve payments systems, including FedNow, for well-regulated payment companies would provide additional pathways for innovation in the payments ecosystem. These measures would create new opportunities for non-bank payment providers to compete and innovate, while also ensuring that consumers have access to a wider range of safe, advanced, and efficient payment options.

- **Revise Policies Regarding Confidential Supervisory Information (CSI) and Remove Barriers to Information-Sharing to Combat Fraud and Scams**: FTA urges the federal banking regulators to further update, harmonize and clarify rules governing the sharing of CSI —particularly within bank-fintech partnerships. Currently, fintech partners often operate in the dark regarding concerns a bank regulator may have about a particular bank-fintech partnership program and accordingly cannot proactively help mitigate such concerns or risks. While CSI should remain protected from broad disclosure, limited and targeted sharing would enhance mutual understanding of regulatory expectations and strengthen overall compliance. FTA further recommends that regulators remove any regulations or guidance that limit information-sharing between entities working collaboratively to stop scams and fraud.

- **Provide Clarity on AI and Data Privacy:** Regulators should provide clear guidance and support for the fair and secure adoption of artificial intelligence (AI) in the financial sector. This should be coupled with the enactment of national data privacy legislation to ensure consistent treatment of data across state lines and preempt the development of a patchwork of conflicting state laws. By establishing a clear and consistent legal framework for data privacy, regulators can foster greater trust in AI-powered financial services and encourage their responsible development and deployment. Regulators should further recognize public-private standards setting organizations (SSOs) in helping provide industry with clarity on regulatory expectations.

- **Modernize Oversight of Consumer Complaint Infrastructure:** The CFPB's consumer complaint portal has increasingly become a target for abuse by credit repair organizations, sovereign citizen scams, and fraudulent debt relief schemes. The CFPB should adopt rules to curtail such misuse and preserve the portal's integrity for legitimate consumer concerns. Doing so would help ensure accurate market monitoring, reduce unnecessary burdens on regulated entities, and maintain the portal's role as a constructive channel for consumer feedback.

- **Consider Issues of Federalism**: To streamline compliance, promote innovation, and ensure consistent consumer protection, federal regulators should assert preemption over state and local laws where a federal regulatory regime exists, and Congress has not explicitly granted states the authority to impose higher standards. Without clear preemption, businesses face a 50-state patchwork of conflicting regulations that stifle innovation, undermine compliance efforts, and impose undue operational burdens. Specifically, regulators should actively recognize federal preemption in areas where state laws conflict with established federal consumer protection frameworks—such as state privacy laws that conflict with the Gramm-Leach-Bliley Act (GLBA), state credit reporting laws that conflict with the Fair Credit Reporting Act (FCRA), state AI and algorithmic discrimination laws that conflict with the Equal Credit Opportunity Act (ECOA) and FCRA, and state debt collection laws that conflict with the Fair Debt Collection Practices Act (FDCPA). While federal law cannot preempt state laws where Congress has expressly allowed states to set standards, regulators should proactively assert preemption where appropriate and ensure regulatory consistency.

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We appreciate the opportunity to contribute to this discussion and look forward to continued engagement with the Administration in promoting a regulatory environment that fosters responsible innovation, competition, and consumer empowerment. FTA stands ready to provide additional information or collaborate further on this initiative.

Sincerely,

Penny Lee
President and Chief Executive Officer
Financial Technology Association