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DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Part 155

[CMS–9872–IFC]

RIN 0938–AW26

Patient Protection and Affordable Care Act; Temporary Moratoria on Certain Agent and Broker Registration to Participate in the Exchanges

AGENCY: Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS).

ACTION: Interim final rule with comment period.

SUMMARY: This interim final rule with comment period (IFC) codifies the Department of Health and Human Services' (HHS) authority to impose a temporary moratorium pausing the registration of agents and brokers that do not have a current Plan Year registration with the Federally-facilitated Exchanges at the time the moratorium is effective and are seeking to enter into Exchange agreements with the Centers for Medicare & Medicaid Services (CMS) to assist consumers with enrollment through the Federally-facilitated Exchange (FFE) and State-based Exchanges that use the Federal platform (SBE-FPs) (hereinafter collectively referred to as the "Federally-facilitated Exchanges"). HHS is issuing this rule on an interim final basis. For the reasons explained in this rule, HHS finds good cause under the Administrative Procedure Act (APA) to waive prior notice and comment because providing advance notice would be contrary to the public interest and impracticable. HHS further finds good cause under the APA for this rule to become effective immediately upon publication. HHS nevertheless invites public comment and will consider comments in determining whether to retain, modify, or rescind the codified authority established by this rule. Further, CMS provides notice that, on behalf of HHS, the agency is immediately imposing a temporary moratorium to pause the registration of agents and brokers that do not have Plan Year 2026 Exchange agreements with the Federally-facilitated Exchanges and are seeking to enter into agreements with CMS to assist consumers with

enrollment through the Federally-facilitated Exchanges for Plan Year 2027. This temporary moratorium does not affect registrations on the State-based Exchanges (SBEs). This moratorium will be in place while CMS implements enhanced program-integrity safeguards designed to prevent instances of noncompliance and fraud, waste, and abuse perpetrated by agents and brokers, including unauthorized enrollment activity, misuse of consumer personally identifiable information (PII), and other conduct that does not comply with Exchange standards and threatens consumers and the integrity of the Federally-facilitated Exchanges. Agents and brokers that do not have Plan Year 2026 Exchange agreements with CMS will not be able to complete registration with the Federally-facilitated Exchanges for Plan Year 2027 until the moratorium ends on February 1, 2027.

DATES: *Effective date:* This IFC is effective on September 22, 2026.

Comment date: To be assured consideration, comments must be received at one of the addresses provided below, by November 21, 2026.

Moratorium period: This moratorium is effective on September 22, 2026. The temporary moratorium for which CMS provides notice here will remain in effect until February 1, 2027, unless CMS lifts it earlier, extends it further, or otherwise modifies it through subsequent notice in the **Federal Register**.

ADDRESSES: In commenting, please refer to file code CMS-9872-IFC.

Comments, including mass comment submissions, must be submitted in one of the following three ways (please choose only one of the ways listed):

1. *Electronically*. You may submit electronic comments on this regulation to https://www.regulations.gov/docket/CMS-2026-3202. Follow the "Submit a comment" instructions.

2. *By regular mail*. You may mail written comments to the following address ONLY:

Centers for Medicare & Medicaid Services,

Department of Health and Human Services,

Attention: CMS-9872-IFC,

P.O. Box 8016,

Baltimore, MD 21244-8016.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail*. You may send written comments to the following address ONLY:

Centers for Medicare & Medicaid Services,

Department of Health and Human Services,

Attention: CMS-9872-IFC,

Mail Stop C4-26-05,

7500 Security Boulevard,

Baltimore, MD 21244-1850.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Jeff Wu by email at FFMProducer-AssisterHelpDesk@cms.hhs.gov, for general information.

SUPPLEMENTARY INFORMATION:

Inspection of Public Comments: All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following website as soon as possible after they have been received: http://www.regulations.gov. Follow the search instructions on that website to view public comments. HHS will not post on Regulations.gov public comments that make threats to individuals or institutions or suggest that the commenter will take actions to harm an individual. HHS continues to encourage individuals not to submit duplicative comments. We will post

acceptable comments from multiple unique commenters even if the content is identical or nearly identical to other comments. We encourage commenters to include supporting facts, research, and evidence in their comments. When doing so, commenters are encouraged to provide citations to the published materials referenced, including active hyperlinks. Likewise, commenters who reference materials which have not been published are encouraged to upload relevant data collection instruments, data sets, and detailed findings as a part of their comment. Providing such citations and documentation will assist us in analyzing the comments.

I. Background

A. Statutory Framework

The Patient Protection and Affordable Care Act (Affordable Care Act) establishes a framework for the establishment and operation of Exchanges through which qualified individuals and qualified employers may obtain coverage under qualified health plans (QHPs). The Affordable Care Act assigns the Secretary of HHS (Secretary) responsibility for establishing standards governing Exchange operations and specifically authorizes the Secretary to establish procedures governing the participation of agents, brokers, and web-brokers in Exchange enrollment activities. HHS also has responsibilities related to the effective administration and operation of the Federally-facilitated Exchanges.

1. Section 1312(e) of the Affordable Care Act

Section 1312(e) of the Affordable Care Act directs the Secretary to establish procedures under which a State may allow agents, brokers, or web-brokers to enroll qualified individuals in QHPs offered through an Exchange and to assist individuals in applying for advance payments of the premium tax credit (APTC) and cost-sharing reductions (CSRs) for QHPs sold through an Exchange.[1]

Section 1312(e) of the Affordable Care Act therefore assigns the Secretary responsibility for establishing the Federal procedures governing agent, broker, and web-broker assistance to

[1] *See* 42 U.S.C. 18032(e).

Exchange consumers with submission of applications for enrollment in QHPs and to seek Federal financial assistance. Consistent with that authority, HHS has established requirements governing agents, brokers, and web-brokers[2] that seek to facilitate enrollment through an Exchange, including requirements relating to registration, training, execution of Exchange agreements, use of Exchange systems, protection of PII, standards of conduct, and compliance with applicable Federal and State requirements.

HHS has implemented section 1312(e) primarily through 45 CFR 155.220. Section 155.220 establishes standards governing the ability of agents, brokers, and web-brokers to assist qualified individuals, qualified employers, and qualified employees with enrollment in QHPs and, where applicable, to assist individuals with applications for APTC and CSRs. The authority to establish procedures governing agent, broker, and web-broker assistance to Exchange consumers necessarily includes authority to establish reasonable registration, verification, and program integrity safeguards applicable to persons seeking to assist Exchange consumers in FFE and SBE-FP States. HHS considers such safeguards particularly important because agents, brokers, and web-brokers have access to sensitive consumer information, as well as Federal Exchange systems, and facilitate transactions affecting QHP enrollment and eligibility for Federal financial assistance.

2. Section 1321 of the Affordable Care Act: Exchange Standards and Federal Administration

Section 1321(a) of the Affordable Care Act directs the Secretary to issue regulations setting standards for meeting the requirements of title I of the Affordable Care Act with respect to, among other matters, the establishment and operation of Exchanges.[3] Section 1321(c) of the Affordable Care Act further provides for the Secretary to establish and operate an Exchange within a State when the State does not elect to establish an Exchange or does not have an

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[2] *See* 45 CFR 155.20. Web-broker is a subset of agents and brokers defined as "an individual agent, broker, or web-broker, group of agents, brokers, or web-brokers, or business entity registered with an Exchange under § 155.220(d)(1) that develops and hosts a non-Exchange website that interfaces with an Exchange to assist consumers with direct enrollment in QHPs offered through the Exchange as described in § 155.220(c)(3) or § 155.221. The term also includes an agent, broker, or web-broker direct enrollment technology provider."

[3] *See* 42 U.S.C. 18041(a).

Exchange that meets applicable Federal requirements.[4] These provisions give HHS responsibility for the effective administration and operation of the Exchange in FFE and SBE-FP States.

In carrying out those responsibilities, HHS establishes standards governing access to and use of Federal Exchange systems, including standards applicable to agents, brokers, and web-brokers that seek to conduct enrollment transactions or otherwise assist consumers submitting applications or enrollments through those systems. Those standards are necessary to protect consumers, safeguard PII, preserve the integrity and security of Federal information systems, and ensure the proper administration of Federally-facilitated Exchange enrollment and financial-assistance functions.

3. Section 1313(a)(5)(A) of the Affordable Care Act: Fraud and Abuse

Section 1313(a)(5)(A) of the Affordable Care Act directs the Secretary to provide for the efficient and nondiscriminatory administration of Exchange activities and to implement measures or procedures that the Secretary determines appropriate to reduce fraud and abuse in the administration of title I of the Affordable Care Act.

This authority is particularly pertinent where HHS identifies vulnerabilities related to Exchange consumers and information systems that may facilitate fraudulent or unauthorized activity. Congress expressly contemplated and granted broad authority to the Secretary to establish measures and procedures to reduce fraud and abuse in the administration of the Exchange provisions of the Affordable Care Act. HHS therefore has authority not only to respond to particular instances of agent, broker, or web-broker misconduct, but also to adopt reasonable proactive safeguards designed to reduce opportunities for fraud and abuse in administration and operation of Exchanges.

B. Executive Summary

Healthcare fraud, waste, and abuse is a pervasive issue that this Administration is tackling in an unprecedented fashion. For example, on March 16, 2026, President Trump issued

[4] *See* 42 U.S.C. 18041(c).

Executive Order 14395, establishing the White House Task Force to Eliminate Fraud. Under § 3(ii) of Executive Order 14395, the Task Force shall develop appropriate controls that operate before funds are obligated or disbursed to prevent improper payments in Federal benefits programs, including by coordinating agency action to determine when ongoing fraud or potential fraud require proactively pausing certain types of funding until such controls can be established. Consistent with the Administration's focus on preventing and eradicating fraud from healthcare programs, including this Program, this IFC codifies at 45 CFR 155.220(o) the authority and framework for HHS to impose temporary moratoria on the registration of certain agents and brokers seeking to enter into Exchange agreements[5] with CMS to assist consumers with submission of applications and enrollments through the Federally-facilitated Exchanges. Concurrently, notice is also being provided that CMS is immediately imposing a temporary moratorium on the registration of agents and brokers that do not have Plan Year 2026 Exchange agreements and are seeking to enter into agreements with CMS to assist consumers with submission of applications and enrollments through Federally-facilitated Exchanges for Plan Year 2027. The temporary moratorium will remain in effect until February 1, 2027, unless otherwise modified or rescinded. The authority and framework codified in this IFC and the concurrent notice immediately imposing a temporary moratorium do not apply to registration of web-brokers with the Federally-facilitated Exchanges.

II. Provisions of the IFC for Agent and Broker Moratoria (§ 155.220) and Notice of a Temporary Moratorium

A. *Imposition of Moratoria*

Protecting Exchange consumers is a core responsibility of HHS as provided for in the Affordable Care Act. Consistent with that responsibility, we are adding 45 CFR 155.220(o) to

[5] Consistent with § 155.220(d), there are currently three Exchange agreements with CMS that extend to agents, brokers, and web-brokers assisting consumers in the FFEs and SBE-FPs: (1) the Agent Broker General Agreement for Individual Market FFEs and SBE-FPs, (2) the Agent Broker Privacy and Security Agreement for Individual Market FFEs and SBE-FPs, and optionally, (3) the Agent Broker SHOP Privacy and Security Agreement.

codify the process for implementing moratoria on agent and broker registrations with the Federally-facilitated Exchanges in certain circumstances in accordance with authority conferred by Congress under sections 1312(e), 1321, and 1313(a)(5)(A) of the Affordable Care Act. Current data, as discussed in more detail in section II.B of this IFC, supports additional safeguards to codify the authority to impose a temporary moratorium on agents and brokers is appropriate. At this time, CMS has determined additional regulation on web-brokers is unnecessary. Agents and brokers generally enter into 1-year Exchange agreements with CMS that go into effect beginning with the applicable plan year's Open Enrollment period, and those Exchange agreements automatically terminate prior to the following plan year's Open Enrollment Period. Prior to entering into Exchange agreements, agents and brokers must complete annual registration, which includes creating a CMS account, passing identity proofing,[6] accessing and setting up a profile for registration, completing required training, and executing Exchange agreements for the plan year. Section 155.220(o) provides that HHS may impose temporary moratoria on the registration of certain agents and brokers seeking to enter into Exchange agreements when CMS determines that certain agents' or brokers' conduct poses an unacceptable risk to the accuracy of the Federally-facilitated Exchanges' eligibility determinations, operations, applicants, or enrollees, or Federally-facilitated Exchange information technology systems, including risk related to noncompliance with the standards of conduct under § 155.220(j) and the privacy and security standards under § 155.260. Specifically, HHS may impose a temporary moratorium pausing certain agent and broker registrations with the Exchange under § 155.220(d)(1) for agents and brokers that do not have a current Plan Year registration with the Federally-facilitated Exchanges at the time the moratorium is effective. Agents and brokers that are subject to a moratorium would be prevented from completing training and registration, including executing the Exchange agreements, until the moratorium is

[6] National Institute of Standards and Technology (NIST) defines "identity proofing" as "the process of establishing a relationship between a subject accessing online services and a real-life person to some degree of assurance." NIST Special Publication 800-63A; https://pages.nist.gov/800-63-4/sp800-63a/introduction/.

lifted. A moratorium under § 155.220(o) does not prevent registration with the Federally-facilitated Exchanges for agents and brokers that do not have a current Plan Year registration with the Federally-facilitated Exchanges at the time a moratorium is effective due to (1) a termination under § 155.220(g) or (2) a denial of the right to enter into Exchange agreements with the Federally-facilitated Exchanges in future years under § 155.220(k)(1)(i) when such a termination or denial is subsequently reversed, or the agent's or broker's Exchange agreements are reinstated while the moratorium is in place. When imposing a moratorium on registrations with the Federally-facilitated Exchanges for agents and brokers, CMS will publish a notice in the **Federal Register** indicating the date on which the moratorium on registrations will take effect, the reasons for imposing the moratorium on registrations, and the duration of the moratorium.

Agents and brokers who help consumers enroll in individual QHPs typically earn a per-member-per-month commission from health insurance issuers for each active enrollment, meaning their compensation is tied directly to the number of consumers they enroll in plans. Because more enrollments and plan switches translate into more compensation (including commission income, bonuses, etc.), some unscrupulous agents and brokers have a financial incentive to create enrollments for fictitious persons, enroll consumers without consent, sign them up for coverage they did not request, or switch them between plans to generate additional compensation.

CMS has made strides in strengthening program integrity across the Federally-facilitated Exchanges, as discussed in detail in the Patient Protection and Affordable Care Act, HHS Notice of Benefit and Payment Parameters for 2027; and Basic Health Program (91 FR 29526, 29530). The addition of § 155.220(o), which establishes a process for HHS to implement a temporary moratorium on certain agent and broker registrations, supplements and complements HHS' existing enforcement options under § 155.220(g) to terminate Exchange agreements and under 155.220(k)(3) to immediately suspend an individual agent's or broker's ability to transact information with the Exchanges in certain circumstances. Specifically, § 155.220(o) authorizes

HHS to implement temporary moratoria on registration when HHS agent or broker, or web-broker conduct systemically poses an unacceptable risk to the accuracy of the Exchange's eligibility determinations, Exchange operations, applicants, or enrollees, or Exchange information technology systems. Section 155.220(g) permit HHS to address risks presented by individual agents, brokers, or web-brokers, § 155.220(o) provides a broader mechanism to temporarily restrict certain agent and broker registrations at a systemic level when existing deemed by HHS insufficient to address identified vulnerabilities associated with agent and broker access to Federal Exchange systems, enrollment functions, and consumer. This authority enables HHS to take prompt, program-wide action, to protect applicants, enrollees, Federally-facilitated Exchange operations, and Federal Exchange systems while the identified vulnerabilities are addressed. As discussed in more detail in section II.B of this IFC, even with efforts to enhance program integrity across the Federally-facilitated Exchanges, CMS has observed a substantial increase in allegations and confirmed instances of unauthorized facilitated enrollments on the Federally-facilitated Exchanges and other non-compliant practices involving agents and brokers. From 2023 through 2025, CMS received over 624,000 consumer complaints attesting to unauthorized enrollments or unauthorized plan switching in the Federally-facilitated Exchanges by agents or brokers and confirmed by issuer review; approximately 300,000 of the 624,000 consumer complaints were received in 2025 alone.[7] We further discussed these concerns in the 2027 Notice of Benefit and Payment Parameters (91 FR 29526) where we stated that overall, HHS observed an increase in the number of unauthorized enrollment complaints made in 2025 compared to 2024 while acknowledging that data from the beginning of 2026 already demonstrates a substantial decrease. However, as discussed throughout this IFC, we continue to

[7] *See* GAO. (2025 Dec.) Patient Protection and Affordable Care Act: Preliminary Results from Ongoing Review Suggest Fraud Risks in the Advance Premium Tax Credit Persist, GAO-26-108742. *https://www.gao.gov/products/gao-26-108742* (explaining, "Based on our preliminary analyses, we identified at least 30,000 applications in plan year 2023 and at least 160,000 applications in plan year 2024 that had likely unauthorized changes."). *See also* GAO. (2026 July) Health Insurance Marketplaces: CMS Needs Stronger Controls to Prevent Unauthorized Actions by Agents and Brokers, GAO-26-108297. *https://www.gao.gov/products/gao-26-108297.*

be concerned about the unauthorized enrollments and believe that more action is needed to address the issue at this time. Federal investigations have shown that some Federally-facilitated Exchange eligibility applications submitted by agents and brokers include income amounts that are inaccurate and avoid Medicaid and CHIP eligibility determinations, while increasing the amount of APTC for which a consumer is eligible.[8]

CMS has been taking proactive steps using existing enforcement authorities to terminate Exchange agreements and prohibit registrations of non-compliant agents and brokers. For example, in July 2026, CMS issued Notices of Intent to Terminate to the top 100 agents and brokers whose Federally-facilitated Exchange enrollment activity shows potential violations of Exchange standards of conduct, including repeatedly submitting applications without required applicant identification information, such as Social Security Numbers, at an implausible rate.[9] Additionally, in late August 2026, CMS issued an additional 469 Notices of Intent to Terminate Exchange agreements to agents and brokers that submitted statistically implausible rates of plan year 2026 applications without identifying applicant information, such as a Social Security Number. A retrospective approach, however, is insufficient to address the scope and level of non-compliant practices involving agents and brokers and identified program vulnerabilities. While existing safeguards and enforcement efforts address many aspects of agent and broker oversight, additional measures are needed to address vulnerabilities associated with agents and

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[8] *See, for example*, United States v. Cory Lloyd et al. Criminal Division | United States v. Cory Lloyd et al United States Department of Justice. (2026, April 14). ("Defendants plead guilty to targeting vulnerable, low-income persons and persons experiencing homelessness, unemployment, and mental health and substance use disorders and encouraged them to enroll in subsidized Affordable Care Act Plans using falsified income and other information, and resulting in restitution of 133,900,000.00."). *See also* DOJ (2026, April 7) National Partnership of Insurance Brokers and its Former Subsidiary Agree to Pay Over $135 Million For Affordable Care Act Enrollment Fraud Scheme. https://www.justice.gov/opa/pr/national-partnership-insurance-brokers-and-its-former-subsidiary-agree-pay-over-135-million; DOJ (2026, February 18) President of Insurance Brokerage Firm and CEO of Marketing Company Sentenced in $233M Affordable Care Act Enrollment Fraud Scheme that Preyed on Vulnerable Consumers. https://www.justice.gov/opa/pr/president-insurance-brokerage-firm-and-ceo-marketing-company-sentenced-233m-affordable-care.

[9] CMS Administrator Dr. Oz, Facebook (July 30, 2026), https://www.facebook.com/DrOzCMS/posts/accountability-is-comingcms-is-issuing-notices-of-intent-to-terminate-to-the-top/122198741282832696/.

brokers while CMS completes implementation of enhanced identity-verification, authentication, monitoring, and other program-integrity controls.

Without additional measures, consumers are at greater risk of losing their desired coverage, having their coverage changed inappropriately, and taxpayers are at greater risk of inappropriate expenditures of APTC, which hinders the efficient operation of the Federally-facilitated Exchanges. Existing enforcement tools under § 155.220(g) and § 155.220(k)(3) operate only after an agent or broker is already registered and conducting transactions. Additional safeguards are necessary as current enforcement mechanisms do not prevent harm at the point of entry. A temporary, prospective pause on new registrations allows CMS to enhance identity-verification, authentication, monitoring, and other program-integrity controls before additional agent and broker entrants begin assisting consumers. Therefore, we are codifying at § 155.220(o) the ability for HHS to implement temporary moratoria on agent and broker registrations with the Federally-facilitated Exchanges.

Under § 155.220(o), HHS may impose a temporary moratorium pausing registrations with the Federally-facilitated Exchanges under § 155.220(d)(1) of agents and brokers that do not have a current Plan Year registration with the Federally-facilitated Exchanges at the time a moratorium is effective. However, a moratorium under this paragraph does not prevent registration with the Federally-facilitated Exchanges for agents and brokers that do not have a current Plan Year registration with the Federally-facilitated Exchanges at the time a moratorium is effective due to a termination under § 155.220(g) or a denial of the right to enter into Exchange agreements with the Federally-facilitated Exchanges in future years under § 155.220(k)(1)(i), when such a termination or denial is subsequently reversed, or the agent or, broker's Exchange agreement is reinstated while the moratorium is in place. In balancing the need to take immediate action to implement measures to reduce fraud, waste, and abuse in response to identified program vulnerabilities against allowing agents and brokers that do not have a current Plan Year registration with the Federally-facilitated Exchanges at the time the

moratorium is effective to complete the registration process and assist consumers, we determined it was appropriate through the notice in this rulemaking to temporarily pause registration for certain agents and brokers. Under § 155.220(o), the current moratorium will apply to agents and brokers that do not have current Plan Year 2026 Exchange agreements, which includes agents and brokers who would be new entrants for Plan Year 2027. This approach reflects the enrollment data trends observed by CMS which demonstrate that newly registered agents and brokers disproportionately represent agents and brokers found to have engaged in unauthorized enrollments and other non-compliant practices as described in section II.B of this IFC below.

Additionally, when imposing a moratorium on registrations for agents and brokers under § 155.220(o), HHS will publish a document in the Federal Register indicating the date on which the moratorium on registrations will take effect, the reasons for imposing the moratorium on registrations, and the duration of the moratorium. We determined these elements were appropriate to align with other CMS programs' procedures related to implementing moratoria,[10] and to provide transparency into the circumstances HHS determined necessitated implementing a moratorium on certain agent and broker registrations.

Concurrent with the publication in section II.B below, we are providing notice here for the current moratorium on new agent and broker entrants for Plan Year 2027 who do not have a Plan Year 2026 Exchange agreement.

Allowing agents and brokers subject to a reinstatement or reversal of either (1) a termination under § 155.220(g), or (2) a denial to enter into Exchange agreements with the Federally-facilitated Exchanges in future years under § 155.220(k)(1)(i) to register during a moratorium is appropriate as a general exception during a moratorium because, once reinstated, these agents and brokers are again in good standing with the Federally-facilitated Exchanges, stand in the same position as other agents and brokers not subject to the moratorium, and are not new entrants to the Federally-facilitated Exchanges.

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[10] *See, e.g.*, 42 CFR 424.570 (detailing moratoria on newly enrolling Medicare providers and suppliers).

B. Notice and Applicability of a Temporary Moratorium for Plan Year 2027

In accordance with the regulatory provisions described in section II.A of this IFC, CMS is providing notice of a temporary moratorium on registration with the Federally-facilitated Exchanges of agents and brokers hat do not have Plan Year 2026 Exchange agreements as of the effective date of this IFC which will remain in effect until February 1, 2027. CMS has determined that immediate action is necessary because existing safeguards do not adequately address identified vulnerabilities associated with agent and broker access to Federal Exchange systems, enrollment functions, and consumer PII. Onboarding of agents and brokers new to the Federally-facilitated Exchanges before enhanced identity-verification, authentication, monitoring, and other program-integrity controls are implemented would increase the risk of harm to consumers and the efficient operation of Federally-facilitated Exchanges, and result in improper APTC expenditures. Current trends would continue resulting in further consumer harm, including unauthorized enrollment and changes in coverage, which put consumers at greater risk of losing their desired coverage. The Federally-facilitated Exchanges and issuers would need to continue spending considerable resources investigating and reversing unauthorized enrollments and changes in coverage. Those not discovered would result in improper expenditures of APTC. CMS has therefore determined it is an appropriate program integrity measure to temporarily pause registration of agents and brokers that do not have Plan Year 2026 Exchange agreements with CMS on the Federally-facilitated Exchanges as of the effective date of this rule.

The moratorium does not prevent registration with the Federally-facilitated Exchanges for agents and brokers that do not have a 2026 Plan Year agreement with the Federally-facilitated Exchanges as of the effective date of this IFC due to (1) a termination under § 155.220(g), or (2) a denial of the right to enter into Exchange agreements with the Federally-facilitated Exchanges in future years under § 155.220(k)(1)(i), when such a termination or denial is subsequently reversed or their Exchange agreements are reinstated while the moratorium is in place. For example, if an agent's Plan Year 2026 Exchange agreements are

terminated for cause under § 155.220(g) such that the agent or broker does not have active Plan Year 2026 Exchange agreements as of September 22, 2026, but that agent subsequently receives a favorable decision from the CMS Administrator following a request for reconsideration under § 155.220(h), that agent would not be prevented from registering during the imposed moratorium. The moratorium also does not affect agents and brokers seeking to register on the SBEs.

Agents and brokers subject to the moratorium will not be able to complete the Federally-facilitated Exchanges registration process for Plan Year 2027 until the moratorium expires on February 1, 2027 or is otherwise lifted.

1. Reasons for Imposing the Moratorium on New Agent Broker Registrations with the Federally-facilitated Exchanges

Protecting Exchange consumers and safeguarding Exchange operations are core responsibilities of CMS as the administrator and operator of the Federally-facilitated Exchanges. CMS has observed a substantial increase in allegations and confirmed instances of unauthorized enrollments, unauthorized plan switching, and other noncompliant practices involving newly-registered agents and brokers on the Federally-facilitated Exchanges.

In particular, CMS data indicate that agents and brokers who first registered with the Federally-facilitated Exchanges for Plan Year 2026 are disproportionately represented among agents and brokers whose Federally-facilitated Exchange enrollment activity raised significant compliance concerns. Although these newly registered agents and brokers represent approximately 11 percent of all registered agents and brokers with at least one active enrollment for Plan Year 2026,[11] they account for approximately 30 percent of the 569 agents and brokers who received Notices of Intent to Terminate Exchange agreements in July and August of 2026 based on their Federally-facilitated Exchange enrollment activity showing potential violations of

[11] In Plan Year 2026, of the 84,012 total registered agents and brokers with active enrollments in the FFE or SBE-FPs, 8,937 were agents and brokers who newly registered for Plan Year 2026 and had an active enrollment for the Plan Year, 6,956 of whom had at least one active enrollment during Open Enrollment.

Exchange standards of conduct or statistically implausible rates of plan year 2026 applications without identifying applicant information, such as a Social Security Number. Since newly registered agents and brokers generally constitute about a tenth of the total agent and broker population with active enrollments on the Federally-facilitated Exchanges in this period and newly registered agents and brokers generally constitute more than a quarter of the total agents and brokers found noncompliant in this period, we conclude that newly registered agents and brokers are, on average, about three times more likely to engage in noncompliance than agents and brokers who registered prior to 2026 and have operated on the Federally-facilitated Exchanges in the past. These investigations have identified noncompliant conduct, including the submission of applications without required applicant identification information, such as Social Security Numbers,[12] at rates that CMS determined were sufficiently implausible and raise significant compliance concerns.[13]

Agents and brokers newly registered in Plan Year 2026 exhibited higher rates than the general agent and broker population across several factors tied to unauthorized enrollments or noncompliant practices, when compared to agents and brokers registered before Plan Year 2026 (i.e. who were not new agents or brokers), because they indicate that the agents and brokers did not provide the Federally-facilitated Exchanges with correct information as required under § 155.220(j)(2)(ii):

- 2.8 times higher rate of enrollments with unresolved income verification data matching issues (DMIs);

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[12] When an agent, broker, or web-broker assists a consumer with an Exchange application and identifies themselves by providing their name and National Producer Number (NPN), 45 CFR 155.220(j)(2)(ii) requires that the agent, broker, or web-broker provide the FFEs with correct information about the applicants. This obligation includes asking for and providing each applicant's SSN, when the applicant has one. *See* 45 CFR 155.310(a)(3)(i). Absent compliant documentation that the consumer or the consumer's authorized representative reviewed the application information (including the applicant's SSN) and confirmed it to be accurate, an agent, broker, or web-broker may be found noncompliant with the standard of conduct under 45 CFR 155.220(j)(2)(ii).

[13] Less than 1 percent of PY 2026 policies submitted through the FFEs without the assistance of agents, brokers, or web-brokers did not include applicant SSNs or immigration document numbers, indicating that the overwhelming majority of applicants provided either an SSN or an immigration document number. Against this backdrop, it's statistically implausible that agents, brokers, and web-brokers that submitted an unusually high rate and volume of policies without applicant SSNs or immigration document numbers were submitted with correct applicant information.

● 2.7 times higher rate of enrollments without Social Security Numbers;

● 2.6 times higher rate of enrollments with unresolved citizenship or immigration status verification DMIs;

● 1.6 times higher rate of enrollments that use special enrollment periods (SEPs) that are not subject to verification;

● 1.4 times higher rate of enrollments that include Medicaid denial attestations; and

● 1.4 times higher rate of enrollments that were matched in Medicaid/CHIP periodic data matching that may mean individuals were enrolled in coverage for which they were not eligible.

Each of the above factors represent a point in the enrollment application that is self-attested or unverified, which creates an opening for agents and brokers to submit or alter enrollment data without a genuine, informed decision from the consumer. CMS tracks patterns associated with these factors specifically because they correlate strongly with confirmed cases of unauthorized enrollment schemes reported through the FFE complaint and audit processes. CMS has worked to identify noncompliant agents and brokers and bring enforcement action against them, such as suspensions and terminations of Exchange agreements. To date, CMS has issued final terminations to 160 agents and brokers for non-compliant behavior in Plan Year 2026, with 11 percent of them being agents and brokers newly registered in 2026. The higher rates of noncompliance by new agents and brokers described above put consumers at greater risk of losing their desired coverage, having their coverage changed inappropriately, and putting taxpayers at greater risk of inappropriate expenditures of APTC.

As a result, CMS has determined that immediate action is necessary while CMS implements enhanced program-integrity safeguards designed to prevent fraud, unauthorized enrollment activity, misuse of consumer PII, and other conduct that threatens consumers and the integrity of the Exchanges. The disproportionate representation of newly registered agents and brokers among the agents and brokers subject to these enforcement actions indicates that newly entering agents and brokers present a distinct and heightened program-integrity risk. Temporarily

pausing the registration of new agents and brokers narrowly targets the category of agents and brokers that CMS has determined warrant additional scrutiny, while allowing CMS time to implement additional safeguards designed to prevent unauthorized enrollments and other noncompliant practices before new agents and brokers begin assisting consumers on the Federally-facilitated Exchanges.

2. Applicability of Moratorium for Plan Year 2027

CMS is temporarily pausing the registration process with the Federally-facilitated Exchanges for new agents and brokers that do not have Plan Year 2026 Exchange agreements with the Federally-facilitated Exchanges. During the duration of the moratorium, CMS will not execute the applicable Plan Year 2027 Exchange agreements with these new agents and brokers to participate in the Federally-facilitated Exchanges, including:

- Agent Broker General Agreement for Individual Market Federally-facilitated Exchanges and State-Based Exchanges on the Federal Platform;
- Privacy and Security Agreement between Agent Broker and the Centers for Medicare & Medicaid Services for Individual Market Federally-facilitated Exchanges and State-Based Exchanges on the Federal Platform; and/or
- Privacy and Security Agreement between Agent Broker and the Centers for Medicare & Medicaid Services for the Small Business Health Options Programs of The Federally-facilitated Exchanges and State-Based Exchanges on the Federal Platform.

As such, these new agents and brokers will not be able to complete the registration process until the moratorium ends on February 1, 2027, or is otherwise lifted. This action reflects CMS' determination that temporarily pausing the agent and broker registration processes for new agents and brokers is a reasonable, appropriate, and necessary program integrity measure to reduce fraud, waste, and abuse and support the efficient, nondiscriminatory administration of the Federally-facilitated Exchanges. CMS is in the process of implementing various program integrity measures for Plan Year 2027 to address the identified vulnerabilities associated with

new agents' and brokers' access to the Federally-facilitated Exchanges systems and enrollment functions, however, more time is needed for full realization of these efforts. Thus, CMS has determined that allowing new agents and brokers to assist consumers during the upcoming 2027 Open Enrollment Period – when most agents and brokers enrollment activity occurs – creates an unacceptable risk of harm to consumers and the Federally-facilitated Exchanges operations, including improper eligibility determinations, unauthorized enrollments, and increased improper APTC payments. Further, for Plan Year 2026, there were 84,012 total registered agents and brokers with active enrollments in the Federally-facilitated Exchanges. While not all of these previously registered agents and brokers will return to register for Plan Year 2027, CMS believes that the volume of potential returning agents and brokers will provide consumers with adequate access to enrollment assistance. Implementing this temporary moratorium provides CMS with the opportunity to implement enhanced program integrity measures such as enhanced identity-proofing, strengthen consumer authorization protocols, and take steps to respond to anomalous enrollment activity.

3. Regulatory Impact Statement

A. Need for Regulatory Action

CMS, on behalf of HHS, is immediately imposing a temporary moratorium to pause the registration of agents and brokers that do not have Plan Year 2026 Exchange agreements and are seeking to enter into agreements with CMS to assist consumers with submitting applications and/or enrollments through the Federally-facilitated Exchanges for Plan Year 2027. This moratorium will be in place while CMS implements enhanced program-integrity safeguards designed to prevent fraud and abuse, including unauthorized enrollment activity, misuse of consumer PII, and other conduct that does not comply with Exchange standards that threatens consumers and the integrity of the Federally-facilitated Exchanges. These agents and brokers will not be able to complete registration for Plan Year 2027 until the moratorium ends on February 1, 2027, unless CMS lifts it earlier or extends or modifies it through subsequent notice.

Based on our impact estimates, the Office of Management and Budget's (OMB) Office of Information and Regulatory Affairs (OIRA) has determined that this regulatory action is "significant" per section 3(f)(1) of Executive Order 12866 ("Regulatory Planning and Review"). A regulatory impact statement (RIS) has been prepared for this regulatory action in keeping with Executive Order 12866. Pursuant to Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (also known as the Congressional Review Act), OIRA has also determined that this regulatory action is major as it meets the criteria set forth in 5 U.S.C. 804(2). Executive Order 14192 ("Unleashing Prosperity Through Deregulation") requires that "any new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least 10 prior regulations." This regulatory action is exempt from otherwise-applicable requirements under Executive Order 14192, per footnote 1 of OMB's Accounting Methods.[14]

B. Overall Impact

This regulatory action, which will impose a temporary moratorium to pause the registration of agents and brokers who do not have Plan Year 2026 Exchange agreements and are seeking to enter into agreements with CMS to assist consumers with submitting applications and/or enrollments through the Federally-facilitated Exchanges for Plan Year 2027, is expected to directly affect agents and brokers facilitating enrollment in coverage offered through the Federally-facilitated Exchanges, individuals, employers, and employees working with an agent or broker to enroll in coverage offered through the Federally-facilitated Exchanges, and issuers offering individual or small group coverage through the Federally-facilitated Exchanges that work with agents and brokers.

Regarding the benefits (or transfers) associated with this regulatory action, we expect that it will prevent improper expenditures of APTC of an estimated range from approximately $48

[14] https://www.reginfo.gov/public/pdf/eo14192/Accounting_Methods_under_EO_14192.pdf.

million to $877 million annually.[15] We further expect that it will prevent consumer administrative burden caused by unauthorized enrollment and plan switching of an estimated value ranging from approximately $280,000 to $1.1 million annually.[16] We also expect it will have several non-quantified benefits, including promotion of the integrity of the Federally-facilitated Exchanges.

Regarding the costs associated with this regulatory action, we expect that it will lead to a temporary reduction in agent and broker competition and the number of agents and brokers available to enroll consumers in coverage offered through the Federally-facilitated Exchanges. We further expect that it could lead to potential operational losses for agencies and brokerages and potential job losses for the agents and brokers who do not have Plan Year 2026 Exchange agreements.

Lastly, this regulatory action is expected to lead to a transfer ranging in value from approximately $71 million to $98 million in commission revenue from agents and brokers that do not have Plan Year 2026 Exchange agreements to existing agents and brokers that have Plan Year 2026 Exchange agreements.[17]

We seek comment on all aspects of this RIS.

III. Good Cause for Proceeding with an IFC

The APA), at 5 U.S.C. 553(b), generally requires the agency to publish a notice of the proposed rule in the **Federal Register** that includes a reference to the legal authority under which the rule is proposed and the terms and substance of the proposed rule or a description of the subjects and issues involved. Section 553(c) further requires the agency to give interested parties the opportunity to participate in the rulemaking through public comment before the provisions of the rule take effect. Section 553(b)(B) provides an exception to notice-and-comment requirements, however, if the agency finds good cause that notice-and-comment would

[15] See section VIII.E. of this preamble.
[16] *Id.*
[17] See section VIII.G. of this preamble.

be impracticable, unnecessary, or contrary to the public interest and incorporates a statement of the finding and its reasons in the rule issued.

Section 553(d) ordinarily requires a 30-day delay in the effective date of a final rule from the date of its publication in the **Federal Register**. However, similar to the good cause exception for notice-and-comment requirements, § 553(d)(3) excepts a rule from the 30-day delay requirement if the agency finds good cause that the delay is impracticable, unnecessary, or contrary to the public interest. Similarly, subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (also known as the Congressional Review Act or CRA) also allows an agency to issue a rule that would otherwise be subject to a 60-day delayed effective date requirement for major rules (per 5 U.S.C 804(2)) with an immediate effective date in circumstances where notice and public procedure thereon are impractical, unnecessary, or contrary to the public interest (5 U.S.C. 808(2)).

Based on the totality of the circumstances described below, CMS is forgoing the usual notice-and-comment procedures and delay in the effective date for this rule because following such requirements would be impracticable and contrary to the public interest. Instead, we have determined that an IFC is the appropriate mechanism to establish the authority for CMS to impose a temporary moratorium for agents and brokers that do not have a current Plan Year registration with the Federally-facilitated Exchanges, and to implement a moratorium under this authority, effective immediately. Although this IFC is effective immediately, comments are solicited from interested members of the public on all aspects of the IFC. We will consider these comments in deciding the next steps following this IFC, including whether these regulations should be modified or rescinded.

A. Need for Prompt Action

CMS has identified an ongoing pattern of unauthorized enrollment, unauthorized plan switching, and other fraudulent, unauthorized, or noncompliant enrollment activity involving a

subset of agents and brokers participating in the Federally-facilitated Exchanges. While CMS has taken a number of steps to address this conduct, the conduct has persisted.

For example, on August 31, 2026, in accordance with CMS' processes for unauthorized enrollments, CMS cancelled approximately 315,000 Plan Year 2026 policies covering over 760,000 individuals that were enrolled with agent or broker assistance without verified citizenship or immigration documentation and for whom issuers were unable to identify claims or establish consumer contact.[18]

Similarly, since January 2026, CMS has terminated Exchange agreements for hundreds of non-compliant agents and brokers. More recently, in July and August 2026, CMS issued 569 Notices of Intent to Terminate Exchange agreements to agents and brokers that submitted statistically implausible rates of plan year 2026 applications without identifying applicant information, such as a Social Security Number, at an implausible rate. CMS continues to investigate and issue Notices of Intent to Terminate Exchange agreements to agents and brokers that are noncompliant with Exchange standards, and work with State departments of insurance and issuers in their own efforts to identify and take action on noncompliant agents and brokers.

In addition to the above actions, CMS is in the process of implementing several new system changes and protections against agent and broker fraud for Plan Year 2027 but those changes are not yet final. First, CMS is implementing system changes that require all agents and brokers to renew their identity proofing and use Login.gov in alignment with OMB Memorandum M-26-18[19] or ID.me to connect their account to CMS systems. Second, CMS is implementing system changes requiring that all applications involving an agent or broker must include verifiable Social Security Numbers or immigration document numbers that CMS can verify for all non-newborn applicants. Third, CMS is updating the system to prevent agents and

[18] *CMS.gov Newsroom*. https://www.cms.gov/about-cms/contact/newsroom
[19] "Scaling Use of Login.gov to Deliver a Universal Sign-on for Public Services;" OMB Memorandum M-26-18; 8/31/2026; https://www.whitehouse.gov/wp-content/uploads/2026/08/M-26-18-Scaling-Use-of-Login.gov-to-Deliver-a-Universal-Sign-on-for-Public-Services.pdf

brokers from being added to applications that consumers should be completing on their own through HealthCare.gov. Fourth, CMS is requiring approved Enhanced Direct Enrollment (EDE) partners to implement changes that require electronic consumer authorization before an agent or broker can take any action on an application or enrollment. CMS will closely monitor agent and broker activity to ensure these system enhancements are working as intended.

While existing safeguards and CMS' enforcement actions address some of the noncompliant enrollment activity caused by agents and brokers, vulnerabilities associated with new agents and brokers remain, including increased risk of unauthorized plan switching, unauthorized enrollment, and other fraudulent, unauthorized, or noncompliant enrollment activity. Agents and brokers terminated in a prior year may be able to establish new corporate entities and register as new agents and brokers. The consequences of such conduct are substantial. Consumers remain at greater risk of losing their desired coverage or having their coverage changed inappropriately. If an unauthorized plan replaces or overlaps with an existing plan, the consumer could lose active coverage they were relying on or face a gap in coverage. A consumer's new plan may not cover the consumer's regular doctors, specialists, or prescription drugs, leading to denied claims, unexpected medical bills, or delayed treatment. Further, if the unauthorized enrollment or plan switch is undiscovered, consumers may become responsible for premium payments or cost-sharing they did not anticipate and face unexpected tax liability for incorrect premium tax credits.

Furthermore, fraudulent, unauthorized, and noncompliant enrollments also impose operational and financial costs on the Federal Government and, ultimately, taxpayers. For example, improper APTC payments to issuers on behalf of individuals who did not authorize the coverage, or on behalf of purported consumers who do not exist, result in Federal expenditures that do not provide the intended benefit. When enrollments are based on inaccurate eligibility information, the Federal Government may also make APTC payments in amounts greater than would have been made based on accurate information.

This conduct also interferes with the efficient operation of the Federally-facilitated Exchanges. Both CMS and issuers expend significant time, manpower, and resources to review and investigate the hundreds of thousands of suspected unauthorized enrollments and consumer complaints that result in the cancellation of these policies associated with unauthorized enrollments[20] and unauthorized plan switching. Identifying and recovering improper payments from these unauthorized enrollments consumes government and issuer resources and may require CMS to undertake payment reconciliation, recoupment, investigative, and other administrative activities.

Moreover, fraudulent, unauthorized, and noncompliant enrollments also have negative impacts on the health insurance market, such as increasing uncertainty around who is enrolled which undermines issuers' ability to project future claims. This level of uncertainty will continue to make pricing difficult, impact the stability of the risk pool, and may ultimately lead to higher premiums. High levels of unauthorized enrollments make it difficult for issuers to accurately price plans, since they cannot reliably distinguish genuine risk profiles from artificially inflated enrollment numbers when setting premiums. This uncertainty destabilizes the risk pool by skewing the balance of healthy and sick enrollees, and issuers typically respond to that unpredictability by raising premiums across the board to protect against unforeseen losses.

While CMS completes implementation of enhanced identity-verification, authentication, monitoring, and other program-integrity controls, many of the enforcement efforts undertaken by CMS – such as policy cancellations and agent and broker terminations – operate only after an agent or broker is already registered and conducting transactions. Additional safeguards are necessary as many of these enforcement mechanisms do not properly prevent harm at the point of entry to protect consumers. Further safeguards are necessary to prevent CMS and issuers from

[20] For example, from January 2024 through August 2024, CMS received 90,863 complaints that consumers had their FFE plan changed without their consent. CMS (2024, October). *CMS Update on Action to Prevent Unauthorized Agent and Broker Marketplace Activity. https://www.cms.gov/ newsroom/ press-releases/ cms-update-actions-prevent-unauthorized-agent-and-broker-marketplace-activity.*

expending significant time and resources necessary to cancel unauthorized enrollments and remove non-compliant agents and brokers. A temporary pause on new registrations allows CMS to enhance these program-integrity controls before additional agent and broker entrants begin assisting consumers.

These concerns are particularly acute as CMS approaches the Plan Year 2027 Open Enrollment Period, which begins on November 1, 2026. The misconduct and noncompliance identified by CMS are ongoing, and the opportunity for improper and unauthorized enrollment activity will increase as the Open Enrollment Period approaches. Waiting to implement the temporary moratorium until completion of notice-and-comment rulemaking would leave the existing registration framework in place during the Open Enrollment Period and would permit new agents and brokers to enter into Exchange agreements and operate on the Federally-facilitated Exchanges before CMS has fully implemented program integrity measures to address these concerns.

B. Prior Notice and Comment Would Be Impracticable

CMS finds that providing notice and an opportunity for public comment before implementing the temporary moratorium would be impracticable and contrary to the public interest under the particular circumstances presented here. The effectiveness of the moratorium depends in substantial part on it taking effect before prospective agents and brokers who are subject to the moratorium have an opportunity to alter their conduct in response to advance notice of the impending restriction. Publishing a proposed rule announcing that CMS intends, after completion of notice and comment, to suspend new registrations would therefore create both an incentive and an opportunity for persons who otherwise would be subject to the moratorium to accelerate their registrations before the restriction takes effect. A prospective registrant who learns that registration will soon be temporarily unavailable has an obvious reason to complete the process while it remains open. The entire process for an agent or broker under § 155.220(d), including completing training, to register with the Exchange takes less than 30

calendar days. Historic data indicates there is generally a surge in new agent and broker registration each year when plan year training and registration becomes available (usually August or September) through October (in advance of the November 1 beginning of Open Enrollment) and additional new agent and broker registrations continue throughout Open Enrollment and into February.[21] Given this trend, we would expect that, absent the temporary moratorium, approximately 19,000 new agents and brokers would have registered during the period of the temporary moratorium.

Notice-and-comment rulemaking would not simply postpone the benefits of the moratorium, it would affirmatively undermine the purpose and goals of the moratorium. Registrations completed in response to announcement of the impending moratorium would increase the population of newly registered agents and brokers immediately before the moratorium begins. Because the moratorium operates prospectively, those registrations could not subsequently be prevented by the moratorium. Thus, by the time the notice-and-comment process concluded, the population the moratorium is intended to temporarily prevent from entering the Exchange program could be materially larger than it was when CMS determined that a pause in new registrations was necessary. A notice-and-comment period, even if only 30 calendar days, would notify prospective agents and brokers to complete the registration process before a moratorium can become effective given that registration takes less than the comment period. As explained in more detail in section II.B of this IFC, in recent years, newly registered agents and brokers have disproportionately represented agents and brokers whose Federally-facilitated Exchange enrollment activity raised significant compliance concerns. Therefore, by operation a notice-and-comment period would affirmatively undermine the purpose and goals of codifying the authority and framework for HHS to impose temporary moratoria on the

[21] In Plan Year 2024, 20,113 new agents andbrokers registered before February 2024. In Plan Year 2025, 16,479 new agents and brokers registered before February 2025. In Plan Year 2026, 19,982 new agents and brokers registered during this period. *See* CMS, Marketplace Agent/Broker Registration Completion List, available at https://data.healthcare.gov/ab-registration-completion-list.;

registration of certain agents and brokers. Section 155.220(o) provides HHS with a framework to immediately implement a temporary moratorium, pausing registration of agents and brokers that do not have a current Plan Year registration with the Federally-facilitated Exchanges at the time the moratorium is effective, when agent or broker conduct poses an unacceptable risk to the accuracy of the Federally-facilitated Exchanges' eligibility determinations, operations, applications, enrollees, or Federal Exchange information technology systems.

Moreover, given CMS' ongoing and evolving enforcement efforts to address unauthorized enrollments by agents and brokers, it would not have been feasible for CMS to begin the rulemaking process earlier. Although CMS has been addressing unauthorized enrollment and plan switching activity for several years, the need for the temporary moratorium adopted in this rule became apparent only after CMS had an opportunity to assess the effectiveness of the measures previously implemented and to analyze more recent enrollment and enforcement data. As explained above, CMS initially responded to unauthorized activity through measures specifically targeting the conduct that had been identified, including enhanced monitoring and enforcement, suspension and termination of noncompliant agents and brokers, changes to Exchange systems designed to prevent unauthorized changes to existing enrollments, and additional enrollment safeguards. Those measures produced meaningful improvements and reasonably supported CMS' decision to pursue targeted interventions rather than restrict new agent and broker participation more broadly.

More recent experience, however, has demonstrated a remaining vulnerability that those measures do not adequately address: individuals who newly enter the Exchange as registered agents or brokers may obtain access to Federally-facilitated Exchanges enrollment functionality before CMS' monitoring and post-registration enforcement mechanisms can identify and address problematic conduct. As detailed earlier in this rule, when compared to agents and brokers registered before Plan Year 2026, agents and brokers newly registered in Plan Year 2026 exhibited higher rates across several factors tied to unauthorized enrollments or noncompliant

practices. This information materially changed CMS' understanding of both the source of the remaining risk and the adequacy of existing safeguards. In particular, it demonstrated that measures directed principally at addressing misconduct after registration do not fully address the risk presented at the point of entry.

CMS therefore determined that a temporary, prospective pause in new registration is necessary while the agency completes the additional identity-verification, consumer authorization, and other program integrity controls described above. CMS did not previously impose such a moratorium because the information then available did not establish that temporarily barring otherwise eligible agents and brokers from registration was necessary or appropriately tailored to address the identified misconduct. As noted above, given the scope of unauthorized enrollments and the recent CMS data showing that agents and brokers who first registered for Plan Year 2026 are disproportionately represented among agents and brokers whose Exchange enrollment activity raised significant compliance concerns, CMS has only recently recognized the need to adopt reasonable prospective safeguards such as a temporary moratorium on new agent and broker registrations for Plan Year 2027. The more recent data, considered together with the proximity of the Plan Year 2027 Open Enrollment Period and the time required to complete the additional system safeguards, now support that determination.

The circumstances requiring immediate action are not based solely on the longstanding existence of unauthorized enrollment activity. Rather, as described above, CMS' recent analysis of Plan Year 2026 enrollment and enforcement data has identified a specific vulnerability associated with newly registered agents and brokers that is not addressed by CMS' existing controls. That analysis, together with the approaching Plan Year 2027 Open Enrollment Period and the fact that CMS' additional preventive system controls will not be fully operational before that period begins, creates a time-limited gap in CMS' program-integrity protections. The identified pattern of unauthorized enrollment, unauthorized plan changes, and other noncompliant enrollment activity conducted by a subset of agents and brokers is ongoing despite

the above-referenced steps taken by the agency to address this misconduct. Absent intervention, this activity is likely to continue or escalate during the pendency of notice-and-comment rulemaking, especially as the Plan Year 2027 Open Enrollment Period is set to begin on November 1, 2026. Because the harm is active and accruing in real time, the delay associated with pre-promulgation notice-and-comment — which would leave the current registration and access framework in place for the duration of that process — is impracticable in light of the immediate risk to consumers, Federal Exchange information systems, and the efficient operation of the Federally-facilitated Exchanges. Accelerating the rulemaking process was also not a viable option for CMS for the same reasons discussed above about why it would be impracticable — namely that it would create both an incentive and an opportunity for persons to accelerate their registration.

Publishing this rule as a notice of proposed rulemaking and providing advance notice of the moratorium would create an incentive for bad actors to take advantage of the notice-and-comment period and before the measure would take effect. Such bad actors could use the additional time to register, access training, and enter into Exchange agreements for the upcoming plan year, use the 2027 Open Enrollment Period to flood the Federally-facilitated Exchanges with improper, incomplete or unauthorized enrollment applications in an attempt to collect commission payments, and benefit from the delays in CMS' post-hoc enforcement efforts. Advance notice would effectively provide a window during which the very conduct this rule is designed to prevent could be undertaken with full knowledge that the opportunity to do so was closing. This would directly undermine the purpose of the rule and would be contrary to the public interest in protecting consumers and the integrity of the Federally-facilitated Exchanges' operations.

IV. Waiver of the 30-Day Effective Date

Due to the systemic nature of the agent and broker misconduct identified by CMS, delaying the promulgation of this rulemaking and notice outlined in this rule would prevent CMS

from implementing a program integrity tool that can significantly mitigate conduct that can result in serious medical, financial, and administrative harm to consumers. If an unauthorized plan replaces or overlaps with an existing plan, the consumer could lose active coverage they were relying on or face a gap in coverage. For example, a consumer's new plan may not cover the consumer's regular doctors, specialists, or prescription drugs, leading to denied claims, unexpected medical bills, or delayed treatment. Further, if the unauthorized enrollment or plan switch is undiscovered, consumers may become responsible for premium payments or cost-sharing they did not anticipate and face unexpected tax liability for incorrect premium tax credits.

Delaying the promulgation of this rule would be contrary to the goal of protecting consumers and detrimental to both the overall stability and premium pricing of the individual market, while CMS implements additional safeguards to Federal Exchange systems and enrollment functions. Moreover, if CMS were to provide advance notice of the IFC and the concurrent temporary moratorium on registration of new agents and brokers for Plan Year 2027, it could undermine the goal of the temporary moratorium by allowing new agents and brokers to complete Plan Year 2027 registrations with the Federally-facilitated Exchanges and Exchange agreements before the rule and moratorium is effective. Therefore, we find good cause to waive the notice of proposed rulemaking and to issue this final rule on an interim basis, effective immediately.

This rule is effective September 22, 2026. The APA ordinarily requires a 30-day delay in the effective date of a final rule from the date of its publication in the **Federal Register**.[22] This 30-day delay in effective date can be waived, however, if an agency finds good cause to support an earlier effective date.[23] Additionally, Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (also known as the Congressional Review Act or CRA)

[22] 5 U.S.C. 553(d).
[23] 5 U.S.C. 533(d)(3).

requires a 60-day delay in the effective date for major rules unless an agency finds good cause that notice and public procedure are impracticable, unnecessary, or contrary to the public interest, in which case the rule shall take effect at such time as the agency determines.

HHS has also determined that there is good cause to waive the APA's and CRA's delayed effective date requirements for the provisions at 45 CFR 155.220(o) because delay of the effective date for such provisions would be impracticable and contrary to public interest for the reasons explained above.

For the foregoing reasons, HHS has found good cause to waive the APA's and CRA's delayed effective date requirements and determined that the provisions of 45 CFR 155.220(o) finalized in this rule are effective as of September 22, 2026.

Pursuant to the provisions established in this IFC at § 155.220(o), temporary moratorium on the registration of new agents and brokers without Plan Year 2026 Exchange agreements seeking to enter into Exchange agreements with CMS to assist consumers on the Federally-facilitated Exchanges with enrollment through the Exchanges for Plan Year 2027 is effective September 22, 2026. As such, new agents and brokers without Plan Year 2026 Exchange Agreements will not be able to complete the registration process until the moratorium ends on February 1, 2027, unless CMS terminates it earlier or extends or modifies it through subsequent notice.

V. Severability

The provisions promulgated in this IFC and the various applications thereof, are distinct and severable. If any provision of this rule or notice or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions in this rule or in the notice in this rule or application of such provision to other persons or circumstances which can be given effect without the invalid provision or application.

VI. Collection of Information Requirements

This document does not impose information collection requirements, that is, reporting, recordkeeping or third-party disclosure requirements. While OMB Control Number 0938-1204 covers the Agent/Broker Data Collection in Federally-facilitated Health Insurance Exchanges (Form CMS-10464) and OMB Control Number 0938-1463 covers other applicable requirements for web-brokers (CMS-10877), no changes to these information collections are necessitated by this rulemaking or notice. Consequently, there is no need for review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

VII. Response to Comments

Because of the large number of public comments we normally receive on **Federal Register** documents, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the "DATES" section of this preamble, and, if we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

VIII. Regulatory Impact Analysis

A. Need for Regulatory Action

This IFC codifies the authority and framework for HHS to impose a temporary moratorium pausing the registration of agents and brokers that do not have a current Plan Year registration with the Federally-facilitated Exchanges at the time the moratorium is effective that are seeking to enter into Exchange agreements with CMS to assist consumers with submission of Exchange applications and enrollments through FFEs and SBE-FPs (“Federally-facilitated Exchanges”).

This IFC further provides notice that CMS, on behalf of HHS, is immediately imposing a temporary moratorium to pause the registration of agents and brokers that do not have Plan Year 2026 Exchange agreements and are seeking to enter into agreements with CMS to assist

consumers with submitting applications and/or enrollments through the Federally-facilitated Exchanges for Plan Year 2027. This moratorium will be in place while CMS implements enhanced program-integrity safeguards designed to prevent fraud and abuse, including unauthorized enrollment activity, misuse of consumer PII, and other conduct that does not comply with Exchange standards that threatens consumers and the integrity of the Federally-facilitated Exchanges. These agents and brokers will not be able to complete registration for Plan Year 2027 until the moratorium ends on February 1, 2027, unless CMS lifts it earlier or extends or modifies it through subsequent notice.

We have determined that this regulatory action is necessary because existing and new safeguards do not yet adequately address identified vulnerabilities associated with agent and broker access to Federal Exchange systems and enrollment functions. Continued onboarding of additional new agents and brokers while enhanced identity-verification, authentication, monitoring, and other program-integrity controls are implemented would increase the risk of consumer harm, unauthorized enrollment activity, improper changes in coverage, and improper expenditures of APTC.

We have examined the effects of this IFC as required by Executive Order 12866, "Regulatory Planning and Review"; Executive Order 13132, "Federalism"; Executive Order 13563, "Improving Regulation and Regulatory Review"; Executive Order 14192, "Unleashing Prosperity Through Deregulation"; the Regulatory Flexibility Act (RFA) (Pub. L. 96-354); section 1102(b) of the Social Security Act; section 202 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4); and the Congressional Review Act (5 U.S.C. 804(2)).

B. Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select those regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages, and distributive impacts). Section 3(f) of Executive

Order 12866 defines a "significant regulatory action" as any regulatory action that is likely to result in a rule that may: (1) have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, or the President's priorities.

Based on our estimates, the Office of Management and Budget's (OMB) Office of Information and Regulatory Affairs (OIRA) has determined that this rulemaking is "significant" per section 3(f)(1) of Executive Order 12866. A regulatory impact analysis (RIA) has been prepared for this IFC in keeping with Executive Order 12866. Pursuant to Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (also known as the Congressional Review Act), OIRA has also determined that this rule is major as it meets the criteria set forth in 5 U.S.C. 804(2).

We have prepared an RIA that, to the best of our ability, presents the costs and benefits of this IFC.

C. Summary of Impacts

As required by OMB Circular A-4 (available at https://www.whitehouse.gov/wp-content/uploads/2025/08/CircularA-4.pdf), we have prepared an accounting statement in Table 1 showing the classification of the impacts associated with this IFC.

TABLE 1: Accounting Table

Benefits or Transfers:	Estimate ($)	Year Dollar	Discount Rate	Period Covered
Annualized Monetized ($/year)	$334.3 million	2025	7 percent	2027 – 2031
	$334.3 million	2025	3 percent	2027 – 2031
Quantified: • Prevention of improper expenditures of APTC of an estimated range from approximately $48 million to $877 million (average across four scenarios considered: $333.6 million) annually associated with the temporary moratorium on the registration of certain new agents and brokers in place for Plan Year 2026.				

<table>
<tr><td colspan="5">• Prevention of consumer administrative burden caused by unauthorized enrollment and plan switching of an estimated value ranging from approximately $280,000 to $1.1 million (average: $700,000) annually associated with the temporary moratorium on the registration of certain new agents and brokers in place for Plan Year 2026.</td></tr>
<tr><td colspan="5">Non-Quantified:
• Prevention of fraud and misuse of consumer PII.
• Reduction in unauthorized enrollment activity.
• Prevention of improper changes in coverage and subsequent consumer harm.
• Promotion of the integrity of the Federally-facilitated Exchanges.
• Prevention of improper expenditures of APTC associated with moratoria on registration of certain new agents and brokers who do not have current Plan Year Exchange agreements when future moratoria are in place.</td></tr>
<tr><td>Costs:</td><td>Estimate ($)</td><td>Year Dollar</td><td>Discount Rate</td><td>Period Covered</td></tr>
<tr><td rowspan="2">Annualized Monetized ($/year)</td><td>$260,156</td><td>2025</td><td>7 percent</td><td>2027 – 2031</td></tr>
<tr><td>$241,962</td><td>2025</td><td>3 percent</td><td>2027 – 2031</td></tr>
<tr><td colspan="5">Quantified:
• One-time regulatory review costs of approximately $1,141,359.</td></tr>
<tr><td colspan="5">Non-Quantified:
• Temporary reduction in agent and broker competition and the number of agents and brokers available to enroll consumers in coverage offered through the Federally-facilitated Exchanges when a moratorium on registration of certain new agents and brokers is in place.
• Potential operational losses for agencies and brokerages when a moratorium on registration of certain new agents and brokers is in place.
• Potential job losses for certain new agents and brokers when a moratorium on registration of certain new agents and brokers is in place.</td></tr>
<tr><td>Other Transfers:</td><td>Estimate ($)</td><td>Year Dollar</td><td>Discount Rate</td><td>Period Covered</td></tr>
<tr><td rowspan="2">Annualized Monetized ($/year)</td><td>$19.2 million</td><td>2025</td><td>7 percent</td><td>2027 – 2031</td></tr>
<tr><td>$17.9 million</td><td>2025</td><td>3 percent</td><td>2027 – 2031</td></tr>
<tr><td colspan="5">Quantified:
• Transfer of approximately $71 million to $98 million (average: $84.3 million) in commission revenue that would have been received by agents and brokers that do not have Plan Year 2026 Exchange agreements to existing agents and brokers that have Plan Year 2026 Exchange agreements associated with the temporary moratorium for Plan Year 2027.</td></tr>
<tr><td colspan="5">Non-Quantified
• Potential transfer of commission revenue that would have been received by agents and brokers who do not have current Plan Year Exchange agreements to existing agents and brokers who have current Plan Year Exchange agreements if and when moratoria on registration of new agents and brokers are in place during Plan Years from 2028 to 2031.</td></tr>
</table>

D. Number of Affected Entities

This IFC is expected to affect agents and brokers facilitating enrollment in coverage offered through the Federally-facilitated Exchanges, individuals, employers, and employees working with an agent or broker to enroll in coverage offered through the Federally-facilitated Exchanges, and issuers offering individual or small group coverage through the Federally-facilitated Exchanges that work with agents and brokers. We seek comment on the number of entities that will be affected by this IFC, as discussed in this section.

1. Agents and Brokers

This IFC will directly impact agents and brokers who are unable to register with the Federally-facilitated Exchanges at the time a moratorium is effective.

There is generally a surge in new agent and broker registration each year when plan year training and registration becomes available (usually August or September) through October (in advance of the November 1 beginning of Open Enrollment) and additional new agent and broker registrations continue throughout Open Enrollment and into February. In Plan Year 2024, 20,113 new agents and brokers registered before February 2024. In Plan Year 2025, 16,479 new agents and brokers registered before February 2025. In Plan Year 2026, 19,982 new agents and brokers registered during this period.[24] Not all new agents and brokers registered ultimately have active enrollments, however; in Plan Year 2026, of the 84,012 total registered agents and brokers with active enrollments in the Federally-facilitated Exchanges, 8,937 were agents and brokers that newly registered for Plan Year 2026, and 6,956 of these newly registered agents and brokers with active enrollments had at least one enrollment during Open Enrollment. In developing the impact estimates later in this section, we use this figure (6,956 agents and brokers) as a proxy for the number of agents and brokers that might be impacted by a temporary moratorium in effect in a given Plan Year.

2. Individuals, Employers, and Employees

This IFC will also impact individuals, employers, and employees working with an agent or broker to enroll in coverage offered through the Federally-facilitated Exchanges. As of February 2026, there are 12,406,195 enrollees with individual health insurance coverage across the Federally-facilitated Exchanges.[25]

Due to limited data reporting, we are unable to estimate the number of employers that

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[24] CMS, Marketplace Agent/Broker Registration Completion List, available at https://data.healthcare.gov/ab-registration-completion-list.

[25] CMS, Health Insurance Exchanges Monthly Effectuated Enrollment (as of February 2026), available at https://data.cms.gov/summary-statistics-on-beneficiary-enrollment/health-insurance-marketplace/health-insurance-exchanges-monthly-effectuated-enrollment.

provide health and/or dental insurance coverage to their employees through the Small Business Health Options Program (SHOP) in the FFE States.

3. Issuers of Individual or Group Coverage

Lastly, this IFC will impact issuers of individual or group coverage operating in the Federally-facilitated Exchanges. As of Plan Year 2026, there are 346 issuers in the FFE and SBE-FP States that offer an on-Exchange qualified health plan or standalone dental plan.[26]

E. Benefits or Transfers

This IFC is expected to prevent fraud and the misuse of consumer PII, reduce the risk of consumer harm (including from loss of coverage or having coverage changed inappropriately), reduce unauthorized enrollment activity, prevent improper expenditures of APTC, and reduce or prevent other conduct that threatens consumers and the integrity of the Federally-facilitated Exchanges.

In seeking to quantify the benefits associated with curbing improper payments incurred due to the actions of noncompliant agents and brokers, we present two methodologies that estimate high and low estimates for the impact of agent and broker noncompliance resulting in unauthorized enrollments.[27] The resulting figures are roughly $6.6 billion and $1.5 billion, respectively.[28]

One way to calculate the scope of this issue is to look at plans with zero utilization (that is, no claims filed across an entire plan year). While zero utilization is not, on its face, indicative of an unauthorized enrollment (healthy individuals may go an extended period without filing a claim, for example), on-Exchange plans purchased through the Federal platform were more

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[26] CMS, 2026 Health Insurance Exchange Public Use Files, available at https://www.cms.gov/marketplace/resources/data/public-use-files and CMS, 2026 Qualified Health Plan Landscape Files, available at https://www.healthcare.gov/plan-data/.

[27] Noncompliance includes, but is not limited to, unauthorized enrollments. To the extent that illicit activity is addressed by issuance of the temporary moratorium, categorizing resulting effects as benefits, rather than as transfers (shifts of value among individuals within society), is consistent with Zerbe, R.O. (1998), "Is Cost-Benefit Analysis Legal? Three Rules," *Journal of Policy Analysis and Management* 17(3): 419-456. Categorizing effects is more ambiguous where underlying circumstances are improper but not criminal.

[28] We note that the average duration of unauthorized enrollments is more likely to exceed the 8-month average cited later in this section since the consumer is unlikely to cancel such enrollments. This likely contributes to a tendency to underestimate the total amount of fraud.

likely (34 percent versus 23 percent) than unsubsidized, off-Exchange plans to have zero utilization in Plan Year 2024.[29] This 11 percentage point differential between on-Exchange and off-Exchange zero utilization is notable and may be indicative of unauthorized enrollment (since consumers enrolled in plans without their knowledge or consent would not be expected to utilize those plans). To the extent this differential applies to enrollment in Plan Year 2026, this would mean that (on the high end) unauthorized enrollment could result in up to $6.6 billion in improper Federal spending.[30] This may be an overestimate since other differences between on-Exchange and off-Exchange enrollments may partially explain some of this differential.[31] Further, program integrity measures undertaken since Plan Year 2024 have likely reduced this differential; for example, over 550,000 enrollees had their APTC ended in 2025 after CMS identified concurrent enrollments in HealthCare.gov States.[32] CMS expects that such improper Federal spending will be largely prevented in future years as enhanced program-integrity safeguards are implemented.

Another way to calculate the scope of this issue is to look at GAO's July 2026 report. This report found that there were 299,604 consumer complaints tied to confirmed unauthorized enrollments and plan switches on the Federal platform in 2025.[33] Using this estimate as a proxy for potential unauthorized enrollment and plan switching that would be avoided in Plan Year

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[29] Analysis found that 34 percent (from Plan Year 2023 through Plan Year 2024) of on-Exchange silver enrollments were associated with no claims as compared to off-Exchange silver enrollments (18 to 23 percent from Plan Year 2019 through Plan Year 2024). This comes to a rough differential of at least 11 percentage points. Patient Protection and Affordable Care Act, HHS Notice of Benefit and Payment Parameters for 2027; and Basic Health Program; 2/11/26; 91 FR 29526.

[30] Based on the CMS Health Insurance Exchanges 2026 Open Enrollment Report, approximately 90 percent of HealthCare.gov consumers selected plans with APTC for Plan Year 2026 and the average monthly APTC for these consumers was $674 or $5,392 for eight months (the average duration of an on-Exchange enrollment in the FFE based on CMS analysis of preliminary 2025 Enrollee-Level External Data Gathering Environment (EDGE) data). 1,364,681 enrollments represent about 11 percent of the 12,406,195 FFE and SBE-FP enrollees as of February 2026, based on the CMS Health Insurance Exchanges Monthly Effectuated Enrollment data. This comes to about $6.6 billion in Federal spending (calculated as 1,364,681 enrollees x 0.9 x $5,392)..

[31] These differences could include the average duration of enrollment on-Exchange versus off-Exchange and on-Exchange plans being more attractive for younger, healthier enrollees due to lower premiums (as on-Exchange plans are subsidized unlike off-Exchange plans).

[32] See "CMS Actions to Protect Consumers and Strengthen Exchange Program Integrity," available at https://www.cms.gov/newsroom/fact-sheets/cms-actions-protect-consumers-strengthen-exchange-program-integrity.

[33] GAO (2026). "Health Insurance Marketplaces: CMS Needs Stronger Controls to Prevent Unauthorized Actions by Agents and Brokers," available at https://www.gao.gov/products/gao-26-108297.

2027 through the moratorium on registration of certain new agents and brokers in Plan Year 2026, this would mean that (on the low end) this fraud could result in about $1.5 billion in wasteful Federal spending if unaddressed.[34] CMS again expects that such improper Federal spending will be largely prevented in future years as enhanced program-integrity safeguards are implemented.

Since, as noted earlier in this preamble, newly registered agents and brokers generally constitute about a tenth of the total agent and broker population and generally constitute about a third of the total agents and brokers found noncompliant, we conclude that newly registered agents and brokers are, on average, about three times more likely to engage in noncompliance than agents and brokers that have been registered and operated on the Exchanges in the past. As a result, we expect that this IFC will help curb the scale of improper payments on the Federally-facilitated Exchanges.

Table 2 shows the approximate per-broker average improper Federal spending levels that are implied by the new-to-returning improper activity ratios of 1.4 to 2.8 discussed in section II.B. of this preamble when combined with potential baseline Federal improper spending, as discussed above.[35] It additionally shows the aggregate reduction that would be achieved if this IFC eliminates the new-to-returning differential across the activity of roughly 6,956 avoided new brokers with active enrollments, yielding a range of avoided improper spending from approximately $48 million to $877 million.

TABLE 2: Approximate Ranges of Per-Broker Average Improper Federal Spending and Aggregate Reduction That Would Be Achieved if the IFC Eliminates the New-to-Returning Differential

[34] Based on the CMS Health Insurance Exchanges 2026 Open Enrollment Report, approximately 90 percent of HealthCare.gov consumers selected plans with APTC for Plan Year 2026 and the average monthly APTC for these consumers was $674 or $5,392 for eight months (the average duration of an on-Exchange enrollment in the FFE based on CMS analysis of preliminary 2025 Enrollee-Level External Data Gathering Environment (EDGE) data). For 299,604 enrollments, this comes to about $1.5 billion in Federal spending (calculated as 299,604 enrollees x 0.9 x $5,392).

[35] Estimates are derived so as to satisfy the following equations (in which I_b is baseline annual improper Federal spending; I_r is average improper spending per returning agent or broker; I_n is average improper spending per new agent or broker; AB_r is the number of returning agents or brokers; AB_n is 6,956, a baseline number of agents or brokers with active enrollments during Open Enrollment; and k equals 1.4 or 2.8): $I_b = I_r \times AB_r + I_n \times AB_n = I_r \times AB_r + (k \times I_r) \times AB_n$.

Inputs	New-to-returning improper activity ratio = 1.4	New-to-returning improper activity ratio = 2.8
$6.6 billion baseline annual improper Federal spending (based on zero utilization differential)	$78,000 (returning) $109,000 (new) $217 million (aggregate if differential eliminated)	$70,000 (returning) $196,000 (new) $877 million (aggregate if differential eliminated)
$1.5 billion baseline annual improper Federal spending (based on unauthorized enrollment/unauthorized plan switching)	$17,000 (returning) $24,000 (new) $48 million (aggregate if differential eliminated)	$15,000 (returning) $43,000 (new) $193 million (aggregate if differential eliminated)

Another benefit of this moratorium will be consumer protection. When an agent or broker switches a consumer's plan without their knowledge or consent, the consumer could lose active coverage they were relying on or face a gap in coverage. A consumer's new plan may not cover the consumer's regular doctors, specialists, or prescription drugs, leading to denied claims, unexpected medical bills, or delayed treatment.

When noncompliant agents and brokers enroll consumers without their knowledge or consent, they can create unexpected tax liabilities for consumers. This consumer risk is especially acute since Section 71305 of the Working Families Tax Cut legislation (P.L. 119-21) eliminated the limitation on recapture of excess APTC. This means that consumers who are enrolled without their knowledge or consent are likely to face an unexpected tax liability as a result of agent and broker noncompliance.

If a consumer is enrolled in an plan through the Federally-facilitated Exchanges without their knowledge or consent by a noncompliant agent or broker, then that consumer may only learn of this coverage upon receipt of a Form 1095-A from the Marketplace at tax time, or upon rejection of their federal tax return by the IRS for not reconciling premium tax credits. At that point the consumer would need to contact the Marketplace Call Center to report the unauthorized enrollment, cancel the coverage, potentially initiate a CMS fraud investigation, and request a voided or zeroed-out Form 1095-A to include with their federal tax return. Based on our operational experience and review of relevant information collections approved under the Paperwork Reduction Act (for example, HHS-CMS OMB Control Number 0938-1191 and UST-

IRS OMB Control Number 1545-2232), we expect that this process could take 1 hour.

A small portion of these affected consumers (we estimate 7 percent)[36] are likely to incur additional administrative burden reporting this unauthorized enrollment through official governmental channels for reporting identity theft, such as law enforcement or a report on the FTC's IdentityTheft.gov website. Consumers need 15 minutes, on average, to complete the IdentityTheft.gov reporting form, create an IdentityTheft.gov account, and review their personalized recovery plan. A larger portion of these affected consumers (67 percent)[37] are likely to report identity theft to their financial institutions. We estimate that such reporting will also require, on average, 15 minutes.

Finally, some portion of these affected consumers may fail to rectify the erroneous Form 1095-A and may incur a tax liability. If the consumer received a PTC subsidy in line with the $674 average monthly subsidy for 12 months[38] and the consumer was ineligible for the entire amount then this liability could be more than $8,000. Failure to file the IRS Form 8962 to reconcile APTC incurred due to unauthorized enrollment could result in the IRS withholding tax refund or trigger a Treasury Offset Program collection. More likely, however, is that the affected consumers in such a situation would incur the additional paperwork burden of filing an amended tax return, which is estimated to take 9 hours on average and could also include tax preparation service fees and/or mailing costs.[39] Using the $24.05 wage rate we calculate below, such consumers who need to file an amended return could incur $216.45 in additional administrative expense. We are unable to estimate what portion of consumers will face these greater burdens and costs, however.

In 2025, there were 299,604 consumer complaints tied to confirmed unauthorized

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[36] DOJ (2023), "Victims of Identity Theft, 2021," available at https://bjs.ojp.gov/press-release/victims-identity-theft-2021.
[37] *Id*.
[38] For HealthCare.gov consumers. See CMS, Health Insurance Exchanges 2026 Open Enrollment Report, available at https://www.cms.gov/files/document/health-insurance-exchanges-2026-open-enrollment-report.pdf.
[39] See IRS, "Instructions for Form 1040-X," available at https://www.irs.gov/pub/irs-pdf/i1040x.pdf.

enrollments and plan switches on the Federal platform.[40] We estimate that affected consumers would, therefore, incur 355,031 hours of administrative burden associated with unauthorized enrollments and plan switches, as shown in Table 3.

TABLE 3: Estimated Consumer Administrative Burden Associated with Agent and Broker Noncompliance

Affected consumers	Hours Per Respondent	Total Hours
Process correction (100 percent)	1	299,604
Report to financial institution (67 percent)	0.25	50,184
Report to enforcement institution (7 percent)	0.25	5,243
Total		355,031

To calculate the cost of this administrative burden, we adopt an hourly value of time based on after-tax wages to quantify the opportunity cost of changes in time use for unpaid activities. This approach matches the default assumptions for valuing changes in time use for individuals undertaking administrative and other tasks on their own time, which are outlined in an Assistant Secretary for Planning and Evaluation (ASPE) report on "Valuing Time in U.S. Department of Health and Human Services Regulatory Impact Analyses: Conceptual Framework and Best Practices."[41] We started with a measurement of the usual weekly earnings of wage and salary workers of $1,159. We divided this weekly rate by 40 hours to calculate an hourly pre-tax wage rate of approximately $28.98. We adjusted this hourly rate downwards by an estimate of the effective tax rate for median income households of about 17 percent, resulting in a post-tax hourly wage rate of approximately $24.05. We adopt this as our estimate of the hourly value of time for changes in time use for unpaid activities. Using this figure, we estimate that the total value of administrative burden caused by unauthorized enrollment is $8,538,496.

Table 4 shows the approximate consumer administrative burden caused by unauthorized enrollment expressed as a per-broker average as implied by new-to-returning improper activity

[40] GAO (2026). "Health Insurance Marketplaces: CMS Needs Stronger Controls to Prevent Unauthorized Actions by Agents and Brokers," available at https://www.gao.gov/products/gao-26-108297.
[41] https://aspe.hhs.gov/reports/valuing-time-us-department-health-human-services-regulatory-impact-analyses-conceptual-framework.

ratios of 1.4 to 2.8 when combined with the potential baseline value of administrative burden, as discussed above. It additionally shows the aggregate burden reduction that would be achieved if this IFC eliminates the new-to-returning differential across the activity of roughly 6,956 brokers, yielding a range of avoided consumer administrative burden from approximately $280,000 to $1.1 million annually.

TABLE 4: Approximate Ranges of Per-Broker Average Consumer Administrative Burden Caused by Unauthorized Enrollment and Aggregate Reduction That Would Be Achieved if this IFC Eliminates the New-to-Returning Differential

Inputs	New-to-returning improper activity ratio = 1.4	New-to-returning improper activity ratio = 2.8
$8,538,496 baseline value of consumer administrative burden caused by unauthorized enrollment or plan switching	$100 (returning) $140 (new) $280,000 (aggregate if differential eliminated)	$90 (returning) $250 (new) $1.1 million (aggregate if differential eliminated)

We seek comment on the expected benefits associated with this IFC.

F. Costs

This IFC is expected to temporarily reduce competition among agents and brokers and the total number of agents and brokers available to enroll consumers in coverage offered through the Federally-facilitated Exchanges when a moratorium is in place.

When a moratorium is in place, consumers will be unable to utilize the services of agents and brokers that would otherwise have registered during the period of the moratorium. Agents and brokers help consumers navigate, compare, and enroll in Exchange coverage typically at no direct extra cost to the consumer. While the loss of new agents and brokers may affect consumers' ability to utilize these services, we expect that overall enrollment in the Federally-facilitated Exchanges will remain stable for Plan Year 2027. As anyone registered in Plan Year 2026 is eligible to return, we anticipate there will be a similar number, or potentially a slight decrease, in the number of agents and brokers available to assist Federally-facilitated Exchanges consumers and we do not anticipate consumers will face a shortage of service from agents and brokers. We estimate based on historical experience that approximately 80 percent of agents and

brokers that were registered for Plan Year 2026 will return and complete Plan Year 2027 registration and training but note that this estimate is uncertain. Additionally, some consumers may passively auto re-enroll into coverage or actively re-enroll for Plan Year 2027 coverage without the assistance of an agent or broker.

We understand that agencies and brokerages may begin hiring new agents and brokers during the summer and fall in preparation for the Plan Year 2027 Open Enrollment Period. We estimate that approximately half of the estimated 19,982 new agents and brokers whose registrations will be affected by this IFC in the first year of its implementation might be affiliated with agencies (that is, hired by agencies in preparation for the Plan Year 2027 Open Enrollment Period). In anticipation of the regularly recurring Open Enrollment Period, established agencies and brokerages have likely incurred routine business expenses associated with building the capacity necessary to handle the high volume of enrollments that occur during this period. These costs can include investments in human resources such as recruiting, hiring, training, licensing, and preparing new agents and brokers to conduct business on the Federally-facilitated Exchanges. Because the temporary moratorium is being announced in September, these investments have already occurred and because these new agents and brokers cannot be registered to do business on the Federally-facilitated Exchanges for Plan Year 2027 while the moratorium is in place, these investments by agencies and brokerages are lost.

A temporary moratorium could also lead to job losses for agents and brokers that do not have current Plan Year Exchange agreements, to the extent their incomes and employment by agencies and brokerages are primarily derived from facilitating applications and enrollment in coverage offered through the Federally-facilitated Exchanges. Based on the commission revenue transfer estimate in section VIII.G. of this preamble ($71 million to $98 million in commission revenue transferred from new agents and brokers who do not have Plan Year 2026 Exchange agreements to existing agents and brokers that have Plan Year 2026 Exchange agreements), across the 6,956 agents and brokers that will be affected by the temporary moratorium in the first

year of implementation of this IFC, the foregone (transferred) commission revenue could range from approximately $10,000 to $14,000 per agent and broker.

We seek comment on the expected costs associated with this IFC, including the magnitude of the potential operational losses for agencies and brokerages and the potential for job losses for agents and brokers who do not have current Plan Year Exchange Agreements.

G. Other Transfers

The temporary moratorium is expected to lead to a transfer of commission revenue associated with enrollment in coverage for Plan Year 2027 that would have been received by certain new agents and brokers that do not have Plan Year 2026 Exchange agreements in the absence of the temporary moratorium on registration to existing agents and brokers that have Plan Year 2026 Exchange agreements.

As noted in section VIII.D.1. of this preamble, we would expect that, absent the temporary moratorium, 19,982 agents and brokers would have registered during the period of the temporary moratorium for Plan Year 2027, of which 6,956 would have had active enrollments during Open Enrollment. New agents and brokers enrolled about 490,000 total consumers during the Plan Year 2026 Open Enrollment Period and earned about $18 to $25 in commission per member per month (PMPM).[42] The average FFE and/or SBE-FP enrollee remains on their plan for about 8 months.[43] As a result, we estimate that agents and brokers unable to register due to the temporary moratorium will forego approximately $71 million to $98 million in commissions. However, we expect that much of the compensation for newly registered agents and brokers, is paid through agencies they are affiliated with and services will instead be provided by other agents and brokers, within the agency, or by another agent or broker. As a result, the producer surplus portion of this aggregate commission is a transfer of value within society, rather than a societal cost.

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[42] KFF, "Broker Fees and Direct Sales by Health Insurance Market" (as of 2024), available at https://www.kff.org/health-costs/state-indicator/health-insurance-broker-compensation/.

[43] Based on CMS analysis of preliminary 2025 EDGE data.

This IFC could also lead to transfers of commission revenue from certain new agents and brokers that do not have current Plan Year Exchange agreements to existing agents and brokers who have current Plan Year Exchange agreements if and when future moratoria on registration of certain new agents and brokers are in place. However, we are unable to quantify the magnitudes of these potential future transfers due to uncertainty regarding the timing and parameters for future moratoria.

We seek comment on the expected transfers associated with this IFC.

H. Regulatory Review Cost Estimation

Due to the uncertainty involved with accurately quantifying the number of reviewers that will review this IFC, we use the estimated number of reviewers of the 2027 Payment Notice final rule (14,292) as a proxy for the approximate number of reviewers of this IFC. We acknowledge that this assumption may understate or overstate the number of reviewers that will actually review this IFC. Nevertheless, we view this to be a reasonable proxy for the number of reviewers that might review this IFC.

Using wage information from the Bureau of Labor Statistics, for Business Operations Specialists, All Other (Code 13-1199), to account for median labor costs (including a 100 percent increase of the median hourly wage to account for the cost of fringe benefits and other indirect costs), we estimate that the cost of reviewing this IFC will be approximately $79.86 per hour.[44] We estimate that it will take each reviewing individual approximately 1 hour to review this IFC assuming an average reading speed of 250 words per minute. Therefore, we estimate that the total one-time cost of reviewing this IFC will be approximately $1,141,359 (14,292 individuals × $79.86 per individual).

We seek comment on the estimated regulatory review costs associated with this IFC.

[44] U.S. Bureau of Labor Statistics (2025). Occupational Employment and Wage Statistics (OEWS) Tables, Occupational Profiles national estimates, available at https://www.bls.gov/oes/tables.htm.

I. Regulatory Alternatives Considered

In codifying at § 155.220(o) the process for implementing moratoria on agent and broker registrations, we considered creating a provision that would place a moratorium on all agent and broker registrations and thereby fully block all agent and broker participation in the Federally-facilitated Exchanges in PY 2027. In balancing the need to codify a moratorium policy that provided an effective system and procedural safeguards against consumer support received through agents and brokers, we determined it was appropriate to limit agents and brokers that do not have current Plan Year registrations with the Federally-facilitated Exchanges at the time the moratorium is effective and does not prohibit registration for agents and brokers. As discussed in section II.B. of this IFC, enrollment data trends demonstrate that newly registered agents and brokers disproportionately represent agents and brokers subject to confirmed instances of unauthorized Federal platform enrollments and other noncompliant practice, which indicates that newly entering agents and brokers present a distinct and heightened program-integrity risk.

Additionally, we considered a range of different factors that HHS could utilize to determine whether implementing a moratorium is appropriate. For example, we considered codifying that HHS would impose a moratorium when it identified a trend in agent or broker conduct that could result in fraud and abuse. Such trends could include rapid increases in, or disproportionate rates of agent and broker assisted enrollments relative to applications submitted without the assistance of an agent or broker, including attesting to eligibility to a special enrollment period in accordance with using § 155.420(d) as the basis for the special enrollment period; attesting that applicants are not eligible for Medicaid in accordance §155.305(c); or enrollments that later result in consumer- or Exchange-initiated terminations pursuant to §§ 155.4300(b)(1)(iv)(B)-(C) and 155.430(b)(2)(vi). We determined, however, that leveraging the existing foundation of § 155.220(k)(3) that reflects our authority to suspend an agent's or broker's ability to transact information with the Federally-facilitated Exchanges in certain circumstance was more appropriate, particularly since the existing foundation of § 155.220(k)(3)

already reflects these types of trend factors at an overall level.

We also considered whether a temporary moratorium on agent and broker participation could be limited to particular geographic areas where data indicated heightened program integrity risks. A geographically targeted approach could, in principle, have focused restrictions on areas experiencing disproportionate levels of suspected fraud, unauthorized enrollments, or other problematic agent and broker activity, while permitting new agents and brokers to continue entering the Marketplace in other areas.

After considering this approach, HHS determined that a geographically based moratorium would not provide an effective or sufficiently durable means of addressing the current underlying program-integrity concerns. Agent and broker activity in the Federally-facilitated Exchanges is not necessarily confined to the geographic location in which an agent or broker resides or maintains a business. Agents and brokers may assist consumers remotely and may operate across multiple States, subject to applicable State licensure requirements. As a result, restricting new participation based on a particular geographic area based on current conditions could shift noncompliant activity to other locations rather than prevent it and could create opportunities to circumvent the restriction.

HHS also considered the potential effect of a geographically targeted moratorium on legitimate agents and brokers and on consumer access to enrollment assistance. Agents and brokers play a substantial role in helping consumers understand coverage options and enroll in Marketplace coverage. A geographic restriction could prevent otherwise compliant new agents and brokers from participating solely because they operate in, or serve consumers in, an area identified as presenting heightened program integrity concerns, even where there was no indication that those particular individuals pose a risk. At the same time, differences in agent availability and consume reliance on broker assistance across markets could cause a geographically targeted restriction to have uneven effects on consumers' access to enrollment assistance.

In addition, determining and maintaining appropriate geographic boundaries would present significant operational and program integrity challenges. Patterns of suspected improper activity can change over time and may not correspond neatly to State, county, or other geographic boundaries. Geographic targeting therefore could require HHS to continually reassess which areas should be subject to a moratorium and could create arbitrary distinctions between similarly situated agents, brokers, and consumers on opposite sides of a geographic boundary.

We seek comment on the regulatory alternatives considered in the course of developing this rulemaking.

J. Regulatory Flexibility Act (RFA)

The RFA requires agencies to analyze options for regulatory relief of small entities and to prepare a regulatory flexibility analysis to describe the impact of a rule on small entities, unless the head of the agency can certify that the rule will not have a significant economic impact on a substantial number of small entities. The RFA generally defines a "small entity" as (1) a proprietary firm meeting the size standards of the Small Business Administration (SBA), (2) a not-for-profit organization that is not dominant in its field, or (3) a small government jurisdiction with a population of less than 50,000. States and individuals are not included in the definition of "small entity." Because this IFC is not preceded by a general notice of proposed rulemaking, the RFA does not apply to this IFC.

K. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires that agencies assess anticipated costs and benefits and take certain other actions before issuing a rule that includes any Federal mandate that may result in expenditures in any 1 year by State, local, or Tribal governments, in the aggregate, or by the private sector, of $100 million in 1995 dollars, updated annually for inflation. Adjusted for inflation, that threshold is approximately $193 million in 2026. As suggested by the analysis of the impact of the temporary moratorium, this IFC is not expected to result in expenditures by State, local, or Tribal governments, in the

aggregate, or by the private sector above the threshold.

L. Federalism

Executive Order 13132 outlines fundamental principles of federalism. It requires adherence to specific criteria by Federal agencies in formulating and implementing policies that have "substantial direct effects" on the States, the relationship between the national government and States, or on the distribution of power and responsibilities among the various levels of government. Federal agencies issuing regulations that have these federalism implications must consult with State and local officials and describe the extent of their consultation and the nature of the concerns of State and local officials in the preamble to these proposed rules.

While this IFC is not expected to have federalism implications, we seek comment on any potential federalism implications of this IFC.

M. Executive Order 14192

Executive Order 14192 entitled, "Unleashing Prosperity Through Deregulation," was issued on January 31, 2025, and requires that "any new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least 10 prior regulations." This IFC is exempt from otherwise-applicable requirements under Executive Order 14192, per footnote 1 of OMB's Accounting Methods.[45]

N. Congressional Review Act

This IFC is subject to the Congressional Review Act provisions of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 et seq.) and has been transmitted to the Congress and the Comptroller General for review.

Mehmet Oz, Administrator of the Centers for Medicare & Medicaid Services, approved this document on September 21, 2026.

[45] https://www.reginfo.gov/public/pdf/eo14192/Accounting_Methods_under_EO_14192.pdf.

List of Subjects in 45 CFR Part 155

Administrative practice and procedure, Advertising, Brokers, Conflict of interests, Consumer protection, Grants administration, Grant programs-health, Health care, Health insurance, Health maintenance organizations (HMO), Health records, Hospitals, Indians, Individuals with disabilities, Intergovernmental relations, Loan programs-health, Medicaid, Organization and functions (Government agencies), Public assistance programs, Reporting and recordkeeping requirements, Technical assistance, Women and youth.

For the reasons set forth in the preamble, the Department of Health and Human Services amends 45 CFR part 155 as set forth below:

PART 155 – EXCHANGE ESTABLISHMENT STANDARDS AND OTHER RELATED STANDARDS UNDER THE AFFORDABLE CARE ACT

1. The authority citation for part 155 continues to read as follows:

Authority: 42 U.S.C. 18021-18024, 18031-18033, 18041-18042, 18051, 18054, 18071, and 18081-18083.

2. Section 155.220 is amended by adding paragraph (o), to read as follow:

§ 155.220 Ability of States to permit agents, brokers, and web-brokers to assist qualified individuals, qualified employers, or qualified employees enrolling in QHPs.

* * * * *

(o) *Moratoria on registrations with the Federally-facilitated Exchanges for agents and brokers.* When HHS determines that agent and broker conduct poses an unacceptable risk to the accuracy of the Exchange's eligibility determinations, Exchange operations, applicants, enrollees, or Exchange information technology systems, including risk related to noncompliance with the standards of conduct under paragraph (j) of this section and the privacy and security standards under § 155.260, HHS may impose a temporary moratorium pausing agent and broker registrations with the Federally-facilitated Exchanges under paragraph (d)(1) of this section of agents and brokers that do not have a current Plan Year registration with the Federally-facilitated Exchanges at the time the moratorium is effective. A moratorium under this paragraph (o) does not prevent registration with the Federally-facilitated Exchanges for agents and brokers that do not have a current Plan Year registration with the Federally-facilitated Exchanges at the time a moratorium is effective due to a termination under paragraph (g) of this section or a denial of the right to enter into Exchange agreements with the Federally-facilitated Exchanges in future years under paragraph (k)(1)(i) of this section when such a termination or denial is subsequently reversed, or the agent’s or broker’s Exchange agreements are reinstated while the moratorium is

in place. When imposing a moratorium on registrations for agents and brokers, HHS will publish a document in the Federal Register indicating the date the moratorium will take effect, the reasons for imposing the moratorium, and the duration of the moratorium.

Robert F. Kennedy, Jr.,

Secretary,

Department of Health and Human Services.

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