

# CFPB Proposes Registry of Terms and Conditions for Nonbanks

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On January 11, the CFPB [proposed](#) a [rule](#) requiring nonbanks subject to its supervisory authority, with limited exceptions, to annually register with the CFPB regarding their use of certain terms and conditions in form contracts for products and services that pose risks to consumers. Nonbanks would be required to register if they use specific terms and conditions defined in the proposed rule that attempt to waive consumers' legal protections, to limit how consumers enforce their rights, or to restrict consumers' ability to file complaints or post reviews. Key parts of the rule do the following:

- Create a public registry of terms and conditions used in non-negotiable, “take it or leave it” nonbank form contracts that claim to waive or limit consumer rights and protections.”
- Require supervised nonbank companies to annually report to the CFPB on their use of standard-form contract terms that “seek to waive consumer rights or other legal protections or limit the ability of consumers to enforce or exercise their rights.”
- Address the following types of terms and conditions, among others:
  - liability limits
  - class action bans
  - arbitration agreements
  - liquidated damages clauses.

In his [statement](#) on the proposed rule, Director Chopra highlighted that the proposed rule would:

- Help regulators and law enforcement more easily detect when companies are offering

products and services using prohibited, void, and restricted contract terms.

- Assist the CFPB and the public to understand the types of terms and conditions that are in use in today's marketplace and their effect on the adequacy of underlying consumer financial protection laws that are being waived or limited.
- Inform how the CFPB conducts its supervision of nonbank financial companies.

**Putting It Into Practice:** Although the proposal represents a continued effort to enhance public transparency and oversight of nonbank financial institutions, one key criticism is that the proposed registry may facilitate unfair and misleading “naming and shaming” campaigns against certain companies from activist groups or competitors.

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