Regulatory Dispatch

Timely news and resources community bankers can use

PYMNTS *CFPB's Move to Rescind Rule 1033 Creates Uncertainty in Open Banking*

Apparently, the days of Rule 1033 are numbered. In fact, as of Sunday (May 25) they might be down to four, as the Consumer Financial Protection Bureau's (CFPB) general counsel indicated late Friday that it will petition a U.S. District Court in Kentucky on May 30 to have the rule rescinded.

The action took place as part of a status report from the bureau in its defense regarding a lawsuit filed against it and acting Chairman Russell Vought by several banks and the Bank Policy Institute (BPI). BPI and co-plaintiffs argued that the CFPB lacks the authority to mandate free, comprehensive data-sharing and that the rule risks undermining safer, emerging private-sector open banking efforts. They also raised concerns about the rule's potential to increase fraud and scams, fail to hold third parties accountable, and allow third parties to profit from systems built by banks.

"After reviewing the rule and considering the issues that this case presents, Bureau leadership has determined that the rule is unlawful and should be set aside," the CFPB stated in a court document released late Friday. "To that end defendants intend to file a motion for summary judgment by May 30th, 2025, the date that this court had set for plaintiffs in its March 27th order."

As has been the case with the bureau's recent announcements, including the recession of the BNPL/Credit Card rule, details were scarce, and reactions muted due to the holiday weekend. The industry will now spend the week identifying and scenario planning for life without the rule, which was enacted in October 2024 and went into phased enforcement in January.

Reaction did come quickly and predictably from the two trade associations that have been at odds over the rule and its implications. Both are important if the hearing at which the CFPB will give up the rule is consequential enough to warrant an appeal.

"The CFPB has taken the appropriate step of acknowledging Section 1033's clear legal deficiencies, and we urge the big tech companies to do the same, rather than protracting a legal dispute that endangers consumer financial data," read a statement from the Bank Policy Institute. "Banks have already made it possible for hundreds of millions of Americans to safely access and share their data — the current rule undermines and disrupts that ecosystem to the benefit of tech companies looking to profit even further from consumers' data."

FinTechs wanted the rule to stand because so many of the sector's companies depend on data sharing as a foundation of their business model. "Vacating the 1033 rule is a handout to Wall

Street banks, who are trying to limit competition and debank Americans from digital financial services," said Penny Lee, president and CEO of the Financial Technology Association.

Comment: – In a court filing last week, the CFPB determined that its Section 1033 rule is unlawful and should be set aside. The CFPB stated that the rule exceeds the agency's legal authority and that it will file a motion for summary judgment in favor of the plaintiffs on that basis. This will likely be challenged by proponents of 'open banking' as Section 1033 is part of the statutory framework of Dodd-Frank.

Bank Management

	CSBS Opening Remarks by CSBS Chair Tony Salazar at the State Federal Supervisory Forum (05/21/2025) – *Change can bring challenges, but it can also bring opportunities. I see several opportunities that are important not just for the state of financial regulation today but for its future. Everything we do right now sets the stage for several years from now. We must lean into that momentum.* *Our success will be measured not now, but in the next time of change, and the time after that. We want to reach a point where whenever change occurs, the U.S. financial regulatory system is regarded as strong.* *The opportunities are many.* *We will only become stronger as a state system if we continue to harmonize and modernize. We have to invest in our people, modernize our platforms, and encourage policies that allow the institutions we supervise to grow and serve consumers well while maintaining safety and soundness.* *We can do that by continuing to modernize the Nationwide Multistate Licensing System, broadening the use of the State Examination System, continuing to adopt model laws, and working together on even more enforcement protocols.* *Our ultimate goal is to make sure our financial system is safe and the consumers it serves are protected.* *That means allowing risk tailored to the institution – not a one-size fits all approach to regulations. We will continue to advocate for better laws and regulations for the institutions we serve.* *And we should continue to find more tools and data to better understand our economy. Sometimes that is mundane – like improving remote teaching videos. Sometimes that is realizing better ways to use what we have, like the mortgage data CSBS collects. And we need to embrace new emerging technologies, like artificial intelligence. We've found it useful in my state, where we recently conducted an AI survey of the institutions we supervise, saving time and money.* *Much of the work we conduct is not in the headlines. That is why I have been surprised by the press reports that changes to federal agencies means no one is looking out for*

	consumers. Now, I cannot speak to what the federal agencies are doing and look forward to my fireside chat with FDIC acting director Travis Hill to learn more about that. But what I can tell you is that consumer protections are at the forefront of our work every day, and we need to amplify that work. I was delighted to be a part of a CSBS group that met with several consumer groups a few months ago and to see that shared publicly. *To my federal friends here today I want to emphasize how much we value your partnerships. I look forward to our conversations here over the next few days to discuss best practices and to develop new approaches.* *That is the whole point of this conference. It fosters our relationships. And working together, we create a stronger financial system.*
	FDIC Board of Directors Releases Semiannual Update on Deposit Insurance Fund Restoration Plan (05/20/2025) – WASHINGTON – The Federal Deposit Insurance Corporation (FDIC) Board of Directors today released the latest semiannual update on the Restoration Plan for the agency's Deposit Insurance Fund (DIF). FDIC staff projects that the reserve ratio remains on track to reach the statutory minimum of 1.35 percent ahead of the statutory deadline of September 30, 2028. Since the previous semiannual update, the DIF reserve ratio increased by 6 basis points—from 1.22 percent as of June 30, 2024, to 1.28 percent as of December 31, 2024, due to growth in the DIF balance and slower-than-average insured deposit growth. The Federal Deposit Insurance Act requires the FDIC Board to adopt a restoration plan when the DIF's reserve ratio—currently defined as the ratio of the fund balance relative to insured deposits—falls below 1.35 percent. On September 15, 2020, the FDIC established the Restoration Plan to restore the DIF reserve ratio to at least 1.35 percent by the 8-year statutory deadline, after extraordinary deposit growth during the first half of 2020 caused the DIF reserve ratio to decline below the statutory minimum.
	FRB Liquidity Facilities: Purposes and Functions - Vice Chair Philip N. Jefferson (05/19/2025) – *How It Works in the U.S. Let me start by discussing how liquidity provisions work in the U.S., as summarized in slide 3. Banks maintain deposit accounts at the Federal Reserve (Fed). The balances in these accounts, known as reserves, are the most liquid assets that banks have and are used to meet payment flows as households and business customers of banks carry out their regular business. Banks often experience mismatches in the timing of payment inflows and outflows, which could occasionally cause the balance in a bank's account at the Fed to become negative. To help institutions manage this mismatch and promote the smooth functioning of the payment system, the Fed extends intraday credit, also known as daylight overdrafts.* *Intraday credit facilities provide temporary credit to depository institutions such as commercial banks and credit unions to foster the smooth functioning of the payment system. If a bank temporarily lacks the funds to process payments, it can use intraday credit to avoid delaying payments until it has sufficient liquidity. The Fed provides intraday*

	credit on both a collateralized and an uncollateralized basis. Collateralized intraday credit is provided free of charge, whereas uncollateralized credit incurs a fee. Since this type of credit is provided on an intraday basis, the Fed expects banks to have positive balances in their accounts by the end of the operational day. If a bank has a negative balance at the end of day, it incurs an overnight overdraft and pays a penalty. *The Fed also provides overnight credit through the discount window to approved counterparties against a broad range of collateral. This type of liquidity provision is designed to mitigate short-term misallocations of liquidity. For example, a bank may need to settle a large payment at the end of the day, but it may temporarily have insufficient funds in its account to do so. To meet the payment obligation, the bank could borrow in private interbank markets—in which financial institutions lend funds to each other on a short-term basis—or from the central bank. The rate on overnight credit also helps central banks with monetary policy implementation. In addition, overnight liquidity facilities often serve as a first line of defense against stresses, and they stand ready to provide liquidity when institutions face outflows.* *All discount window loans are collateralized, and a wide range of bank assets, including a variety of loans and securities, are eligible to serve as collateral.3 The Fed operates three separate facilities under the discount window: primary credit, secondary credit, and seasonal credit.* *The first one, primary credit, is available to generally sound banks at a rate that is currently set at the top of the target range for the federal funds rate. Providing liquidity at this rate supports the implementation of monetary policy because institutions can turn to the Fed if conditions tighten in money markets that might otherwise push overnight money market rates above levels that would be consistent with the Fed's target range. As I noted earlier, primary credit also helps deal with idiosyncratic funding challenges that banks might be experiencing. Most of the funding provided is on an overnight basis; however, funding is available for up to 90 days.* *The next one, secondary credit, is available to banks that are not sufficiently healthy to have access to primary credit. It is available at a higher rate, features higher haircuts on collateral, and is limited to overnight credit.4* *The third facility, seasonal credit, provides short-term liquidity to smaller institutions that experience sizable seasonal fluctuations in their balance sheets. Typically, these are banks located in agricultural or tourist areas.*

BSA / AML

	FinCEN Requests Comments on Renewal of the OMB Control Number for Regulations Regarding the Prohibition on Correspondent Accounts (05/22/2025) – On May 22, 2025, the Financial Crimes Enforcement Network (FinCEN) published in the Federal Register a 60-day notice to renew the Office of Management and Budget control number assigned to existing Bank Secrecy Act regulations at 31 CFR 1010.630. Under these regulations, among

	other requirements, a covered financial institution is prohibited from maintaining correspondent accounts in the United States for or on behalf of a foreign shell bank. The regulations require that a covered financial institution take reasonable steps to ensure that any correspondent account that it maintains in the United States for a foreign bank is not used by the foreign bank to indirectly provide banking services to a foreign shell bank. The notice is required under the Paperwork Reduction Act of 1995 (PRA) to give the public an opportunity to comment on existing regulatory requirements and burden estimates. FinCEN is also seeking public comments on an updated methodology designed to improve the accuracy of cost and time estimates under the PRA. FinCEN encourages the public to review this notice and provide comment on or before June 21, 2025.

Deposit / Retail Operations

	FTC Spotting Student Loan Scams (05/21/2025) – Did you recently get an email about your federal student loans? Not sure about the status of your federal student loans? Start by logging in to StudentAid.gov. You'll see information about your loan servicer and how to reach them. If you have questions or need help with your loans, contact your servicer directly.
	FTC Let's talk about scams this Older Americans Month (05/19/2025) – Older adults may come from different backgrounds, but one thing they have in common is wisdom gained from life experience. This Older Americans Month, whatever your age, the FTC encourages you to share your wisdom about avoiding scams and fraud with the older adults in your life.

Technology / Security

	CFPB AI Data Security: Best Practices for Securing Data Used to Train & Operate AI Systems (05/22/2025) – CISA, the National Security Agency, the Federal Bureau of Investigation, and international partners released AI Data Security: Best Practices for Securing Data Used to Train & Operate AI Systems. This guidance highlights the critical role of data security in ensuring the accuracy, integrity, and trustworthiness of AI outcomes. It outlines key risks that may arise from data security and integrity issues across all phases of the AI lifecycle, from development and testing to deployment and operation.

Selected federal rules – proposed

Proposed rules are included only when community banks may want to comment. Date posted may not be the same as the Federal Register Date.

05.22.2025 FinCEN Agency Information Collection Activities; Proposed Renewal; Comment Request; Renewal Without Change of Prohibition on Correspondent Accounts for Foreign Shell Banks; Records Concerning Owners of Foreign Banks and Agents for Service of Legal Process SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, FinCEN invites comments on the proposed renewal, without change, of certain existing information collection requirements found in Bank Secrecy Act (BSA) regulations applicable to certain covered financial institutions. Under these regulations, among other requirements, a covered financial institution is prohibited from establishing, maintaining, administering, or managing correspondent accounts in the United States for or on behalf of a foreign shell bank. The regulations require that a covered financial institution take reasonable steps to ensure that any correspondent account that it establishes, maintains, administers, or manages in the United States for a foreign bank is not used by the foreign bank to indirectly provide banking services to a foreign shell bank. The regulations also mandate that a covered financial institution that maintains a correspondent account in the United States for a foreign bank retain records in the United States identifying the owners of each such foreign bank whose shares are not publicly traded, unless the foreign bank files a Form FR-Y with the Federal Reserve Board identifying the current owners of the foreign bank, and the name and street address of a person who resides in the United States and is authorized, and has agreed to be an agent to accept service of legal process for records regarding each such correspondent account. This request for comments is made pursuant to the Paperwork Reduction Act of 1995. **DATES: Written comments are welcome and must be received on or before July 21, 2025.**