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CFPB Plans to Dust off ‘Dormant’ Nonbank Oversight Powers

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Chris Willis, co-leader of Troutman Pepper’s Consumer Financial Services Regulatory Practice Group, was quoted in the *Law360* article, [“CFPB Plans to Dust off ‘Dormant’ Nonbank Oversight Powers.”](#)

“People generally seem to think it will be directed at fintechs or tech companies, but what they’ve done legally isn’t limited to any particular industry or product type,” said Chris J. Willis, a Troutman Pepper partner and co-leader of the firm’s consumer financial services regulatory practice. “It could be used on an auto title lender or a payment processor, too.”

Because the CFPB must make firm-specific determinations to invoke this exam authority, it’s not an especially efficient means of expanding its oversight jurisdiction, Willis added. Still, if the agency does want to start examining a particular company, he said it could be tough for that nonbank to challenge that decision.

“The bottom line is there’s not a lot to litigate when this happens, because the bureau hasn’t taken any action other than to say it’s going to conduct an examination in the future,” Willis said.

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But Willis, Kaplinsky, and other attorneys noted the CFPB could face particular resistance from nonbanks to the accompanying plans it unveiled for public disclosure of risk determinations. That’s because, to consumers, those determinations might look like findings of wrongdoing on the part of companies the agency deems risky enough to warrant examination.

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That perception could also be hard to combat. If a company in this situation were to be examined and given a spotless report card, for example, CFPB regulations would prohibit it from publicizing those findings, according to Willis.

“They get tagged with the stigma of it, but then they can never say anything else about it, regardless of how the exam comes out,” he said.

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