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BY EMAIL

Rohit Chopra
Director, Consumer Financial Protection Bureau
1700 G Street N.W.
Washington, DC 20552

*Letter in Support of Final Rule Creating Registry of Nonbank Entities Subject to Final Orders
for Violations of Consumer Financial Laws (Dkt CFPB-2022-0080)*

Dear Director Chopra:

We, the undersigned attorneys general for New York, California, Colorado, Connecticut, Illinois, Maryland, Minnesota, Oregon, Pennsylvania, and Vermont (collectively, the “State AGs”) write in support of the Consumer Financial Protection Bureau’s recent final rule requiring certain nonbank entities to register with the Bureau all final orders issued by courts or by federal, state, or local law enforcement agencies finding violations of key state or federal consumer protection laws by such entities. As described in further detail below, the State AGs believe this new registry will provide substantial benefits to consumers, the Bureau, the State AGs, and to nonbank entities subject to the registration requirements.

Today, American consumers have a large and growing number of options to access a wide variety of consumer financial products, such as banking alternatives, consumer lending and credit products, and payment services, many of which look like traditional financial offerings but are being marketed, offered, and operated by nonbank entities that exist outside of traditional regulatory frameworks for consumer financial products and services. As these markets rapidly expand with both technology and consumers’ increased reliance on mobile and online transactions and payments, consumers can no longer look to more traditional indicators of reliability, such as reputation or government oversight, to trust that products or services being offered are fair, honest, and reliable. Yet no adequate substitute currently exists to which consumers can turn to evaluate whether companies that are marketing products or services to them prioritize fairness and honesty in their dealings. The creation of an official registry where consumers can identify companies that

have been found, by courts or regulators, to have engaged in deceptive or abusive conduct will empower consumers to make smarter and healthier financial decisions. Thus, the Bureau's final rule will have an obvious positive impact on its underlying mission to promote financial marketplaces that are safe, transparent, and reliable for American consumers.

The Bureau itself should also stand to benefit from the new registry. Given the vast number of nonbank entities offering an enormous array of consumer financial products, it is simply impossible for the Bureau to closely supervise all key actors across an expanding marketplace. The ability to identify and prioritize repeat offenders or entities subject to orders in one jurisdiction but not nationwide prohibitions will enhance the Bureau's ability to deploy its limited resources more efficiently and effectively. Further, including final orders obtained by state or local agencies, such as the State AGs, who often are closer to consumers and local advocacy organizations, will provide another tool the Bureau can use to identify and prioritize addressing harmful emerging trends or new products before problematic practices grow in scale or become more intractable.

The State AGs also anticipate deriving substantial benefits from the new registry. Like the Bureau, each State AG is an agency of limited resources, and the State AGs likewise stand to benefit from enhanced abilities to spot emerging problems and engage in early prevention efforts rather than merely ex-post enforcement. The ability to determine whether potential targets have previously been found to have violated consumer protection laws by other state or federal agencies will also help the State AGs prioritize targets for future investigations, including when dealing with potential targets that maintain smaller or more regional footprints in their operations and thus may not receive national attention from the Bureau or other federal agencies.

In addition to prioritization, knowledge that a target or potential target previously has been subject to findings by courts or other regulators will provide substantial opportunities for efficiencies in the State AGs' operations. For example, the State AGs may benefit from the ability to quickly obtain factfinding work or other records available from prior investigations or proceedings, making the investigation process more efficient for all parties involved. Similarly, the ability to identify prior consensual resolutions with other state or federal agencies and the key terms of those resolutions, which were previously agreed to by targets, may help facilitate quicker and less combative resolutions of future investigations with those targets or provide useful frameworks for negotiations with entities engaged in similar conduct. The final rule's requirement that large nonbank entities certify compliance with prior final orders and remediation of the underlying conduct also will further the State AGs' own post-order compliance efforts, which are matters to which the State AGs often have precious little resources of their own to devote.

The gains from these efficiencies will not flow to only the State AGs, but also have the potential to benefit nonbank entities subject to the registry themselves, such as through reduced costs in the collection and production of documents or data, as well as the potential streamlining of the identification of compliance concerns and remediation negotiations. In addition, in future investigations, targets might benefit from pointing State AGs to useful information on the registry relevant to ongoing matters, such as prior orders and certifications of compliance.

Indeed, companies that offer consumer financial products and services stand to benefit from the registry, whether or not they ever become subject to its requirements. Many of the most important state and federal consumer protection laws govern a potentially wide range of

conduct with standards that are relatively flexible in scope and definition. By creating a registry, market participants will have a single place to identify instances of specific conduct that courts or agencies have previously determined to be unlawful, deceptive, unfair, or abusive, and to shape their own marketing and compliance efforts accordingly. Similarly, State AGs and other agencies likewise will be able to identify and track other agencies' views on whether particular conduct is problematic, increasing consistency across national marketplaces. This increased transparency and consistency should result in an overall fairer consumer financial marketplace, both for companies that offer products and services and for consumers who engage with those offerings.

For all of the above reasons, the State AGs enthusiastically support the CFPB's final rule, look forward to publication of the initial registry, and remain eager to incorporate the benefits of the registry into the State AGs' ongoing consumer protection work.

Respectfully submitted,



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