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Consumer Financial Services: 2025 Year in Review

An in-depth examination of the forces shaping the consumer financial services industry.

Welcome to the latest issue of our annual report on consumer financial services, a guide to the developments that are driving change in the industry. In the following chapters, we highlight the market trends, legal developments, and enforcement dynamics that defined 2025, and we offer insights about the evolving opportunities and challenges stakeholders may experience in 2026.

The report has 12 chapters, starting with an overview of the industry, including data and analysis, followed by chapters that focus on 11 key industry segments.

Please reach out to the report's authors and editors if you have questions or input or want to discuss how trends in the industry may affect your business.

Emerging Trends and Segment Highlights

Emerging Issues and What to Watch for in 2026

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Major U.S. Supreme Court and Appellate Cases Decided in 2025

Read the full analysis: "Major U.S. Supreme Court and Appellate Cases Decided in 2025" (March 2026)

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Emerging Issues and What to Watch for in 2026

Welcome to the first chapter of our annual report, Consumer Financial Services: 2025 Year in Review.

BY Sabrina M. Rose-Smith W. Kyle Tayman Viona J. Harris Courtney L. Hayden Christina L. Hennecken Matthew L. Riffee Allison Funk Collin Grier Chenxi (CC) Jiao Jackie Odum Kelsey Pelagalli Angelica Rankins

As Goodwin anticipated in our 2024 Year in Review, 2025 witnessed a fundamental shift in the consumer financial services regulatory landscape. The frenzied federal enforcement activity that characterized 2024 gave way to sweeping federal retrenchment, most notably by the Consumer Financial Protection Bureau (CFPB). The CFPB's year was highlighted by the rescission of multiple consent orders, a dramatic drop in enforcement actions, a pause of large-scale supervisory activity, and legal challenges to its attempt to fire most staff.

Across the board, federal financial services regulation was uneven, with a clear split between active and dormant agencies. Unlike the CFPB, the Federal Trade Commission (FTC) stayed active, particularly in consumer protection, advertising, and fintech practices, even as it reconsidered or pulled back certain artificial intelligence–related actions. Banking regulators including the Federal Reserve, the Office of the Comptroller of the Currency (OCC), and the Federal Deposit Insurance Corporation (FDIC) were comparatively quiet, emphasizing supervisory continuity and safety-and-soundness standards over new rules or aggressive enforcement. And the U.S. Securities and Exchange Commission (SEC) gave publicly traded financial services companies more to consider with regulations and enforcement on cybersecurity and artificial intelligence (AI) disclosures.

The CFPB had quite a year. Its enforcement and supervisory activity largely stalled following leadership changes and early-year directives that paused or ended active investigations, rulemaking, and litigation. With few new matters initiated, the agency was effectively in a period of dormancy for much of 2025. Ongoing matters were slowed, staff capacity was constrained, and many staff left to find new homes at state agencies. The CFPB's public posture shifted away from its past aggressive and antagonistic consumer finance enforcement posture to a more business-friendly one. Presently, the CFPB remains operational but subdued: It has resumed core functions and limited supervision; its enforcement docket remains muted; and its regulatory agenda is narrower, with a greater emphasis on maintaining baseline statutory responsibilities rather than pursuing novel consumer protection initiatives.

Further complicating matters, while the CFPB's acting director, Russell Vought, recently agreed to request funding for the CFPB for at least the second quarter of fiscal year 2026, the en banc U.S. Court of Appeals for the District of Columbia (D.C. Circuit) is considering whether to keep in place a preliminary injunction that prevents Vought from implementing his plan to "right size" the CFPB by firing 88% of its staff pending adjudication of a legal challenge. At the oral argument on February 24, 2025, several jurists expressed skepticism that the acting director would protect the agency's core statutory functions in the absence of an injunction. The D.C. Circuit's ruling and any appeal to the U.S. Supreme Court has the potential to further overhaul the federal regulatory and enforcement space for at least the next three years under the current administration.

Yet, federal retrenchment did not mean regulatory silence. State attorneys general and regulatory agencies continued their supervisory roles, with some deliberately stepping up to counterbalance the CFPB's pullback. In October 2025, California's governor signed the California Combating Auto Retail Scams Act, which prohibits dealers from misrepresenting material information about vehicle sales and requires clear disclosures, while in December, New York's governor signed the Fostering Affordability and Integrity through Reasonable Business Practices Act into law, empowering the attorney general to bring civil actions against corporations engaging in unfair or abusive acts and empowering consumers to bring private rights of action for deceptive or abusive practices. Over the past year, several states passed or introduced legislation expanding telemarketing and texting restrictions, including Texas Senate Bill 140, which broadened "telephone solicitation" to include texts and images and introduced a private right of action with statutory damages up to $5,000 per violation; Oregon House Bill 3865, restricting contact hours and limiting daily calls to three per consumer; and similar legislation currently pending in North Carolina, South Carolina, and Washington.

On the appellate front, the Supreme Court and U.S. Courts of Appeals issued a number of significant rulings in 2025 that reshaped the landscape for agency authority and judicial review. In *McLaughlin Chiropractic Associates, Inc. v. McKesson Corp. et al* (June 2025), the Supreme Court concluded that the Administrative Orders Review Act (aka the Hobbs Act) does not bind district courts in civil enforcement proceedings to an agency's interpretation of a statute, including the Federal Communications Commission's interpretation of the Telephone Consumer Protection Act. Also in June, the Supreme Court decided *Trump v. CASA, Inc.*, addressing the use of universal injunctive relief, and concluded that such injunctions "likely exceed the equitable authority that Congress has granted to federal courts," limiting injunctions to what is "necessary to provide complete relief to each plaintiff with standing to sue." Appellate courts also continued to tackle Article III standing under the U.S. Constitution and the ability of consumers to pursue claims for prospective injuries.

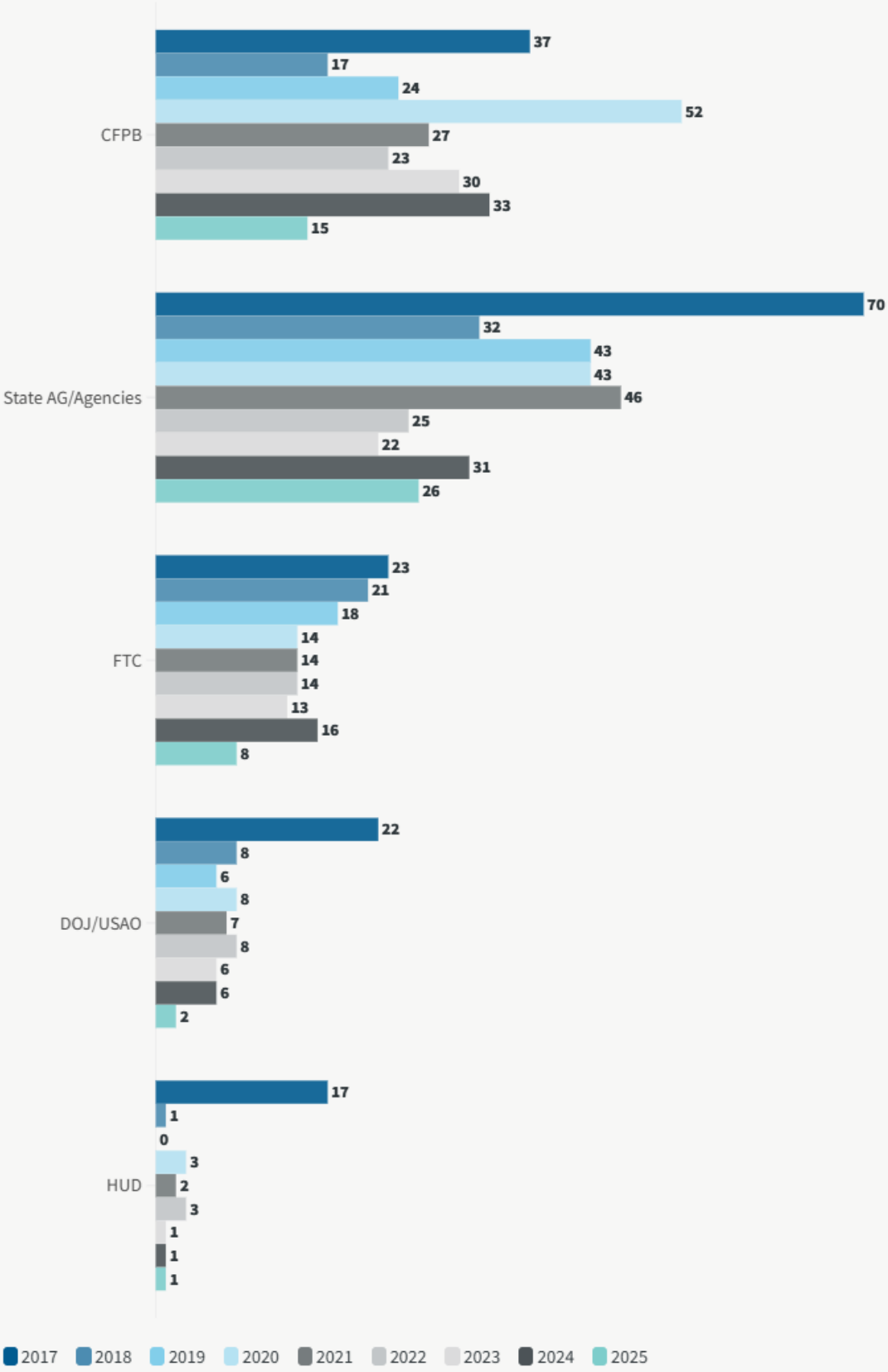
2025 also marked a pivotal year for regulatory and enforcement activity in cybersecurity, privacy, and AI governance, as regulators such as the SEC and California Privacy Protection Agency (CPPA) introduced new requirements for third-party risk management and incident reporting. AI governance emerged as a dominant theme with the adoption of the CPPA's regulations governing automated decision-making technology and the release of the White House's AI Action Plan. The CFPB's attempt to use the Consumer Financial Protection Act (CFPA) section 1033 rulemaking under the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) to enact a personal financial data rights rule was effectively suspended pending significant redesign, as the CFPB retreated from its 2024 final rule following extensive litigation and public criticism that the rule was overbroad and technologically unworkable. In August, the Trump administration issued an executive order, "Guaranteeing Fair Banking for All Americans," aimed at addressing the administration's concern that financial institutions were discriminating against certain consumers based on their political or religious affiliations or lawful business activities, resulting in the OCC removing "reputation risk" from its Comptroller's Handbook in December.

Finally, the mortgage industry enters 2026 with a mixture of relief and uncertainty, as federal oversight has loosened but the resulting regulatory vacuum leaves institutions subject to fragmented state regimes and increasing private litigation. The CFPB's mortgage supervision efforts retracted dramatically this year, and the Federal Housing Finance Agency, meanwhile, pulled back from enforcing unfair and deceptive acts or practices. These decisions suggest that consumer finance companies need to prepare for more fragmented regulatory compliance and potentially inconsistent rulings across jurisdictions.

2025 Key Trends: By the Numbers

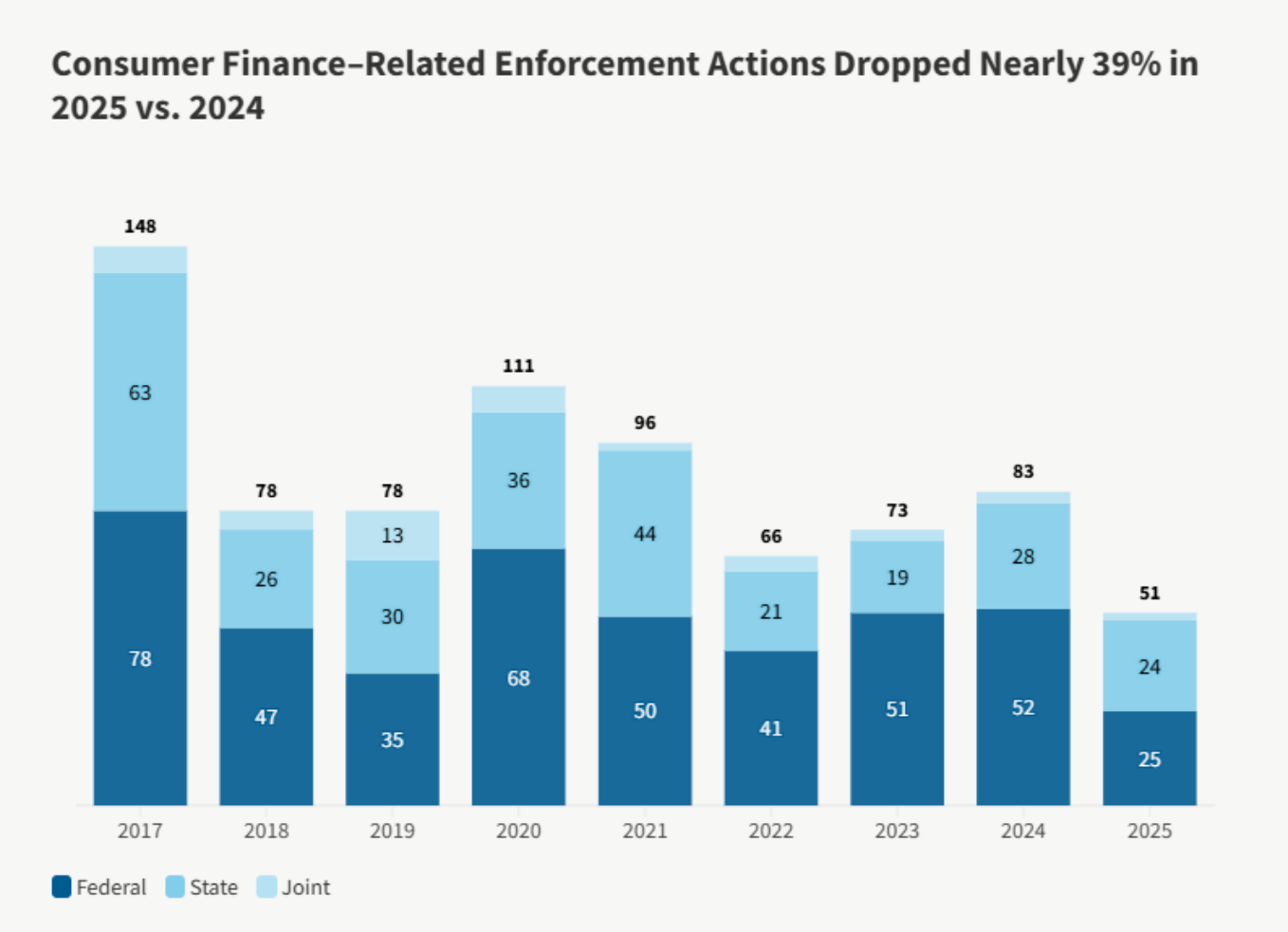
On the enforcement front, federal activity declined sharply across most consumer finance sectors. During 2025, Goodwin tracked 51 publicly announced federal and state enforcement actions related to consumer finance, a decrease from the 83 such actions tracked in 2024. Of the actions tracked, 27 involved federal agencies (two of which were joint CFPB-state actions), a marked decrease from 55 such actions tracked in 2024. Among federal agencies, the CFPB was the most active, having been involved in 15 of those actions, although this activity was largely driven by Rohit Chopra–era actions earlier in the year, with the majority of the new matters, including five consent orders and three complaints, announced in January. Of those, the CFPB amended its position on two of the consent orders and voluntarily dropped two of the complaints after the administration changed.

Total Actions by Agency



Note: Joint federal–state actions are included in the tally for both the CFPB and State AGs/Agencies.

On the state side, 26 actions involved state enforcement officials and agencies, representing a slight decrease from the 31 actions that involved state actors in 2024. Among the states, New York's, California's, and Massachusetts' agencies were the most active, having been involved in nine, eight, and six actions, respectively. Mortgage servicing and origination was the most common industry targeted in those actions. State efforts resulted in total recoveries of about $2.2 billion (including joint state–federal recoveries), a significant increase in total recoveries from the $30 million recovered in 2024.



Across particular industries, debt collection saw a significant drop from the 16 actions tracked in 2024, with only nine enforcement actions. Goodwin tracked five enforcement actions related to payday or short-term small-dollar loans, representing a decrease from the 15 such actions monitored in 2024. In the credit reporting space, despite receiving record-high credit reporting complaints from consumers in 2025, the CFPB largely suspended new rulemaking and enforcement, withdrawing previous guidance and proposed rulemaking pending at the end of the Biden administration. The CFPB did not initiate any enforcement actions against student loan servicers this year, and its 2025 rulemaking agendas did not highlight any new student loan–specific rules. Unlike in those sectors, mortgage origination and servicing actions remained relatively stable, with Goodwin tracking only one fewer this year than last.

What to Watch for in 2026

As regulatory priorities continue to evolve across agencies and jurisdictions, 2026 is shaping up to be another year of legal complexity for financial services companies. Federal regulators, state attorneys general, and private plaintiffs are increasingly focused on how emerging business models intersect with long-standing consumer protection frameworks, often testing the boundaries of existing statutes rather than relying on sweeping new rules. Against this backdrop, companies should expect continued enforcement activity; regulatory experimentation at the state level, including by states pursuing enforcement under the CFPA after providing advanced notice to the CFPB that they are doing so; and ongoing uncertainty in areas in which

federal policy remains in flux. The following are the key regulatory and enforcement developments we expect to shape compliance risk and litigation exposure in 2026.

Artificial Intelligence

Shortly after returning to office, President Trump issued a new AI-focused executive order (Executive Order 14179), which rescinded Biden-era directives. The order directed federal agencies to prioritize innovation, avoid unnecessary barriers to entry, and coordinate across the federal government to promote consistent policy signals to industry, reflecting broader concerns about global competition and the need for a cohesive national strategy. In response, federal agencies removed certain existing guidance and rescinded past orders that targeted AI. For example, the Equal Employment Opportunity Commission took down its prior guidance on how existing antidiscrimination laws apply to AI in hiring, firing, or promotion decisions. And, in December 2025, the FTC reviewed and set aside a Biden-era enforcement order issued against Rytr, a business that offers an AI-enabled "writing assistance" service that allows users to generate online reviews. Under the consent order, the FTC had previously taken the position that, because Rytr's software had the ability to generate reviews regardless of experience, the technology could be used in a deceptive and misleading manner and was thus an instrument to make false or deceptive statements. In setting aside the consent, the FTC announced that the mere capability to potentially create false or deceptive consumer reviews was insufficient to support a violation of the FTC Act, and that the prior order could unduly burden AI innovation.

The current administration's deregulatory posture, however, has left a void on federal AI regulation and, as a result, nearly 40 states moved to fill perceived gaps by proposing or enacting their own AI-related laws. California passed several AI laws, including the Transparency in Frontier Artificial Intelligence Act, the first US state law focused on transparency and catastrophic risk from "frontier" AI models. Arkansas enacted legislation clarifying ownership and rights around AI-generated content and identity. Pennsylvania adopted digital identity and consent protections related to AI and AI-generated content. Utah enacted provisions related to the use of generative AI in consumer transactions and regulated services. The rapid growth of state-level legislation has caused concern among major technology companies facing a fractured regulatory environment. A consortium of technology companies has pushed for a consistent federal AI regulatory framework, noting that the patchwork of conflicting state laws will make compliance more difficult and costly.

This federal–state tension took on a sharper legal dimension with the issuance of Executive Order 14365 in December 2025. This order directed the US attorney general to take action against state AI laws that "unconstitutionally regulate interstate commerce" and the FTC to formulate a policy statement that "explain[s] the circumstances under which State laws that require alterations to the truthful outputs of AI models are preempted by the [FTC's] prohibition on engaging in deceptive acts or practices affecting commerce." This reflects a broader dynamic in emerging technology governance, which usually plays out slowly over time: balancing states' traditional role as policy laboratories against the federal government's interest in uniform standards for technologies that inherently operate across state and national borders.

The unprecedented pace of AI development has created a collision course among the technology and new state and federal regulation. We expect this federal–state tension to continue influencing AI-related regulatory and enforcement activity throughout 2026.

Data Governance, Data Sharing, and Open Finance

In 2026, account access, data sharing, and open finance are likely to remain central issues in the regulation of consumer financial products as regulators seek to balance innovation, competition, and consumer protection. Financial institutions and fintech providers increasingly rely on consumer-permissioned data sharing to support payments, credit underwriting, account aggregation, and personalized financial services, heightening concerns regarding consumer consent, data security, and secondary use.

At the federal level, the CFPB finalized a personal financial data rights rule under section 1033 of the Dodd-Frank Act in October 2024, establishing a framework for standardized access to consumer financial data. Implementation of that rule, however, has been stayed while the CFPB undertakes reconsideration and potential revisions. Revisiting the topic in August 2025, the CFPB issued an advance notice of proposed rulemaking (ANPR), which reopened several foundational elements of the 2024 "open banking" rule, including whether data providers should be permitted to charge fees to offset the cost of API

access. The combination of these two developments has left the regulatory trajectory for open banking and open finance unsettled. As a result, industry participants continue to face uncertainty regarding technical standards, liability allocation, and compliance timelines.

At the same time, state attorneys general and the FTC are expected to continue scrutinizing practices involving screen scraping, opaque consent flows, and unauthorized data use under theories of unfair and deceptive practices. As open finance ecosystems expand beyond traditional banking into credit, payments, and payroll-linked products, disputes over account access, downstream accountability, and interoperability standards are likely to increase, positioning data governance as a defining regulatory and litigation frontier in 2026.

Earned Wage Access

At the end of 2025, the CFPB took steps to reduce long-standing uncertainty regarding the treatment of earned wage access (EWA) products under federal consumer credit law. On December 23, 2025, the CFPB issued an advisory opinion clarifying that certain employer-facilitated EWA products — those allowing workers to access wages already earned, relying on payroll deductions, and imposing no recourse or credit risk — are not "credit" under the Truth in Lending Act (TILA) and Regulation Z. This advisory opinion draws an important regulatory distinction between wage access and consumer credit, easing compliance concerns for many providers and employers heading into 2026.

The CFPB made clear, however, that not all EWA products fall outside the scope of credit regulation — only ones that meet certain specific criteria. Based on the advisory opinion, EWA products could fall outside the "Covered EWA" safe harbor and may be subject to TILA and/or Regulation Z if (i) the provider advances an amount that may or may not be fully documented by payroll data (e.g., based on the worker's estimate of hours worked); (ii) when repayment does not occur solely through payroll deduction but instead is automatically debited to the worker's bank account after payday; or (iii) the arrangement could create a debt obligation because repayment is not tied strictly to a passive payroll process and could require collection activity if funds are insufficient. The advisory opinion leaves open further evaluation of other EWA models and legal frameworks beyond Regulation Z, signaling that federal oversight may continue to evolve through additional guidance, enforcement activity, or potential rulemaking as new product structures emerge.

Meanwhile, states continue to craft or enforce their own approaches to EWA regulation. Some have classified certain EWA arrangements as loans, triggering licensing and consumer protection requirements, while others have adopted bespoke regimes focused on fees, disclosures, and worker protections. These divergent approaches, combined with evolving federal guidance, are likely to create continued compliance complexity and litigation risk for multistate employers and service providers throughout 2026.

Subscription Auto-Renewal and Cancellation

Auto-renewal laws and subscription cancellation practices are expected to remain an active area of regulatory enforcement and class action litigation in 2026. Despite the U.S. Court of Appeals for the Eighth Circuit vacating the FTC's nationwide "click-to-cancel" Negative Option Rule, codified at 16 Code of Federal Regulations (CFR) section 310.2(w), on procedural grounds in July 2025, the rule should still be regarded as a clear signal of regulator expectations as it relates to conspicuous disclosures, express consumer consent, and straightforward cancellation mechanisms. Indeed, in February 2026, the FTC announced that it was conducting a proposed rulemaking on the Negative Option Rule, and it had publicly spoken in favor of the rule even after the Eighth Circuit's ruling. Consistent with its focus on these issues, in 2025, the FTC demonstrated its willingness to pursue alleged "dark patterns," inadequate disclosures, and cancellation friction under section 5 of the FTC Act and the Restore Online Shoppers' Confidence Act, including through a $7.5 million settlement with education tech provider Chegg and a $2.5 billion settlement with Amazon. Under the Amazon settlement, the company is subject to various forms of injunctive relief, including "providing clear and conspicuous disclosures about the Prime enrollment and cancellation process, obtaining express informed consent before charging consumers," and, notably, providing "customers with a clear button to cancel their Prime membership, consistent with the original" click-to-cancel rule.

States were also active in this space in 2025. California passed its amended Automatic Renewal Law, which, among other provisions, requires businesses to get a "consumer's express affirmative consent" to auto-renewal or continuous service offer terms and applies to contracts "entered into, amended, or extended […] on or after July 1, 2025." New York likewise enacted

additional requirements for auto-renewal products through its 2025–2026 budget bill, effective beginning in November 2025, making 2026 the first full year of operation under the updated regime. These requirements include a provision requiring companies to clearly and conspicuously disclose the material terms of an automatic-renewal offer — including the price, the frequency of charges, the deadline by which consumers must act to prevent future charges, and how to cancel — before the company requests consent or billing information. Further, companies must provide "a simple cancellation mechanism that is as easy to use as the mechanism that the consumer used to provide consent and that is through the same medium that the consumer used to provide consent." Additionally, Colorado passed a law, SB25-145, which took effect on February 16, 2026, that expressly requires an online cancellation option when a consumer consented online. We anticipate continued federal and state legislative and enforcement focus on auto-renewal and subscription products in 2026.

Junk Fees

Regulators are likely to continue their scrutiny of "junk fees" in 2026.

Throughout 2025, the FTC continued to emphasize the need for price transparency. In May 2025, the FTC's Trade Regulation Rule on Unfair or Deceptive Fees took effect, prohibiting certain pricing practices in the live-event ticketing and short-term lodging sectors. While the scope of the rule is limited, the FTC made clear in the accompanying press release that it will continue to pursue alleged junk fee practices more broadly under section 5 of the FTC Act. "Junk fee" is a broad term the CFPB has used to describe a wide range of fees financial institutions may charge consumers, ranging from so-called "surprise" overdraft fees to "pay-to-pay" convenience fees.

Additionally, in September 2025, the FTC's commissioner signaled that the agency's view of consumer protection is to ensure "that consumers can make well-informed choices" and "that the information provided to consumers is in fact truthful and not misleading." In 2026, we anticipate that the FTC will likely continue to emphasize the "total price" principle, which challenges advertising practices that promote a base price while relegating unavoidable fees to later stages of a transaction. Increased scrutiny of digital interfaces and checkout flows is also anticipated, particularly when fees surface only after consumers have invested time or entered personal information.

State junk fee enforcement is expected to accelerate, particularly in jurisdictions that have enacted or expanded price-transparency statutes in 2025, such as Minnesota, Connecticut, Colorado, Maine, Nevada, Rhode Island, and Oregon.

Consumer Protections Afforded to Service Members

Compliance with the Servicemembers Civil Relief Act (SCRA) and the Military Lending Act (MLA) is likely to remain a significant enforcement priority in 2026, as financial services for military service members is high on the administration's consumer protection agenda. SCRA provisions relating to interest rate caps, foreclosure and eviction protections, and stays of civil proceedings continued to generate litigation and regulatory scrutiny in 2025, given the potential for significant remediation and penalties.

For example, one of the few enforcement actions by the CFPB in 2025 was the settlement of an MLA action against MoneyLion. The parties entered into a stipulated final judgment in November 2025. Under that judgment, MoneyLion agreed to pay approximately $1.75 million in restitution to affected consumers and must allow military and other borrowers to cancel memberships even if loan balances or past membership fees remain. In parallel, the U.S. Department of Justice emphasized SCRA compliance, including through joint communications with the CFPB reminding financial institutions of their statutory obligations.

Together, these developments suggest that institutions involved in credit, foreclosures, repossessions, or lease terminations affecting active-duty personnel are likely to remain under close regulatory and litigation scrutiny in 2026.

Mortgage Origination and Servicing

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BY Sabrina M. Rose-Smith W. Kyle Tayman Viona J. Harris Courtney L. Hayden Christina L. Hennecken Matthew L. Riffee Christian Fletcher Collin Grier Chenxi (CC) Jiao Jackie Odum Kelsey Pelagalli Angelica Rankins

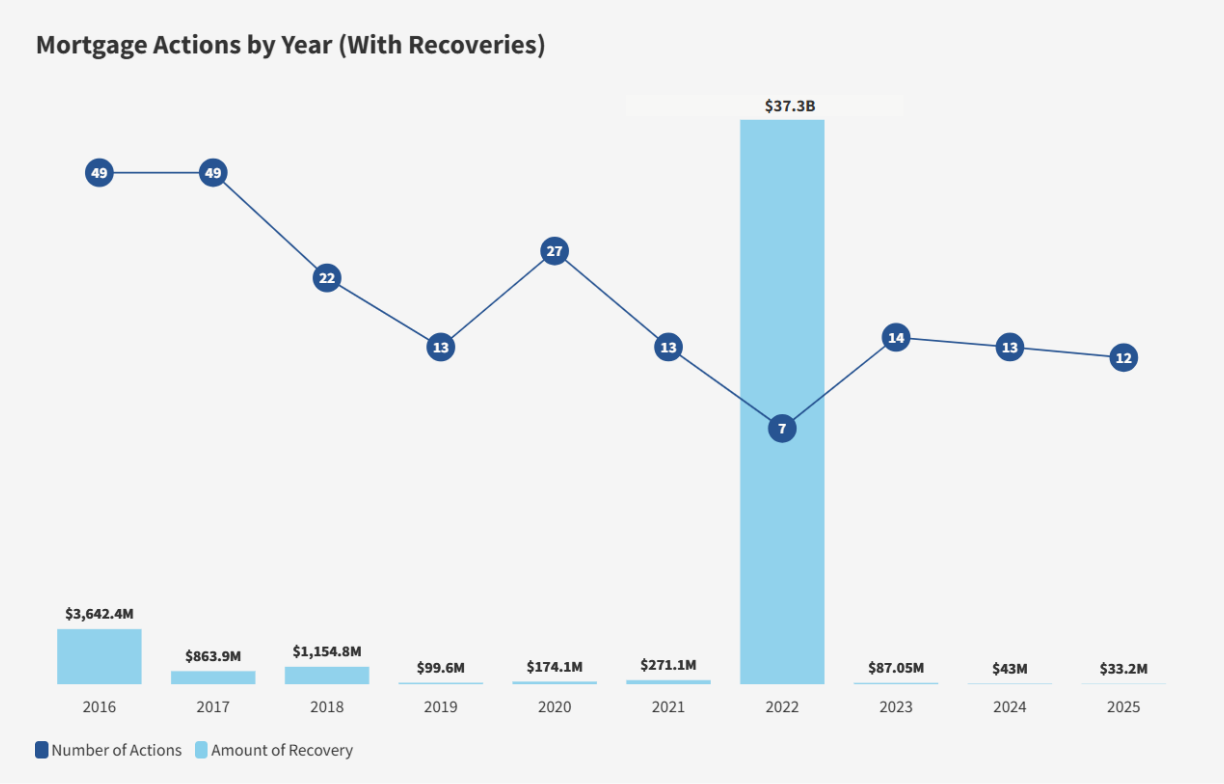
Looking Ahead to 2026

In 2025, the mortgage market saw federal enforcement efforts decrease as the Consumer Financial Protection Bureau (CFPB) shifted priorities away from subject areas like fair lending. The CFPB's internal restructuring — marked by sweeping staff reductions and an April 2025 internal memo announcing new enforcement priorities — effectively paused large-scale supervisory activity. The CFPB also terminated or allowed mortgage-related consent orders to expire early, reduced litigation activity by transferring enforcement lawsuits to the U.S. Department of Justice (DOJ), and proposed limiting Regulation B to eliminate disparate-impact liability claims under the Equal Credit Opportunity Act (ECOA).

Looking ahead, enforcement activity in the mortgage space is expected to shift predominantly to state attorneys general and state-level financial regulators. Private litigation is also anticipated to increase, particularly in jurisdictions with borrower protection statutes. In this environment, mortgage originators and servicers should strengthen multistate compliance frameworks and, given the shifting focus of federal enforcement priorities, expect continued state-level activity targeting servicer conduct and fair lending compliance.

Key Trends From 2025

In 2025, Goodwin tracked 12 publicly announced enforcement actions related to mortgage origination and servicing (nine state and three federal), a decline from the 13 actions that Goodwin monitored in 2024 and the 14 actions tracked in 2023. Indeed, 2025 reflected the second fewest enforcement actions and the lowest annual recovery in the 10 years Goodwin has tracked such activity, continuing a decade-long downward trend.



In the News

Federal Regulatory Developments

Although the CFPB's mortgage supervision efforts shifted the focus away from disparate impact in 2025, the CFPB continued to consider mortgages a high priority. During 2025, the CFPB:

- **Announced shifting enforcement priorities** in an April 2025 internal memo. According to the announcement, the CFPB's focus will be on what the CFPB chief legal officer called "pressing threats to consumers, particularly service members and their families, and veterans." The memo put mortgages as the highest priority item on the CFPB's list. The memo also stated that the CFPB would not enforce disparate-impact discrimination but instead would focus on matters with "actual intentional racial discrimination and actual identified victims." The April 2025 internal memo also stated that the CFPB intended to reduce supervisory exams and would not conduct exams when the CFPB's authority overlaps with the states' unless required by law.
- **Announced a regulatory agenda** to undertake 24 rulemaking items, including a proposed rule to rescind the "discretionary compensation provisions" of the Truth in Lending Act (TILA) loan originator compensation requirements and plans to issue advance notices of proposed rulemaking relating to Regulation X and Regulation Z mortgage servicing rules, to determine whether the CFPB should amend those provisions. The CFPB also noted that it plans to finalize its mortgage servicing rule revisions that were previously proposed in July 2024. As a long-term action, the CFPB stated that it intended to address the ability to repay requirements applicable to mortgage loans via TILA.
- **Terminated or allowed the early expiration of mortgage-related consent orders,** including those against multiple mortgage lenders, such as Planet Home Lending citing "substantial compliance" with prior remedial requirements. The termination of these consent orders appears consistent with the CFPB's April 2025 internal memo.
- **Proposed limiting Regulation B, the ECOA's implementing rule,** to change certain lending restrictions. The proposed changes would eliminate disparate-impact liability claims under the ECOA, narrow prohibitions on the "discouragement" of certain credit applicants, and restrict the use of "special purpose credit programs," which offer favorable credit to historically underserved groups.

The Federal Housing Finance Agency (FHFA), meanwhile, rescinded an advisory bulletin directing Fannie Mae (the Federal National Mortgage Association) and Freddie Mac (the Federal Home Loan Mortgage Corporation) to consider enforcing unfair or deceptive acts or practices (UDAP). In the FHFA order, Director William Pulte stated that the FHFA does not view the government-sponsored enterprises as regulators and that UDAP enforcement should remain within the exclusive purview of the Federal Trade Commission.

Similarly, the Office of the Comptroller of the Currency (OCC) published proposals that would simplify retention requirements for banks with less than $30 billion in assets and rescind what the office characterized as "duplicative" home loan data collection obligations. These changes, if finalized, would further ease compliance burdens for community and regional banks engaged in mortgage origination.

Vought-Led CFPB Changes Course Over Actions Brought by Preceding Administration

In February 2025, the Russell Vought–led CFPB dismissed with prejudice three outstanding mortgage-related enforcement lawsuits in federal court that it inherited from the prior administration. One of the cases, *CFPB v. Vanderbilt Mortgage and Finance, Inc.*, was filed by the Rohit Chopra–led CFPB on January 6, 2025 — just days before the turnover to the new administration — and alleged that Vanderbilt Mortgage and Finance violated TILA and Regulation Z by originating "loans without making a reasonable, good-faith determination" of the consumers' ability to repay them. The CFPB's dismissal in the *Vanderbilt* case came prior to the defendant even answering the complaint.

Also in February 2025, the CFPB dismissed *CFPB v. 1st Alliance Lending, LLC*, a case that the CFPB originally brought in January 2021 alleging that the defendant, a Connecticut-based mortgage lender, used unlicensed employees to originate mortgages in violation of the TILA and Regulation Z and the company improperly denied credit applications without providing the proper "adverse action" notice under the ECOA and the Fair Credit Reporting Act. The parties' summary judgment briefing was pending at the time of the stipulated dismissal.

Then in May 2025, the CFPB issued a no-action letter related to a January 2025 consent order against Draper and Kramer Mortgage Corporation, an Illinois-based non-depository mortgage lender. The CFPB alleged that Draper and Kramer violated the ECOA, Regulation B, and the Consumer Financial Protection Act (CFPA) by locating all of its offices in majority-white neighborhoods, avoiding marketing to majority-Black and Hispanic areas, and having an internal compliance program that was inadequate to prevent and monitor for redlining. The CFPB's basis for the no-action letter was that Draper and Kramer had "already paid the civil money penalty" and stopped originating residential mortgage loans, which made continued monitoring unnecessary. The CFPB also noted that, consistent with the "Restoring Equality of Opportunity and Meritocracy" Executive Order, the CFPB "is focusing its supervisory and enforcement resources on fair lending matters with direct evidence of overt racial discrimination and identified victims, which were not present in this matter."

In June 2025, the CFPB terminated its November 2023 consent order against Bank of America, relating to its compliance with the Home Mortgage Disclosure Act (HMDA) and implementation of Regulation C, two years early. The CFPB stated that the bank had fulfilled its obligations under the consent order by paying the civil money penalty, developing a compliance plan and annual report, and improving its HMDA compliance management system.

Court Denies CFPB's Attempt to Vacate Settlement in *Townstone*

In June 2025, the U.S. District Court for the Northern District of Illinois denied the CFPB's motion to vacate the settlement that it had reached with Townstone Financial in *CFPB v. Townstone Financial, Inc., et al.* The *Townstone* case was originally brought by the Chopra-led CFPB in July 2020 and alleged that Townstone violated the ECOA, including Regulation B's discouragement provision, and the CFPA by illegally avoiding lending in Black neighborhoods in Chicago by, among other things, producing a radio show that allegedly openly disparaged the neighborhoods. The CFPB and Townstone settled in November 2024 for $105,000. However, after the change in administration, the CFPB filed a motion to vacate the settlement in March 2025, claiming that the entire *Townstone* case was "a flagrant misuse of government resources to destroy a small business that did nothing wrong." The District Court's order denying the motion described the request as "unprecedented" and stated that "granting the Motion would erode public confidence in the finality of judgments."

New York Appeals Court Holds Foreclosure Abuse Prevention Act Applies Retroactively

As Goodwin previewed in our 2024 year in review for mortgage origination and servicing, litigation over New York's Foreclosure Abuse Prevention Act (FAPA), which changed how the limitations period for mortgage foreclosure actions starts and stops, finally reached the New York State Court of Appeals. In *Article 13 LLC v. Ponce de Leon Federal Bank*, the Court of Appeals (i) held that FAPA should be applied retroactively and (ii) rejected certain constitutional challenges to parts of the law when applied retroactively. The court did not opine, however, on all parts of the multipronged FAPA. Because of the continued uncertainty, we expect FAPA litigation to continue into 2026. Indeed, a putative class action against the state, its governor, and the sponsoring legislator, alleging that the new law's retroactivity unfairly extinguishes vested mortgage rights, was in its initial stages as 2025 came to an end.

Zombie Mortgages

This year brought renewed attention to "zombie" second mortgages, so called because they remain attached to a property but sit unenforced — often for years — even though they are in default. In June 2025, Connecticut enacted a 10-year statute of limitations for foreclosing defaulted junior mortgages, and New York and California considered similar bills. These measures reflect growing state interest in protecting borrowers from the surprise of long-dormant debt.

In a letter to the Office of Mortgage Settlement Oversight, Sen. Elizabeth Warren (D-MA), the ranking member of the Senate Banking, Housing, and Urban Affairs Committee, requested records concerning whether banks sold mortgages to third-party debt collectors that should have been extinguished under federal settlement agreements. According to Warren's letter, "recent reporting indicates that some of these second mortgages may not have been extinguished after all." Warren's letter requested a response by January 7, 2026. As of writing this, there has been no report on what documents (if any) the Office of Mortgage Settlement Oversight provided.

New York Updates GBL Section 349 to Target "Unfair" Practices

In December 2025, New York Governor Kathy Hochul signed the Fostering Affordability and Integrity through Reasonable (FAIR) Business Practices Act into law. The FAIR Business Practices Act updated New York's General Business Law (GBL) section 349 to include coverage of "unfair" acts in addition to the already prohibited "deceptive" acts. In a press release announcing the FAIR Business Practices Act's passage, NY Attorney General Letitia James highlighted the FAIR Business Practices Act's potential use against "mortgage servicers charging unnecessary high fees [and] debt collectors stealing Social Security benefits."

2025 Enforcement Highlights

Massachusetts Attorney General Settles Foreclosure Prevention Suit

The Massachusetts attorney general entered a $2 million settlement with Cypress Loan Servicing LLC, a Texas-based mortgage loan servicer, resolving allegations concerning excessive debt collection calls, deficient debt validation notices, and delayed loss mitigation. The Massachusetts attorney general alleged that the servicer violated Massachusetts' foreclosure prevention laws by requiring "consumers to pay large upfront down payments that were not subject to an affordability analysis," as required by the law, and making "unlawful debt collection calls" in excess of the Massachusetts' two-calls-per-week limit.

California DFPI Settles Overcharge Allegations

The California Department of Financial Protection and Innovation (DFPI) reached a $1.8 million settlement with a mortgage lender and servicer to resolve allegations that it violated state financial regulations. The DFPI alleged that the company "failed to establish a custodial account" for borrowers' trust funds, "failed to reconcile its escrow liability ledgers," and "overcharged [thousands of] borrowers per diem interest" in violation of the California Residential Mortgage Lending Act and the California Financing Law.

DOJ Secures Settlement With Non-Depository Mortgage Company Over Redlining Claims

In July 2025, the CFPB announced the termination of its October 2024 consent order with Vystar, a Florida-based credit union, in which the credit union agreed to pay a $1.5 million civil money penalty and committed to a series of remedial actions. The DOJ opened the investigation after receiving a referral from the CFPB, and this settlement marks the DOJ's 16th under its Combatting Redlining Initiative.

Fintech

Welcome to the third chapter of our annual report, Consumer Financial Services: 2025 Year in Review.

BY Sabrina M. Rose-Smith W. Kyle Tayman Viona J. Harris Courtney L. Hayden Christina L. Hennecken Matthew L. Riffee Lauren Jackson Collin Grier Chenxi (CC) Jiao Jackie Odum Kelsey Pelagalli Angelica Rankins

Looking Ahead to 2026

Key issues to watch in 2026 include whether the Consumer Financial Protection Bureau (CFPB) finalizes its revisions to the "open banking" rule, which would require applicable financial institutions to provide consumers and authorized third parties secure access to their consumer financial data. The CFPB has indicated in a recent court filing that it anticipates issuing an interim final open banking rule in 2026. We are also monitoring the Office of Comptroller of the Currency (OCC) and Federal Reserve for their renewed focus on third-party risk management for banking-as-a-service (BaaS) partnerships as evidenced in the Bank-Fintech Partnership Enhancement Act. Currently pending before the House of Representatives, this act would empower the OCC and Federal Reserve to conduct additional research into the partnerships between regulated banking organizations and fintech companies.

Key Trends From 2025

2025's developments underscored the industry's maturation. The balance between increased state oversight and decreased federal enforcement mirrored the regulatory shifts seen across the consumer financial services industry. However, fintech companies' deep-seated use of artificial intelligence (AI) opened them up to new avenues of regulatory oversight for companies that previously faced lighter government scrutiny than traditional, regulated banks do. For example, states such as Texas and California passed legislation requiring fintech companies that use AI to publish information about their use of AI and monitor such use to ensure it does not violate constitutional or criminal laws.

Both the privacy of consumer data and consumers' access to their own data, known as "open banking," also remained touchpoints for regulations and laws affecting fintech companies. In addition, while federal regulation decreased overall, remaining enforcement activity examined fintech companies through the broader lens of unfair, deceptive, or abusive acts or practices (UDAAP), and the OCC examined allegations of debanking among fintech companies' partner banks.

In the News

Bifurcated Federal Landscape

The CFPB's shift toward deregulation was visible in how it treated fintech supervision. In August 2025, the CFPB proposed raising the transaction thresholds for which entities qualify as "larger participants" subject to supervision across multiple markets — including consumer reporting, international money transfers, debt collection, and auto finance — effectively excluding many midsize fintech lenders from direct oversight. Also in August, the CFPB proposed limiting its authority to designate nonbank entities for examination, reversing its 2022 rule that brought large fintech companies under continuous supervision.

The practical outcome was a bifurcated landscape; large, bank-partnered fintech companies continued to face OCC and Federal Reserve oversight through their depository affiliates, while smaller independent providers operated with minimal federal engagement.

Open Banking and Consumer Data Rights

The CFPB's section 1033 rulemaking under the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) — previously positioned as the cornerstone of the CFPB's "open banking" initiative — was effectively suspended pending significant redesign. The CFPB's original rule, which was issued in final form in October 2024, required financial institutions,

credit card issuers, and other financial providers to transfer an individual's personal financial data to another provider for free, at the consumer's request. At the time, the CFPB touted the rule as bringing the United States "closer to having a competitive, safe, secure, and reliable 'open banking' system."

Following extensive litigation and public criticism that the 2024 final rule was overbroad and technologically unworkable, the CFPB retreated from it. In July 2025, the CFPB moved to stay a lawsuit brought by industry actors to vacate the rule, stating that it was initiating "a new rulemaking to reconsider the Rule with a view to substantially revising it and providing a robust justification." Then in August, the CFPB issued an advance notice of proposed rulemaking (ANPR) reopening comment on four fundamental questions: (i) who may access a consumer's data as their representative; (ii) whether it is permissible to charge a fee for the transfer of a consumer's data; (iii) what are the appropriate data security standards for compliance with the rule; and (iv) what data privacy concerns exist.

The ANPR drew more than 14,000 public comments before the closure of the comment period and remains pending.

Bank–Fintech Partnerships

In August 2025, the Trump administration issued an executive order on politicized debanking. The order directed banking agencies to remove "reputation risk" from existing regulatory guidance and ensure account closures are based solely on neutral, risk-based factors. Following this order, fintech platforms offering BaaS products faced compliance uncertainty as the OCC scrutinized some large partner banks over past onboarding and account termination policies, including policies that allegedly debanked entities or individuals associated with digital assets.

The recently proposed Bank-Fintech Partnership Enhancement Act, if passed, would empower federal banking regulators to study fintech–banking partnerships to "help promote effective partnerships between banking organizations, on the one hand, and financial technology companies, on the other hand," indicating that bank–fintech partnerships are increasingly viewed as permissible, and even beneficial, in the banking industry.

2025 Enforcement Highlights

CFPB Terminates Consent Orders, Drops Fintech Lawsuit

The CFPB quietly terminated two pending consent orders with financial institutions (one in May 2025, the other in July), stating that, in both instances, the companies had fulfilled many of their obligations under the original consent orders, citing changes in its policy, and rescinding previous guidance. The CFPB also dropped an active lawsuit against a major retailer and its fintech partner, reflecting a broader strategy to retreat from the regulatory efforts of the past administration.

CFPB Turns to UDAAP Authority Against Bankrupt Fintech Provider

The CFPB signaled it would rely on its general UDAAP authority — rather than prescriptive rulemaking — to address fintech payment conduct when it pursued an enforcement action against a bankrupt fintech service provider on UDAAP grounds. In an adversary proceeding complaint filed in August 2025, the CFPB alleged that the fintech provider's failure to maintain adequate records of consumers' funds, which delayed their access to those funds, constituted an "unfair, deceptive, or abusive act or practice." The CFPB subsequently entered into a stipulated final judgment with the fintech provider's Chapter 11 trustee in which a nominal civil money penalty of $1 was entered to secure the CFPB's claim in the company's ongoing bankruptcy proceedings.

Fintech Payday Lender MoneyLion Faces Federal and Local Enforcement

MoneyLion, a payday loan fintech company, faced both continued federal scrutiny as well as new lawsuits brought by the New York attorney general (AG) and the City of Baltimore. The CFPB originally sued the company in 2022 with allegations that it violated the Consumer Financial Protection Act and Military Lending Act by charging inflated annual percentage interest rates on its loans and trapping customers in a predatory "membership" program.

The New York AG filed suit in April 2025, characterizing the company's product as illegal "high-cost loans." The mayor of Baltimore followed suit in October, filing a lawsuit accusing the company of taking advantage of consumers who were already "in a precarious financial position" by offering easy, mobile-accessible "cash advances." In November, the company entered into a stipulated judgment to resolve the CFPB's lawsuit, which included $1.75 million in redress.

These concerted actions show a multilateral enforcement approach that spans federal, state, and local entities and indicates that fintech companies venturing into traditionally enforcement-heavy products should remain cautious.

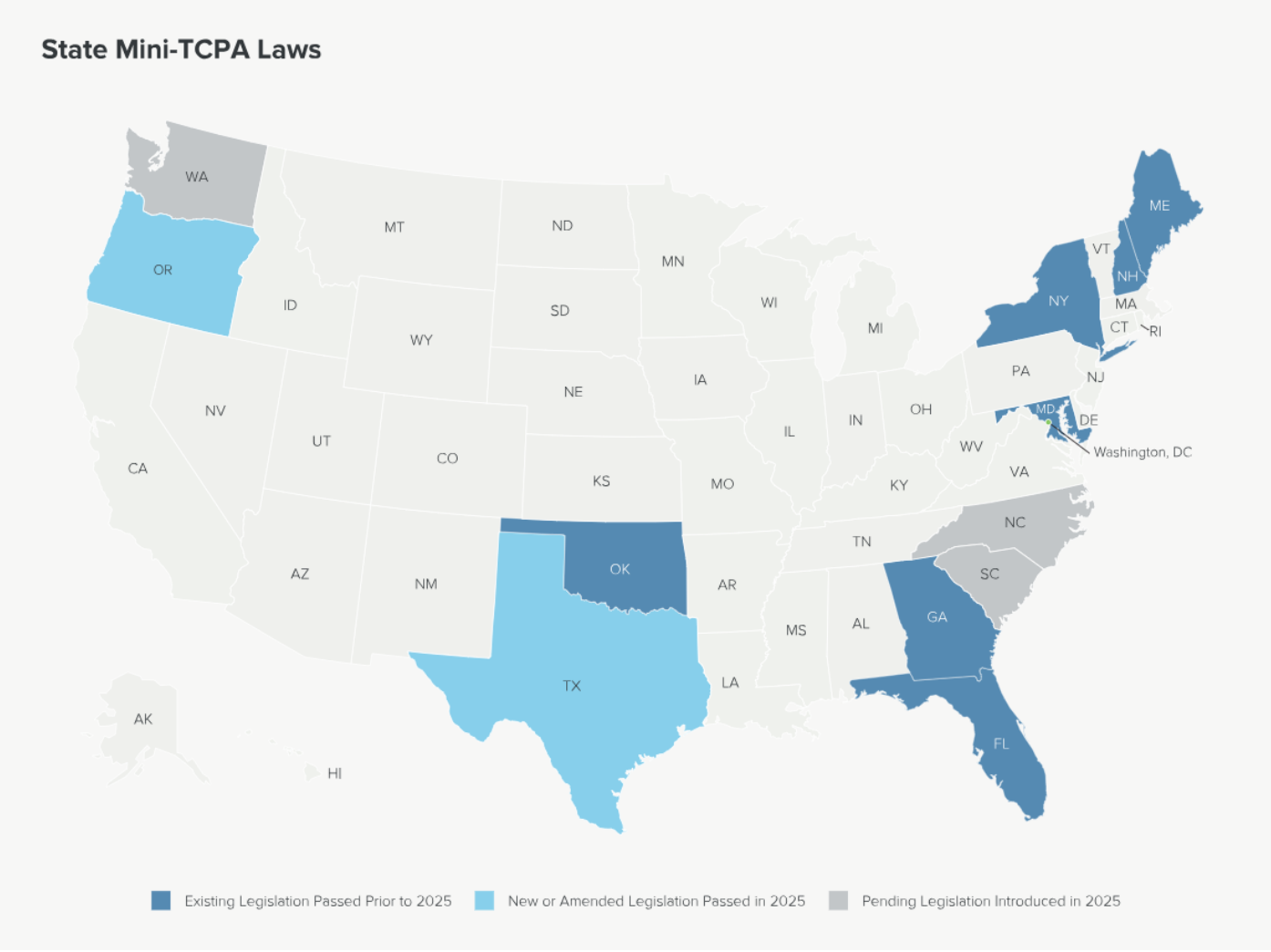
Telephone Consumer Protection Act (TCPA) and Mini-TCPAs

Welcome to the fourth chapter of our annual report, Consumer Financial Services: 2025 Year in Review.

BY Sabrina M. Rose-Smith W. Kyle Tayman Viona J. Harris Courtney L. Hayden Christina L. Hennecken Matthew L. Riffee Andrew Hill Collin Grier Chenxi (CC) Jiao Jackie Odum Kelsey Pelagalli Angelica Rankins

Looking Ahead to 2026

The Telephone Consumer Protection Act (TCPA) landscape in 2025 saw federal rollback, judicial overhaul, and further increases in state-level legislation. In *McLaughlin Chiropractic Associates, Inc. v. McKesson Corp. et al*, the U.S. Supreme Court found that the Administrative Orders Review Act (aka the Hobbs Act) does not bind lower courts to the Federal Communications Commission's interpretation of the TCPA. The U.S. Court of Appeals for the Eleventh Circuit also made headlines when it invalidated the agency's "one-to-one consent" rule, although the Federal Communications Commission (FCC) contemporaneously paused the rule's enactment. Overall, Congress and the FCC signaled little appetite for expanding TCPA protections beyond current boundaries. Meanwhile, state legislatures broadened "mini-TCPA" laws to capture text messaging and digital solicitations, complicating compliance expectations for nationwide campaigns.



Together, these developments appear to mark a pivot from more than a decade of aggressive federal interpretation that leaned in favor of consumers. Meanwhile, states have aggressively passed their own mini-TCPA laws, seeking to mirror and, in some instances, enhance consumer protection against unwanted calls and text messages.

In 2026, Goodwin expects that even more states will introduce or pass legislation applying TCPA-style protections and that, as a result, state-level enforcement actions and private lawsuits will increase after a lull in litigation activity following the U.S. Supreme Court's 2021 decision in *Facebook, Inc. v. Duguid*. We also expect further divergence among courts regarding novel challenges to TCPA in a post-*Chevron* deference environment.

Key Trends From 2025

FCC Seeks to Limit Scope of Its Regulations Under the TCPA

President Trump's appointment of Brendan Carr as FCC chair in January 2025 signaled that the second Trump administration was taking a softer approach to TCPA regulation and enforcement as Carr, in his tenure as an FCC commissioner, has repeatedly advocated for broader deregulation. Consistent with this, the FCC's TCPA focus in 2025 centered on narrowing rules viewed as exceeding statutory authority and recognizing business disruption and expense to previously proposed TCPA rules, like the one-to-one consent rule.

Key developments in 2025 included:

- **Quiet-Hours Clarification:** In March, the FCC issued a public notice seeking comment on whether the TCPA's 8 am–9 pm "quiet hours" restriction applies to text messages sent with "prior express written consent" from the consumer. The public notice also sought comment on whether the quiet hours restriction applies to solicitations to cellular phones. The notice received several comments, ranging from industry stakeholders in support of the petition to consumer protection advocates opposing it. As of year-end, the FCC had yet to issue a formal decision.
- **Consent Revocation Rule:** The FCC granted a second one-year waiver — until April 2026 — for companies to comply with the portion of 47 Code of Federal Regulations section 64.1200(a)(10) that requires revocation across unrelated communication channels, citing the technical challenges financial institutions and healthcare providers face in implementing reengineered, compliant systems.
- **Demand-Response Ruling:** In June, the FCC clarified that that if a consumer provides a utility with their phone number, then that qualifies as prior express consent such that utilities may send time-sensitive "demand-response" alerts without renewed consent, broadening the concept of "closely related" informational communications.

Volume of TCPA Litigation Remained Steady and Focused on Statutory Interpretation

The number of TCPA-related lawsuits in 2025 was consistent with 2024. Between January 1, 2025, through November 30, 2025, 2,588 TCPA lawsuits were filed, reflecting a negligible 0.4% decrease from 2024.[1] Looking ahead to 2026, increased state legislation (including new and proposed laws covered in the following subsection) may result in an uptick in state mini-TCPA litigation.

States Expand Patchwork of Compliance Requirements

Throughout 2025, several states passed or introduced legislation that would expand telemarketing and texting restrictions, creating overlapping and sometimes inconsistent regimes:

- **Texas Senate Bill 140:** Effective September 1, 2025, the law broadened "telephone solicitation" to include texts and images, introduced a private right of action with statutory damages up to $5,000 per violation, and introduced new language that explicitly protects a claimant's right to seek full recovery for each separate violation, regardless of their litigation history under the amended statute.
- **Oregon House Bill (HB) 3865:** In effect as of January 1, 2026, the law restricts contact hours to 8 am–8 pm, limits daily calls to three per consumer, and expressly expands the restrictions to cover text messages as well.

[1] "WebRecon Nov 2025 Stats," WebRecon (last accessed January 28, 2026).

- **North Carolina HB 936:** Referred to the Committee on Rules and Operations of the Senate in May 2025, the proposed legislation would replace "express invitation or permission" with "prior express written consent" and redefine "robocalls" broadly; however, the rule is still pending Senate action.
- **South Carolina HB 3323:** The "Telephone Solicitation Act," referred to the House Labor, Commerce and Industry Committee on January 14, 2025, would require a consumer's express written consent for commercial sales calls made with an "automated system for the selection or dialing of telephone numbers [or] the playing of a recorded message," a notably broader definition than technology covered by the TCPA.
- **Washington HB 1103:** Referred to the House Consumer Protection & Business Committee after a hearing on January 15, 2025, the proposed legislation would prohibit any person or organization from initiating telephone solicitation, including via text messages, to a Washington resident who is on the National Do Not Call Registry without consent.

Collectively, these measures aim to expand exposure for companies operating across multiple jurisdictions and signal that some states intend to fill the gaps left by federal retrenchment.

State attorneys general were also active in the telemarketing space. In August 2025, the multistate Anti-Robocall Litigation Task Force, comprised of 51 state attorneys general, issued new warning letters to carriers and lead-generation firms for failing to filter spoofed traffic. In December, they announced a new phase of an effort they have titled "Operation Robocall Roundup," investigating and sending letters to four voice service providers and ordering them "to stop transmitting suspected illegal robocalls across their networks."

In the News

Supreme Court — *McLaughlin Chiropractic Associates, Inc. v. McKesson Corp. et al*

In June 2025, the Supreme Court curtailed agency deference by holding that "the Hobbs Act does not bind federal district courts" to the FCC's interpretations of the TCPA. Consistent with its prior ruling in *Loper Bright Enterprises v. Raimondo*, the Court held that district courts must independently interpret the statute "under ordinary principles of statutory interpretation," giving only "appropriate respect" to agency reasoning. The *McLaughlin* ruling and the Court's departure from agency deference has led parties and courts involved in TCPA litigation to focus on the plain meaning and original intent of the legislative text and reduced the reliability of FCC's rules and interpretative guidance in private litigation.

Eleventh Circuit — *Insurance Marketing Coalition Ltd. v. FCC*

In January 2025, the Eleventh Circuit vacated the FCC's 2023 rule that introduced both one-to-one consent and "logically and topically associated" requirements for calls with consent, finding the rule impermissibly altered the meaning of "prior express consent" in the statute. The FCC, now led by Carr, did not appeal and, by August 2025, formally reinstated the prior consent definition.

District Courts — Texts Versus Calls

After *McLaughlin*, two 2025 district courts (the U.S. District Court for the Middle District of Florida in *Jones v. Blackstone Medical Services, LLC*, and the U.S. District Court for the Northern District of Florida in *Davis v. CVS Pharmacy, Inc.*) held that text messages are not "telephone calls" under 47 U.S. Code section 227(c)(5), rejecting deference to FCC orders that equated texts with calls. Both courts emphasized that "telephone call" in the statute should bear its ordinary meaning as of the time the statute was enacted — excluding technologies not then in existence such as text messages — and explicitly declined to defer to the preexisting FCC interpretation. *Jones* is pending on appeal in the U.S. Court of Appeals for the Seventh Circuit, setting up more appellate guidance on the scope of the definition of "telephone calls" in 2026.

Data Privacy and Cybersecurity

Welcome to the fifth chapter of our annual report, Consumer Financial Services: 2025 Year in Review.

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Looking Ahead to 2026

In 2026, both federal and state enforcement agencies will likely maintain aggressive stances and continue to impose significant penalties for cybersecurity lapses. To stay ahead of these regulatory expectations, organizations should prioritize integrated compliance strategies, cross-functional risk assessments, and proactive engagement with emerging artificial intelligence (AI) and cybersecurity standards.

Key Trends From 2025

2025 marked a pivotal year for regulatory and enforcement activity in cybersecurity, privacy, and AI governance. Regulators such as the U.S. Securities and Exchange Commission (SEC) and California Privacy Protection Agency (CPPA) introduced new requirements for third-party risk management and incident reporting. Meanwhile, the New York Department of Financial Services (DFS) had a busy year enforcing its Part 500 cybersecurity regulation. AI governance also emerged as a dominant theme, with the adoption of the CPPA's long-anticipated regulations governing the use of automated decision-making technology (ADMT), the release of the White House's AI Action Plan, and the introduction and passage of several state laws governing the use of AI, signaling increased interest in the space.

On the litigation front, web tracking wiretap class action and individual lawsuits were filed at a record-setting rate, most commonly under the California Invasion of Privacy Act (CIPA), with new and expanded theories of liability. Notably, consumers frequently alleged that any website with third-party tracking software, such as cookies or pixels, constitutes a "pen register" and/or "trap and trace device" that violates CIPA section 638.51 because such software allegedly collects information like IP addresses and discloses that information to third parties. Courts remain split as to whether these claims may proceed past the pleading stage and continue to grapple with applying CIPA to the internet age, perpetuating the uncertainty facing companies employing such technologies on their websites. Some federal courts declined to dismiss such claims at the pleadings stage, holding that the plaintiffs plausibly alleged that web tracking technologies are either a pen register or trap and trace device.[2] In contrast, state court decisions, such as *Sanchez v. Cars.com Inc.* and *Aviles v. LiveRamp, Inc.*, have interpreted CIPA section 638.51 as inapplicable to web browsing.

In the News

AI Action Plan

In July 2025, the Executive Office of the President released its AI Action Plan, a long-anticipated road map for the federal government's approach to AI governance that presents a number of implications for businesses globally. The AI Action Plan identifies more than 90 federal policy actions across the three pillars the Trump administration plans to address: (i) accelerating AI innovation, (ii) building American AI infrastructure, and (iii) leading international AI diplomacy and security. Under the second pillar, bolstering "critical infrastructure cybersecurity," promoting "secure-by-design AI technologies and applications," and promoting "mature federal capacity for AI incident response" are identified as recommended policy actions.

[2] For example, *Riganian et al v. LiveRamp Holdings, Inc.*, 791 F. Supp. 3d 1075 (N.D. Cal. 2025) and *Fregosa v. Mashable, Inc.*, No. 25-CV-01094-CRB, 2025 WL 2886399, at *3 (N.D. Cal. Oct. 9, 2025).

New York AI Act

In January 2025, the New York AI Act (Senate Bill S1169A) was introduced in the New York Senate. The act focuses on addressing algorithmic discrimination by regulating and restricting the use of certain AI systems and provides consumers with the right to opt out of automated decision-making or appeal its results. Further, "high-risk AI systems" would be required to undergo independent audits. Enforcement will be permitted by the New York attorney general, with a civil money penalty of up to $20,000 per violation. It also contains a private right of action. After the bill died in the Assembly, it was returned to the Senate and referred to the Senate Internet and Technology Committee, where it is now pending.

Regulation S-P Amendments

In December 2025, amendments to the SEC's Regulation S-P took effect. Under these amendments, larger covered entities must establish a written incident response plan, notify customers of data breaches, implement additional service provider oversight, and meet new recordkeeping requirements. All other covered institutions must be in compliance by June 3, 2026.

CPPA ADMT Regulations

In September 2025, the CPPA adopted updates to its regulations, which added requirements for regulated businesses to complete annual cybersecurity audits as well as conduct risk assessments for certain data processing activities, including targeted advertising and processing sensitive personal information. The updated regulations also grant consumers new rights affecting businesses' use of ADMT to make certain "significant" decisions affecting a consumer — including rights to receive pre-use notices, opt-out options, and explanations of the logic of decisions. ADMT includes "any technology that processes personal information and uses computation to replace human decision making or substantially replace human decision making." The portions of the updated regulations addressing risk assessments came into force on January 1, 2026, with the remaining updates coming into force on various dates in 2027 and 2028.

Texas AI Law

In June 2025, Texas enacted the Texas Responsible Artificial Intelligence Governance Act (TRAIGA). The act broadly defines an AI system as "the use of machine learning and related technologies that use data to train statistical models for the purpose of enabling computer systems to perform tasks normally associated with human intelligence or perception" and includes provisions aimed at consumer protection, such as guardrails against using biometric data to identify an individual without consent. TRAIGA also establishes the Texas AI Council, a seven-member body comprised of experts in AI systems, privacy and data security, and technology ethics. The AI Council is charged with identifying barriers to AI innovation and advising on future legislation. TRAIGA enforcement authority is allocated exclusively to the Texas attorney general, and civil money penalties range from $10,000 to $200,000 per violation.

2025 Enforcement Highlights

New York DFS Settles With PayPal Inc.

The New York DFS announced in January 2025 that it entered into a consent order with PayPal Inc., in which PayPal agreed to pay a $2 million penalty to resolve allegations that it failed to use qualified personnel to manage key cybersecurity functions, ensure proper implementation of its cybersecurity policies and procedures, and use effective controls to protect against unauthorized access, resulting in the exposure of sensitive customer information to cybercriminals in 2022.

New York DFS Settles With Healthplex Inc.

The New York DFS announced in August 2025 that it entered into a consent order with Healthplex Inc., a licensed insurance agent and independent adjuster, to pay a $2 million civil money penalty. As part of the settlement, Healthplex has agreed to hire an independent auditor to examine the adequacy of its multi-factor authentication (MFA) controls.

New York DFS Settles With Eight Auto Insurers

The New York DFS announced in October 2025 that it will secure more than $19 million in penalties from eight auto insurance companies over “inadequate cybersecurity controls” that allowed hackers to extract nonpublic personal information (NPI). The consent orders require comprehensive audits of information systems that store or provide access to NPI and continued use of MFA.

FTC Settles With GoDaddy Inc.

The Federal Trade Commission (FTC) announced in May 2025 that it finalized an order with GoDaddy Inc., settling allegations that the web hosting provider misled consumers by failing to implement data security protections, which led to several data breaches. Under the order, GoDaddy is prohibited from making misrepresentations about its security and the extent to which it complies with various privacy or security programs; required to establish and implement a comprehensive information security program; and required to hire an independent third-party assessor to conduct reviews of the program.

SEC Dismisses Cyber Disclosure Case Against SolarWinds and CISO

In November 2025, the SEC announced an agreement to dismiss, with prejudice, its case against SolarWinds Corporation and its chief information security officer (CISO) for allegedly defrauding investors by making materially misleading statements and omissions about the strength of the company’s cybersecurity practices and risks while knowing of serious vulnerabilities and internal security weaknesses. Notably, the SEC offered no explanation for the dismissal. The case — which began in October 2023 — was unique because it directly targeted the CISO, expanded disclosure liability to include cybersecurity risk disclosures, and used internal communications as evidence that SolarWinds and the CISO were aware of the security weaknesses.

Cards, Payments, and Consumer Banking

Welcome to the sixth chapter of our annual report, Consumer Financial Services: 2025 Year in Review.

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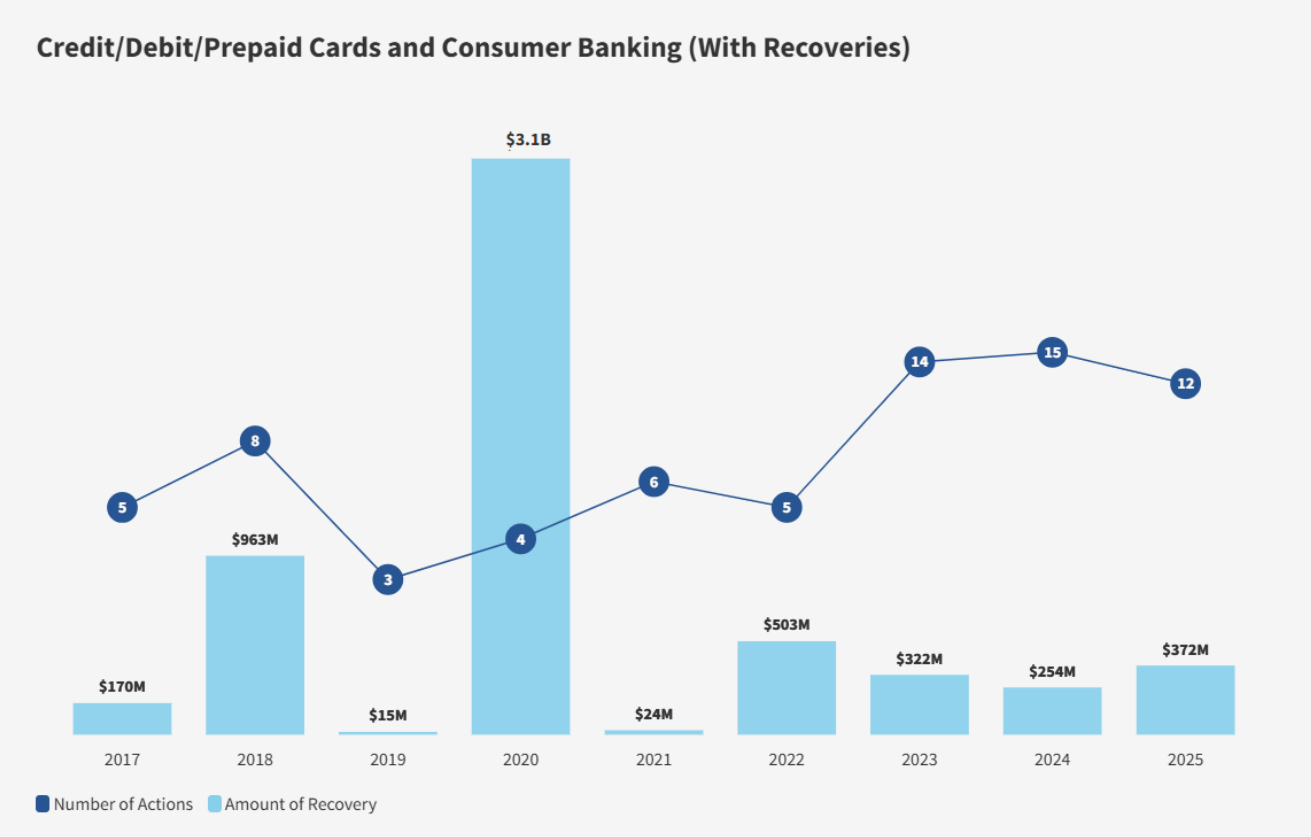
Looking Ahead to 2026

We expect financial institutions will continue to navigate a fractured regulatory landscape. As the Consumer Financial Protection Bureau (CFPB) continues retreating from regulation, institutions must track divergent state disclosure and fee-regulation regimes while facing closer scrutiny from the Office of the Comptroller of the Currency (OCC) and Federal Reserve. We also expect continued litigation and policy debate over financial institutions' fraud risk models and fee disclosures.

Key Trends From 2025

Goodwin tracked 12 enforcement actions in the cards, payments, and consumer banking space in 2025, three shy of the 2024 total. Regulators collected more than $372 million in civil money penalties through actions brought by the CFPB, the Federal Trade Commission (FTC), the Federal Deposit Insurance Corporation (FDIC), the U.S. Department of Justice (DOJ), and various state attorneys general and regulators.

Additionally, the CFPB terminated and/or dismissed three different actions in this space in 2025, marking a notable step back from the active enforcement observed in prior years.



Following several years of expansive federal enforcement, the CFPB scaled back its rulemaking reach, including by ending the late fee rule. In its place, the FTC, the OCC, and state regulators assumed a larger share of oversight.

Consumers continued to demand flexible access to financial services, and traditional banks deepened partnerships with technology firms to deliver embedded credit and payment capabilities inside nonfinancial platforms. Regulators are paying attention to this continued growth, as reflected in the OCC's November 2025 request for information, which sought to understand challenges community banks face with their core service providers, specifically technology service providers, and what potential actions the OCC could take to meet those challenges.

In the News

Digital payment platforms drew regulatory attention. The FTC and DOJ pursued actions against payment processors for data security and unfair practice violations. The CFPB signaled that it may rely on its general unfair, deceptive, or abusive acts or practices (UDAAP) authority — rather than prescriptive rulemaking — to address fintech payment conduct by pursuing an enforcement action against a bankrupt fintech service provider on UDAAP grounds.

Instant Payment Systems and Fraud Liability

Regulators continue to monitor fraud as it relates to platforms and systems providing for instant (or near-instant) payments. While the CFPB refrained from issuing new guidance, in June 2025, the OCC and FDIC issued a joint request for information (RFI) on potential actions to address payments fraud. The OCC and FDIC's attention to this area is important, including because the FedNow Service, a platform for instant payments, raised its transaction limit from $1 million to $10 million, which allows for larger transactions to be made through the instant payment ecosystem. The RFI asked for commentary on whether standard setting across stakeholders would be helpful and whether "increased collaboration among Federal and State agencies [could] help detect, prevent, and mitigate payments fraud."

Fair Banking

In August 2025, the Trump administration issued an executive order, "Guaranteeing Fair Banking for All Americans," aimed at addressing the administration's concern that financial institutions were discriminating against certain consumers based on their political or religious affiliations or lawful business activities. This executive order opened the door for substantial policy revisions across banking institutions and resulted in a trickle-down effect throughout multiple agencies. Indeed, in March, the OCC announced the removal of "reputation risk" from its Comptroller's Handbook, clarifying in December that account closure decisions must be grounded in "objective and risk-based analyses." Also in December, the OCC released its preliminary findings from its review of large banks' debanking activities, concluding that between 2020 and 2023, nine banks had "made inappropriate distinctions among customers […] on the basis of their lawful business activities."

CFPB Consumer Advisory Board Fair Lending Update

At the CFPB's December 2025 Consumer Advisory Board meeting, participants discussed the impact of the Trump administration's "debanking" executive order. During the meeting, the CFPB also emphasized its reduction of "unnecessary" fair lending guidance and its current policy to avoid issuing guidance except when necessary and when compliance burdens would be reduced rather than increased.

Deposit and Fee Disclosure

"Junk fee" scrutiny migrated from the CFPB to the states in 2025. In September, Massachusetts finalized regulations mandating that companies disclose the total price of consumer-facing products and include any add-on charges and optional fees prior to collecting personal data from consumers. "Junk fee" is a broad term the CFPB has used to describe a wide range of fees financial institutions may charge consumers, ranging from so-called "surprise" overdraft fees to "pay-to-pay" convenience fees.

Similar transparency initiatives appeared in New York (though the New York State Assembly has not yet approved the Senate-passed bill) and one went into effect in Colorado, creating a state-by-state disclosure regime for account and payment services.

Credit Cards and the End of the $8 Late Fee Rule

In April 2025, the U.S. District Court for the Northern District of Texas granted a joint motion by the CFPB and industry plaintiffs (which included various chambers of commerce and bankers' associations) to vacate the CFPB's 2024 credit card late fee rule on the basis that the cap exceeded the agency's authority under the Credit Card Accountability Responsibility and Disclosure Act and the Administrative Procedure Act. The 2024 late fee rule had capped most late fees at $8 per occurrence. In the absence of new federal limits, issuers are likely to revisit pricing fee models under Regulation Z.

2025 Enforcement Highlights

CFPB Sued Bankrupt BaaS Platform, Signaling Regulator Interest in the Digital Payments Space

In August 2025, the CFPB filed a complaint against a banking-as-a-service (BaaS) platform in the U.S. Bankruptcy Court for the Central District of California, San Fernando Valley Division. The CFPB alleges that the company violated the Consumer Financial Protection Act (CFPA) by "failing to maintain adequate records" of consumers' funds and failing to match its records with those of its banking partners. The complaint alleges that this failure resulted in a $60 million to $90 million shortfall for the platform's banking partners. Due to this shortfall, consumers were unable to access their money "for weeks or months" while the platform's partner banks "reconciled their records." The complaint further alleges that consumers may not have received all of their account balances.

Along with the complaint, the CFPB and the company entered into a stipulated final judgment and order that enjoins the platform from participating in or assisting others in transmitting funds or acting as a custodian of funds. The stipulated final judgment and order also imposes a $1 civil money penalty.

New York AG Sues Large Payment Processor for Inadequate Fraud Controls

In August 2025, New York Attorney General (AG) Letitia James filed a complaint against Early Warning Services LLC, a prominent industry payment processor, alleging that the platform was designed without critical safety features and exposed users to a heightened risk of fraud and scam activities. The lawsuit comes after the CFPB voluntarily dismissed its action against the company on substantially similar grounds in March 2025.

DOJ Settles With Credit Card Provider, Resolving Allegations of Deceptive Marketing Practices

In January 2025, the DOJ announced that it settled with a global financial services corporation serving as a bank holding company to resolve allegations that the company violated the Financial Institutions Reform, Recovery, and Enforcement Act of 1989. The DOJ alleged that the company misled small businesses by falsely representing credit card rewards and fees during sales calls. Other allegations included providing inaccurate financial information to potential customers and misleading financial institutions into approving credit card applications without required employer identification numbers. As part of the settlement agreement, the company agreed to pay a civil money penalty of $108.7 million.

CFPB Settles With Payments Company Over EFTA and CFPA Claims

Also in January 2025, the CFPB announced that it had entered into a consent order with Wise, an international remittance company, regarding the company's alleged violation of the Electronic Fund Transfer Act (EFTA) and use of deceptive advertising under the CFPA. According to the CFPB, the UK-based company engaged in deceptive advertising to its US customers by sending out mass advertisements allegedly stating that 80% of its customers would pay lower ATM and other fees but failed to disclose that few, if any, of those customers were in the US. The CFPB also alleged that the company misrepresented the number of free ATM withdrawals and/or failed to refund certain fees within the required time frame. Pursuant to the consent order, the company agreed to pay a civil money penalty of $2.025 million and approximately an additional $450,000 for redress to impacted consumers. In May, the CFPB amended the consent order to reflect a civil money penalty of only $44,955.

CFPB Retreats From Enforcement

As part of its retreat from the regulatory space, the CFPB voluntarily dismissed one pending payments-related lawsuit and terminated two consent orders early.

In May 2025, the CFPB voluntarily dismissed with prejudice its lawsuit against a major retailer and a fintech company in the U.S. District Court for the District of Minnesota. The lawsuit was one of the last actions filed during the Biden administration. The complaint alleged that the retailer opened accounts with a fintech company in delivery drivers' names using their sensitive personal information, such as Social Security numbers without knowledge or consent, predicating drivers' access to their earnings on consent to the fintech company's terms and conditions. The CFPB also alleged that the fintech company made misrepresentations about its account capabilities, such as instant access to earnings or same-day pay.

In July 2025, the CFPB announced the termination of its October 2024 consent order with a Florida-based credit union, in which the credit union agreed to pay a $1.5 million civil money penalty and committed to a series of remedial actions. The original order alleged that the credit union had engaged in unfair practices related to its online and mobile banking services. The CFPB's termination order confirms that the credit union fulfilled its obligations (i.e., paying the civil money penalty and taking steps to verify compliance through internal auditing mechanisms). The CFPB also waived any alleged noncompliance and lifted any remaining obligations under the original order.

In October 2025, the CFPB terminated a 2023 consent order with a major bank. The consent order, which addressed claims that the bank had discriminated against credit card applicants of "Armenian national origin in violation" of the CFPA and Equal Credit Opportunity Act, included $24.5 million in fines and compensation. It also required the bank to take remedial steps to prevent future discrimination. In the order terminating the consent order, the CFPB stated that the bank had "fulfilled certain obligations," including paying the civil money penalty and redress and taking steps to prevent future violations. The CFPB also waived any alleged noncompliance.

Debt Collection and Debt Settlement

Welcome to the seventh chapter of our annual report, Consumer Financial Services: 2025 Year in Review.

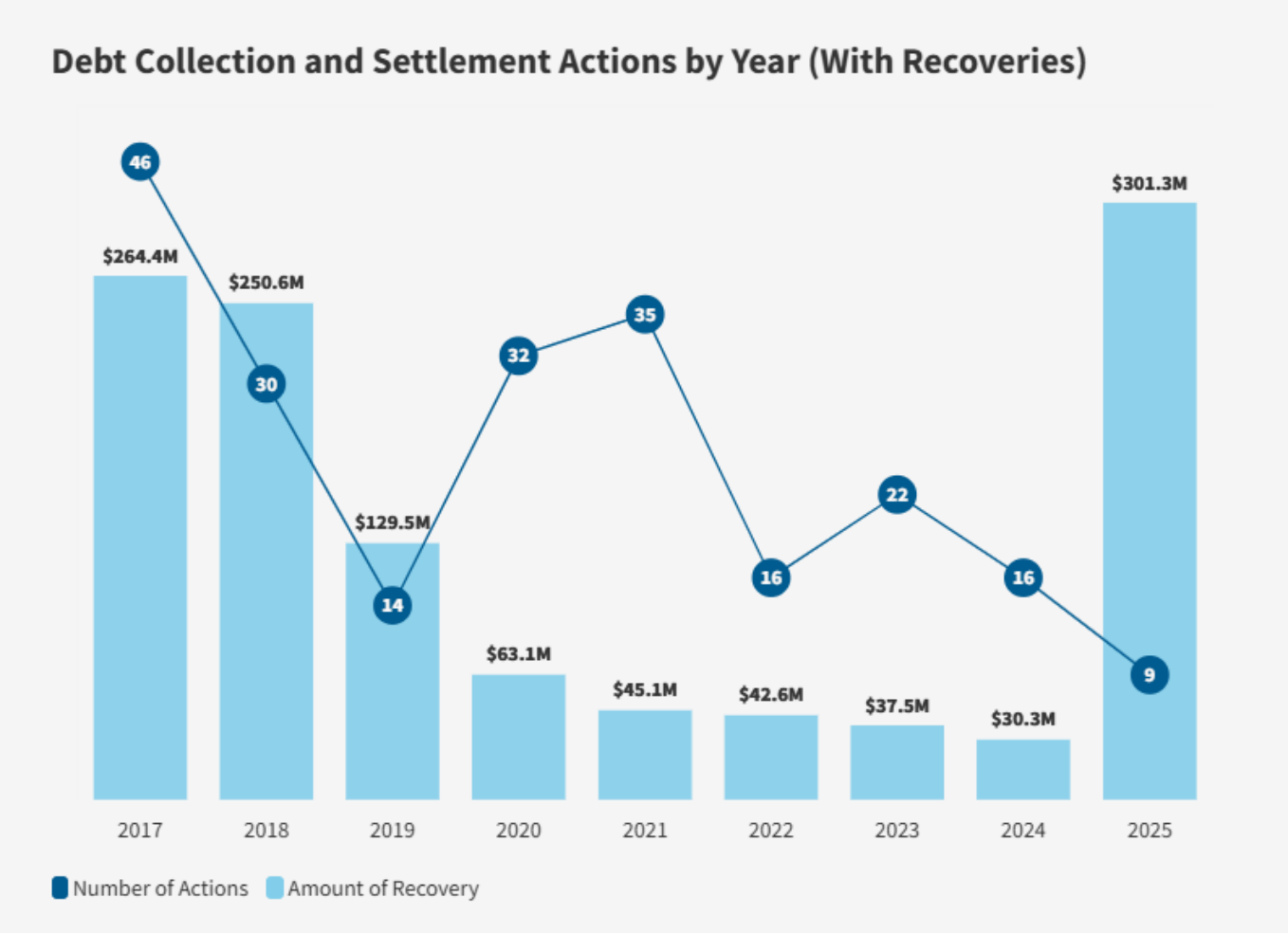
BY Sabrina M. Rose-Smith W. Kyle Tayman Viona J. Harris Courtney L. Hayden Christina L. Hennecken Matthew L. Riffee Richard Sillett Collin Grier Chenxi (CC) Jiao Jackie Odum Kelsey Pelagalli Angelica Rankins

Looking Ahead to 2026

As the Consumer Financial Protection Bureau (CFPB) continues to reduce its functions in 2026, we expect even fewer enforcement actions by the agency in the debt collection and settlement space.

Key Trends From 2025

Throughout 2025, Goodwin tracked nine enforcement actions concerning debt collection, a significant drop from the 16 actions tracked in 2024. Of those actions, six were handled by the Federal Trade Commission (FTC), indicating that the FTC may be filling the enforcement gap left by the CFPB. The actions focused on student loan debt-relief schemes and "phantom" debt collection practices, in which debt collectors attempted to recover fabricated debts that consumers did not actually owe. 2025 also witnessed a heightened focus on medical debt, with states such as Maryland promulgating debt collection laws in this specific area.



In the News

CFPB Scales Back Supervision and Enforcement

In 2025, the CFPB's overall scaling back of operations impacted the debt collection and settlement industry. This scaling back notably included the narrowing of the "larger participant" definition.

In August 2025, the CFPB proposed a rule that would amend the Consumer Debt Collection Larger Participant Rule to increase the threshold amount for determining a larger participant from $10 million in annual receipts derived from debt collections to $25 million, $50 million, or $100 million. If ultimately implemented at the $100 million threshold level, this change would remove approximately 95% of existing entities from federal supervision, though the majority of market revenue in this area would still be covered. The deadline for submitting comments closed on September 22, 2025, and the CFPB has yet to issue a final rule.

FTC Enforcement

While the CFPB reduced its enforcement efforts, the FTC continued enforcement activity in this space, securing major settlements with debt collection companies accused of violating the Fair Debt Collection Practices Act (FDCPA) and the FTC Act.

FTC Enters Proposed Final Order Banning Debt Collector Involved in Alleged Debt Collection Scheme

In May 2025, the FTC announced that it had entered a proposed final order with debt collector Global Circulation Inc. and its owner, which resolved allegations that the company had engaged in an unlawful debt collection scheme. According to the FTC's amended complaint, the debt collector had used threats of arrests, lawsuits, and wage garnishment, among other behaviors, to influence customers to pay debts that they did not actually owe, in violation of the FDCPA and FTC Act. The FTC also alleged that the debt collector and its owner violated the FTC's Impersonation Rule by falsely identifying themselves as affiliates of certain lenders with the intent of deceiving consumers into paying the false debts. Under the terms of the settlement, the owner agreed to (i) no longer participate in debt collection and (ii) pay a money judgment in excess of $9.6 million. A final permanent injunction and monetary judgment was entered by the court on May 9, 2025, which provided that any settlement money received as a result of the order "may be deposited into a fund administered by the FTC […] to be used for consumer relief," including redress to affected consumers.

FTC Reaches Settlement With Operators of Student Loan Debt-Relief Company

In September 2025, the FTC announced it had reached settlements with the individual operators of debt-relief company Superior Servicing, among several others, which resolved allegations that the operators and their company operated "an illegal student loan debt-relief operation." Specifically, the FTC's amended complaint alleged that the company (i) feigned affiliation with the U.S. Department of Education and its loan servicing agents and (ii) collected advance fees purportedly to be paid toward their student loan balances when in fact the operators were directing those payments to themselves in violation of section 5(a) of the FTC Act and section 310.4(a)(5)(i) of the Telemarketing Sales Rule. Pursuant to the settlement, the defendants agreed to pay more than $45 million and permanently cease operations in the debt-relief industry.

State Enforcement and Regulation

The following state attorneys general and financial regulators stepped into the enforcement gap created by the CFPB's reduced activity in 2025.

California

The California Department of Financial Protection and Innovation (DFPI) issued final regulations under the Debt Collection Licensing Act, affecting debt-collector licensing and reporting requirements. The final regulations increased the annual reporting requirements of debt collectors in California and amended how debt collectors must calculate the amount of net proceeds for reporting purposes. Debt collection licensees must now report to the DFPI the total number of debtor accounts in (i) California that were recovered in part or in whole; (ii) the state for which collection was sought but no debt was recovered; and (iii) the state held in licensees' collection portfolios.

Maryland

The Maryland Office of Financial Regulation issued guidance on the General Assembly's passage of a trio of new laws concerning the collection and reporting of medical debt. House Bill (HB) 428 requires collectors of medical debt to include in their complaint that "the judgment sought is for medical debt." HB 1020 prohibits debt collectors, as well as medical service providers, from disclosing medical debts to consumer reporting agencies. Finally, HB 268 maintains the three-year statute of limitations for the collection of hospital debt in Maryland and prohibits hospitals from reporting medical debt to consumer reporting agencies or filing actions to collect debts that total less than $500, among other protections.

Massachusetts

On July 17, 2025, the state senate passed the Debt Collection Fairness Act (DCFA), which proposes to update consumer protection provisions that were deemed to be outdated, including by increasing protection for wages subject to garnishment and reducing the interest rate on judgments of consumer debts. The DCFA now awaits passage in the Massachusetts House and signature by the governor before it becomes law.

New York

The New York Department of Financial Services added a top former CFPB enforcement official to its Consumer Protection and Financial Enforcement Division, enhancing its capacity to investigate large debt buyers and fintech lenders.

Payday and Small-Dollar Lending

Welcome to the eighth chapter of our annual report, Consumer Financial Services: 2025 Year in Review.

BY Sabrina M. Rose-Smith W. Kyle Tayman Viona J. Harris Courtney L. Hayden Christina L. Hennecken Matthew L. Riffee Bayly Buck Collin Grier Chenxi (CC) Jiao Jackie Odum Kelsey Pelagalli Angelica Rankins

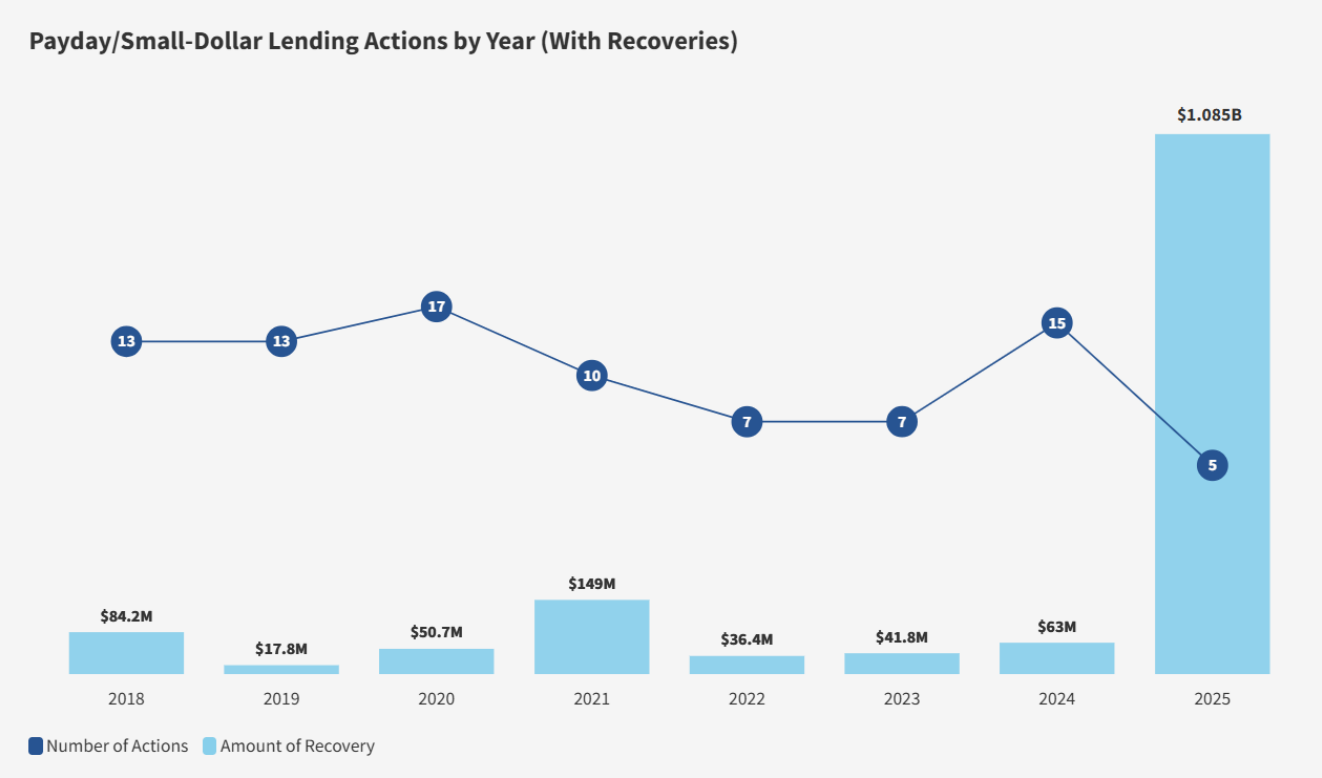
Looking Ahead to 2026

In 2025, the Consumer Financial Protection Bureau (CFPB) reduced its scrutiny of small-dollar lenders by publicly announcing that it "will not prioritize enforcement or supervision actions" on its small-dollar lending rule, which took effect in March, and signaling that it may narrow the rule via rulemaking. This hands-off approach marked a stark reversal from the CFPB's 2017–2023 policy cycle, in which small-dollar lending was a central focus of supervision and enforcement.

State attorneys general and banking regulators, however, continued to be active in 2025 and coordinated enforcement and legislative efforts on small-dollar lending and debt collection practices. Based on this trend, we expect state and local enforcement on disclosure failures, unfair and deceptive acts, and state usury statutes will increase, even if the CFPB continues to take a step back in 2026.

Key Trends From 2025

In 2025, Goodwin monitored five enforcement actions related to payday or short-term small-dollar loans — one federal enforcement action and four state enforcement actions. This represents a significant decrease from the 15 such actions Goodwin monitored in 2024. The total recoveries, however, increased significantly, from $63 million in 2024 to $1.085 billion in 2025 — largely attributable to a New York enforcement action against a small business lender valued at more than $1 billion.



In the News

CFPB Shifts Focus From Small Business Lending

In March 2025, the CFPB issued a statement announcing that it would not prioritize enforcement or supervision actions related to certain penalty- and fine-related provisions of its Payday, Vehicle Title, and Certain High-Cost Installment Loans Regulation (the Payday Lending Rule). The regulation, which the CFPB first promulgated in 2017, adopted what is colloquially known as the "two strikes and you're out" rule designed to curtail the practice of lenders repeatedly attempting to withdraw money from consumers' accounts even when it was clear those accounts had insufficient funds. Consumers would be charged a fee for each failed attempt or, in some instances, have their accounts closed entirely. The "two strikes and you're out" rule prohibits lenders from attempting to withdraw money more than twice from a consumer's account. After two unsuccessful attempts, lenders would be permitted to make additional attempts to withdraw only if the consumer specifically authorized it. The rule further exempts certain banks and other depository institutions that originate 2,500 or fewer small-dollar loans each year provided these loans account for less than 10% of their revenue. At the time of its announcement noting its deprioritization of the Payday Lending Rule, the CFPB further announced that it would focus its enforcement and supervision resources on service members and veterans and noted that it was actively contemplating issuing a notice of proposed rulemaking to narrow the scope of the rule. The CFPB has not yet announced such a proposed rulemaking.

CFPB Announces It Will Deprioritize Actions Related to BPNL Loans

In May 2025, the CFPB announced that it will no longer prioritize enforcement actions applying Regulation Z to buy now, pay later (BNPL) products. Also in May, the CFPB withdrew the BNPL interpretative rule, issued in May 2024, which characterized certain BNPL providers as "card issuers," subjecting them to many of Regulation Z's open-end credit provisions. In a June 2025 status report filed by the CFPB in *Financial Technology Association v. CFPB et al*, in which a fintech trade group sought to block the BNPL interpretative rule, the CFPB stated that it does not intend to issue a revised rule for several reasons, including because open-end credit regulations are "ill-fitt[ed]" to BNPL products.

State AGs Launch Inquiry Into BPNL Providers

In December 2025, a multistate coalition of seven state attorneys (AGs) general launched a probe on terms and fees set by BNPL providers. Led by Connecticut Attorney General William Tong and North Carolina Attorney General Jeff Jackson, the coalition sent letters to the six largest BNPL companies demanding information about "pricing and repayment structures, consumer contracts, user agreements, and disclosures. The inquiry aims to determine" whether the "companies are complying with consumer protection laws" in California, Connecticut, Colorado, Illinois, Minnesota, North Carolina, and Wisconsin and whether their products are exposing consumers to unclear terms, hidden fees, and debt traps. This action follows the CFPB's recission of and decision not to reissue the BNPL interpretive rule that expanded Truth in Lending Act (TILA) coverage to BNPL companies.

Federal and State Approaches to Earned Wage Access

At the end of 2025, the CFPB took steps to reduce long-standing uncertainty concerning the treatment of earned wage access (EWA) products under federal consumer credit law. In December, the CFPB issued an advisory opinion clarifying that certain employer-facilitated EWA products — those allowing workers to access wages already earned, relying on payroll deductions, and imposing no recourse or credit risk — are not "credit" under the TILA and Regulation Z. This guidance draws an important regulatory distinction between wage access and consumer credit, easing compliance concerns for many providers and employers heading into 2026.

However, although it provided clarification, the CFPB made clear that not all EWA products fall outside the scope of credit regulation — only ones that meet certain specific criteria. Based on the advisory opinion, EWA products could fall outside the "Covered EWA" safe harbor and may be subject to TILA and/or Regulation Z if (i) the provider advances an amount that may or may not be fully documented by payroll data (e.g., based on the worker's estimate of hours worked); (ii) repayment does not occur solely through payroll deduction but instead occurs when the provider automatically debits the worker's bank account after payday; or (iii) the arrangement could create a debt obligation because repayment is not tied strictly to a passive payroll process and could require collection activity if funds are insufficient. The advisory opinion leaves open further

evaluation of other EWA models and legal frameworks beyond Regulation Z, signaling that federal oversight may continue to evolve through additional guidance, enforcement activity, or potential rulemaking as new product structures emerge.

Meanwhile, states continue to craft or enforce their own approaches to EWA regulation, including some states like Maryland, Arkansas, Missouri, and Nevada, which have classified certain EWA arrangements as loans, triggering licensing and consumer protection requirements.

2025 Enforcement Highlights

New York AG Enters Into $1 Billion Consent Order With Small Business Lender

In January 2025, the New York AG announced that the state had settled its claims against a network of 25 predatory lending companies controlled by Yellowstone Capital, a financial company offering short-term loans to small businesses, and several of its officers. According to the 2024 complaint, Yellowstone allegedly engaged in unfair and deceptive lending practices in violation of New York's general consumer protection laws, criminal usury statute, and lender licensing laws. The New York AG accused Yellowstone of marketing its loans as merchant cash advances to be repaid via a share of its revenue but in reality treating them as short-term loans and deducting daily payments from customers' bank accounts that were fixed in value and had no relation to customers' revenue.

Under the terms of the consent order, Yellowstone will cease operating its merchant cash advance business and cancel all of the loans it currently holds, valued at more than $534 million. It will also pay $3.4 million in monetary relief to former customers and a judgment payment to the state of $1.065 billion, although the value of the canceled debts will be credited against this judgment. The two individual officers also agreed to pay an additional $12.7 million to the New York AG.

FTC Reaches Settlement With Online Cash Advance Company

In March 2025, the Federal Trade Commission (FTC) announced that an online cash advance company had agreed to pay $17 million to resolve allegations that it deceived consumers regarding the amount of money they could receive and the speed at which they would receive it. According to the FTC's complaint, the company deceived consumers regarding the advertised amounts and timing of its "instant or same-day cash advances." The FTC also alleged that the company "prevented consumers with an outstanding cash advance balance from canceling their subscription[s] […] forcing consumers to pay additional monthly fees." Under the terms of the agreement, in addition to agreeing to pay $17 million to the FTC, the company agreed to disclose the terms of the subscription and any required fees before consumers enroll.

New York Sues Two Companies for Alleged Usurious Payday Loans

In April 2025, the New York AG filed lawsuits against two EWA service companies. These companies allegedly offered short-term small-dollar loans and charged annualized percentage rates of between 350% and 750%.

In both cases, the AG is seeking a permanent injunction against the companies, as well as restitution and damages to the consumers, disgorgement of all profits, civil money penalties under federal law, and a civil money penalty under state law of $5,000 for each alleged predatory loan. Notably, one of the companies had, just weeks before, filed a complaint against the state of New York asking for declaratory judgment that its advances were *not* loans or predatory transactions.

New Jersey Issues Finding of Probable Cause for Discrimination on Part of Cash Advance Business

In March 2025, the New Jersey AG and the Division on Civil Rights (DCR) announced that the DCR had issued a finding of probable cause for violation of the New Jersey Law Against Discrimination against Advanced Funding Partners, a "business that provides cash advances and loans to borrowers." The DCR found that the business had "a policy of refusing to lend to prospective clients based on race, national origin, and nationality," specifically finding that staff were instructed "not to do business with 'Chinese, African, and Spanish'" borrowers. The finding of probable cause also noted that the business unlawfully retaliated against an employee who reported the discrimination to the DCR, subjecting them to threats and harassment.

City of Baltimore Files Suit Against EWA Provider

There was also a notable city enforcement action in 2025. In October, the City of Baltimore announced that it had filed suit against what it claims "is a modern payday lender." The city accuses the company of "misleading marketing and usurious interest charges that trap some of the City's most financially precarious residents in an exploitative cycle of debt." The city claims that the company markets zero-interest loans, but in reality the consumer is forced to pay fees and "tips" that can accrue to total more than the maximum annual percentage rate allowed under Maryland law. The city seeks "the maximum amount of statutory penalties" and injunctive relief requiring the company to cease the behaviors identified in the complaint.

Credit Reporting

Welcome to the ninth chapter of our annual report, Consumer Financial Services: 2025 Year in Review.

BY Sabrina M. Rose-Smith W. Kyle Tayman Viona J. Harris Courtney L. Hayden Christina L. Hennecken Matthew L. Riffee Zachary Weinstein Collin Grier Chenxi (CC) Jiao Jackie Odum Kelsey Pelagalli Angelica Rankins

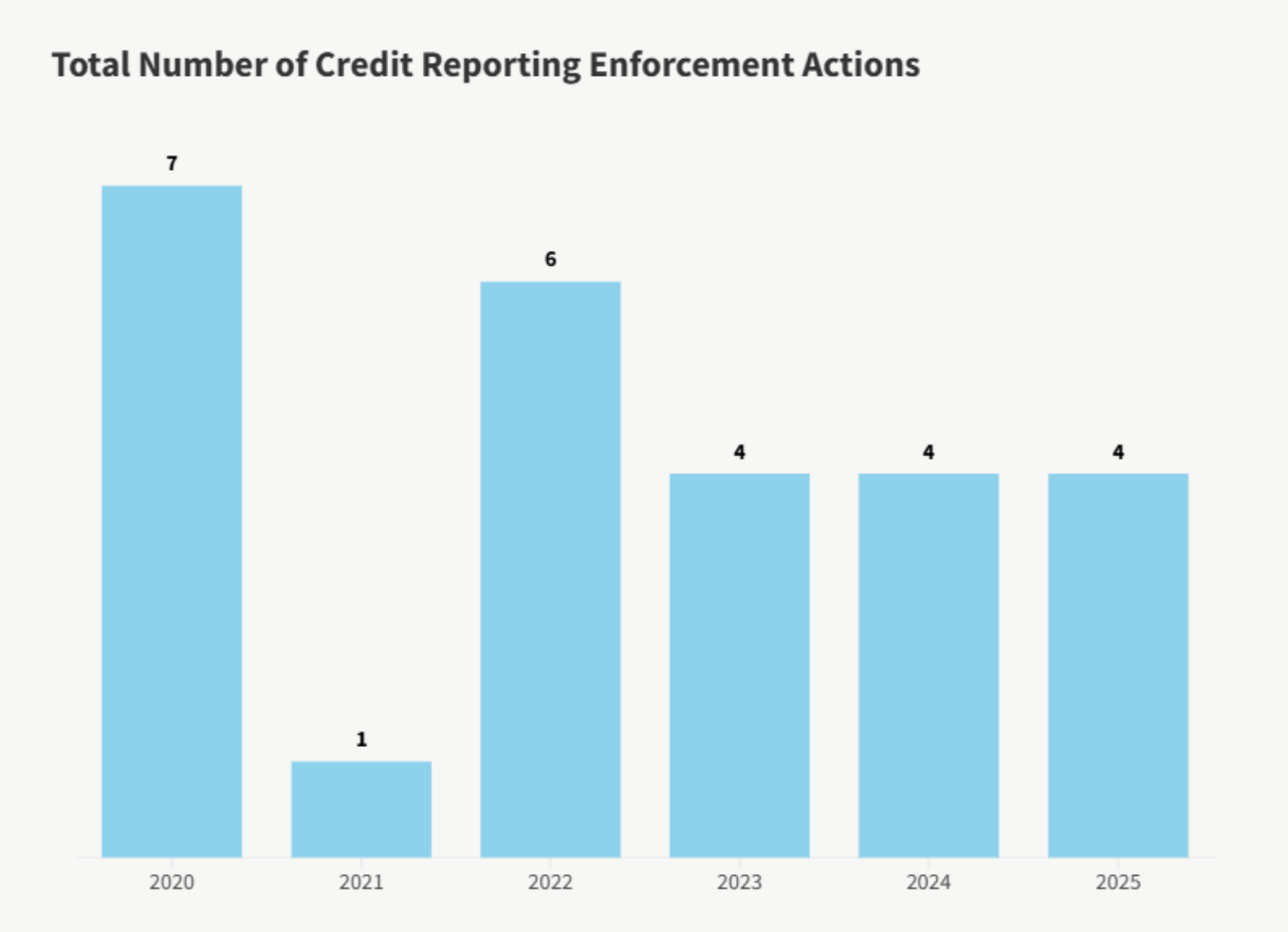
Looking Ahead to 2026

In 2025, Goodwin tracked four public enforcement actions related to credit reporting requirements or credit monitoring or repair services. The Consumer Financial Protection Bureau (CFPB) also dismissed six such matters following the change in administration. This is unsurprising when, despite receiving record-high credit reporting complaints from consumers in 2025, the CFPB largely suspended new rulemaking and enforcement in this space.

The CFPB withdrew previous guidance and proposed rulemaking regarding credit reporting that were pending at the end of the Biden administration. This included an amendment that would have classified data brokers selling sensitive consumer information as "consumer reporting agencies" under the Fair Credit Reporting Act (FCRA) and proposed rulemaking that would narrow the scope of the CFPB's supervisory authority. In addition, the CFPB extended the comment period for an advance notice of proposed rulemaking regarding amending the definitions of "identity theft" and "identity theft report" but took no further action when the comment period expired in April 2025.

While the CFPB dismissed six enforcement actions that were initiated between January 2021 and July 2024, each asserting FCRA and Regulation V claims, it continued its litigation against Experian Information Solutions Inc., alleging that the company failed to take sufficient action concerning consumer disputes, resulting in the inclusion of incorrect information on credit reports.

Looking ahead to 2026, we do not anticipate that the CFPB will propose rulemaking or initiate enforcement actions beyond violations of data furnishing laws and regulations. We are also keeping an eye on potential legal challenges to the CFPB's determination that FCRA preempts recently passed state laws prohibiting the inclusion of medical debt on consumer reports.



In the News

CFPB Credit Reporting Complaints Surge

The CFPB's complaint data revealed a nearly sevenfold increase in monthly credit reporting complaints between 2023 and 2025, rising from approximately 70,000 monthly submissions in January 2023 to a peak of more than 460,000 monthly submissions in October 2025. In its December 2025 "Annual report of credit and consumer reporting complaints," the CFPB noted that approximately 86% of the complaints it received between January 2024 and June 2025 were about credit consumer reporting. The most common complaints involved concerns of inaccurate information appearing on credit reports concerning "credit inquiries, account and payment statuses, bankruptcies, and [...] personal information."[3] This was followed by complaints of improper usage of credit reports and concerns regarding company investigations into disputes. For example, consumers asserted that credit reporting agencies neglected to validate disputed information provided by data furnishers, while other consumers frequently asserted "it took more than 30 days to reinvestigate disputed reporting." Consumers also filed complaints about credit monitoring, identity theft protection services, fraud alerts, security freezes, and the inability to obtain a credit report.

In its January 2022 annual report, the CFPB outlined potential factors contributing to the increase in credit or consumer reporting complaint volume. These factors included increases in third-party involvement in the complaint process, awareness of the complaint reporting process during the COVID-19 pandemic, and access to credit reports and scores as well as the follow-on effects of consumers returning to the complaint process once they were aware of the system or to follow up on unresolved complaints. Additionally, in its January 2023 annual report, the CFPB expressed concerns that automated decision-making processes used by the major credit reporting agencies increase burdens on consumers when those

[3] To learn more, read our Consumer Finance Insights post "CFPB Reports on Consumer Complaint Trends" (May 2025).

processes do not sufficiently respond to consumer complaints. The CFPB also acknowledged that credit reporting agencies needed to grapple with how to respond to consumers' use of artificial intelligence like ChatGPT to draft complaints in situations when the credit reporting agencies' software rejects batches of complaints that share common phrases and sentences. The December 2025 annual report noted "all of these factors continue to remain relevant to the dramatic growth in complaint volume" and that "the CFPB is exploring ways to institute reforms to improve the complaint process."

CFPB Deregulation

Larger Participant Threshold

In August 2025, the CFPB proposed raising the "larger participant" threshold in the consumer reporting market from nonbank entities with annual receipts resulting from consumer reporting activities in excess of $7 million (as reflected in the previous rule published in 2012) to nonbank entities with such annual receipts in the excess of $41 million, which matches the Small Business Administration's revenue threshold. According to the CFPB's notice of proposed rulemaking, the majority of consumer reporting companies examined by the CFPB have "annual receipts exceeding $50 million" and including smaller firms in the definition would divert limited CFPB resources. The CFPB estimated the new definition would "leave at least six larger participants in the market."

Medical Debt Reporting

In 2025, the CFPB reversed course on the prior administration's focus on medical debt. In 2022, the CFPB issued an interpretive rule stating that FCRA's express preemption provisions are "narrow and targeted," thereby allowing states to pass laws restricting medical debt reporting beyond what federal law provides. Sixteen states have since passed medical debt reporting bans, and legislation is pending in two others. One week before the change in administration, on January 14, 2025, the CFPB issued an interpretive rule (the Medical Debt Rule) restricting the inclusion of medical data information on consumer reports furnished to creditors, barring creditors from considering a consumer's medical debt when making credit decisions, and prohibiting credit reporting agencies from reporting medical debt information to creditors if prohibited by state law.

Under its current administration, the CFPB undid each rule. First, in April 2025, the CFPB and trade association plaintiffs filed a joint motion for consent judgment with the U.S. District Court for the Eastern District of Texas to vacate the Medical Debt Rule, arguing that the rule exceeded the CFPB's authority and was contrary to the FCRA. In July 2025, the District Court granted that motion. Second, in May 2025, the CFPB withdrew the 2022 interpretive rule on preemption under FCRA and followed up with a clarifying interpretive rule in October 2025, explaining that it is possible that the FCRA "generally preempts State laws that touch on broad areas of credit reporting, consistent with Congress's intent to create national standards for the credit reporting system."

Federal Legislation

With strong bipartisan support, Congress passed the Homebuyers Privacy Protection Act (HPPA), which President Trump signed into law in September 2025. The legislation amends the FCRA by limiting the extent to which consumer reporting agencies can furnish "trigger leads" — leads generated when consumers apply for mortgages and credit inquiries alert credit bureaus, which then sell consumers' information to other mortgage lenders.

According to a letter signed by 42 attorneys general from across the states and territories urging passage of the HPPA and addressed to the leadership of the House Committee on Financial Services and the Senate Banking, Housing, and Urban Affairs Committee, the HPPA seeks to correct the problem of consumers "receiving dozens, sometimes hundreds, of unwanted calls and text messages from unknown (and often irrelevant) companies following a single credit inquiry." The letter also states that "although trigger leads may theoretically increase competition among credit lenders, a significant number of trigger leads are used outside of this context and disguised as a firm offer of credit," which can be "extraordinarily confusing to consumers."

After passage of the HPPA, consumer reporting agencies may only furnish consumer reports to third parties if the transaction (i) involves "a firm offer of credit or insurance" and (ii) the third party is (a) the originator or servicer of the consumer's "current residential mortgage loan," (b) "an insured depository institution or credit union" that "holds a current account for the consumer," or (c) consumer-authorized. The HPPA went into effect on March 4, 2026.

Notable 2025 Enforcement Highlights

Biden-Era CFPB Administrative Proceedings

In January 2025, the CFPB entered into two consent orders: one with American Honda Finance Corporation (Honda) and the other with Equifax Inc. and Equifax Information Services LLC (collectively, Equifax).

The first consent order settled claims that, during the COVID-19 pandemic, Honda violated the FCRA when it "allowed consumers to defer payments and promised to continue reporting" their accounts to consumer reporting agencies as current but instead reported the accounts "as delinquent when they did not make payments during the deferral period." In the consent order, Honda agreed to pay $10.3 million in consumer redress and a $2.5 million civil money penalty.

The second consent order settled claims that Equifax violated the FCRA by failing to (i) properly conduct reinvestigations of disputed information in consumer files, (ii) "prevent the improper reinsertion of previously" deleted information from consumer files, (iii) "provide adequate written notice" of its reinvestigation results to consumers, (iv) follow "reasonable procedures to assure maximum possible accuracy of the information" Equifax reports on consumers, and (v) block reporting of information that consumers identified as resulting from identity theft as well as provide appropriate notice when such blocks were declined or rescinded. The CFPB also found that Equifax engaged in "unfair acts and practices by using ineffective systems and flawed processes with […] excessive deference to furnishers" to resolve consumer disputes by failing to "adequately inform consumers of the results of reinvestigations" and selling inaccurate consumer credit scores and credit attributes after "it introduced 'test code' in a production environment in a scoring model server." Equifax agreed to pay a $15 million civil money penalty.

Trump Administration CFPB Voluntary Dismissals

Within the first five months following the change in its administration, the Russell Vought–led CFPB voluntarily dismissed with prejudice six pending litigation enforcement actions asserting, among others, alleged violations of FCRA/Regulation V: *CFPB v. TransUnion et al*; *CFPB v. Snap Finance et al*; *CFPB v. SoLo Funds, Inc.*; *CFPB v. Pennsylvania Higher Education Assistance Agency*; and *CFPB v. Acima Holdings et al*.

CFPB v. Experian

Despite voluntarily dismissing the six actions previously discussed, the current administration is pressing forward with *CFPB v. Experian Information Solutions, Inc.*, pending in the U.S. District Court for the Central District of California. The action was initiated at the tail end of the Biden administration, with the CFPB asserting that Experian violated the FCRA and the Consumer Financial Protection Act (CFPA) by not taking "sufficient steps to intake, process, investigate, and notify consumers about consumer disputes, resulting in the inclusion of incorrect information on credit reports."

After multiple rounds of motion to dismiss briefing, in which portions of the FCRA claims were dismissed without prejudice on timeliness grounds and two of the CFPA claims were dismissed without prejudice for failure to sufficiently plead to substantial injury, the CFPB's second amended complaint cured the timeliness defects and abandoned one of the CFPA claims, leaving the operative complaint with nine FCRA claims and three related CFPA claims, including allegations that Experian failed to notify data furnishers of disputed information in more than 2 million cases and conduct timely reinvestigations on more than 100,000 occasions; unreasonably relied on furnishers' Automated Credit Dispute Verification responses when it was on notice that the information "from the furnisher may be suspect"; and provided consumers with notices of the results of their reinvestigations that stated contradictory results or were either incomplete or unintelligible. In November 2025, Experian answered the complaint. The action's litigation will continue into 2026.

State-Level Activity

New York

In January 2025, New York reached a $725,000 settlement with Equifax Information Services for allegedly causing a "negative score shift" for more than 75,000 New Yorkers due to a coding change that affected the company's scoring models in March and April 2022. As we reported at the time, in addition to paying "$725,000 to the state of New York to be used as consumer redress and penalties," Equifax Information Services agreed to "ensure that its marketing materials accurately

represented the manner in which it calculated credit scores, review and update its policies and procedures for making technological changes which may impact credit score calculations, and to implement reasonable procedures to ensure maximum accuracy in credit reporting." In turn, the New York attorney general agreed to discontinue its investigation into Equifax Information Services' practices.

California

In response to the CFPB's interpretive rule setting forth its position that the FCRA preempts state medical debt laws, the California attorney general issued a consumer alert in November 2025 to remind "consumers, healthcare providers, and credit reporting agencies that in California it remains illegal for medical debt to appear on credit reports" pursuant to a state law that went into effect on January 1, 2025.

Student Lending

Welcome to the 10th chapter of our annual report, Consumer Financial Services: 2025 Year in Review.

BY Sabrina M. Rose-Smith W. Kyle Tayman Viona J. Harris Courtney L. Hayden Christina L. Hennecken Matthew L. Riffee Eva Monteiro Collin Grier Chenxi (CC) Jiao Jackie Odum Kelsey Pelagalli Angelica Rankins

Looking Ahead to 2026

Following a slowdown in federal oversight of the student lending environment in 2025, the compliance landscape has become quieter and more fragmented for lenders and servicers. Looking forward, we anticipate states will adopt more student loan licensing and servicing laws to fill the void left by the lack of uniform federal oversight and state and private borrower litigation will become more prevalent.

Key Trends From 2025

Major Consumer Financial Protection Bureau (CFPB) and U.S. Department of Education (DOE) staff reductions, combined with a deregulatory federal posture, have impacted the student lending sector in 2025. The CFPB did not initiate any enforcement actions against student loan servicers this year and its 2025 rulemaking agendas did not highlight any new student loan–specific rules.

The DOE also significantly shrunk its footprint in federal student lending. In November 2025, the DOE announced six new agreements with the U.S. Department of Labor, U.S. Department of the Interior, U.S. Department of Health and Human Services, and U.S. Department of State to support the Trump administration's stated goal to "break up the federal education bureaucracy." This stands in contrast to years of substantial federal oversight of student lending through both the CFPB and the DOE. In response to this retreat, state regulators and state attorneys general ramped up student loan regulation and enforcement.

In 2025, the student lending market also witnessed a shift from public to private financing channels, driven largely by policy volatility and tightening federal borrowing. As repayment resumed for millions of federal borrowers and uncertainty grew concerning long-term forgiveness and income-driven repayment programs, demand for private student loan refinancing increased. At the same time, student loan delinquency skyrocketed. The share of borrowers who are more than 90 days delinquent on student loans nearly doubled between February 2020 and February 2025. On the supply side, private lenders, fintech platforms, and investors accelerated their involvement in the student loan market as federal lending caps and eligibility reforms signaled the possibility of a larger private credit footprint. Lenders also continued to experiment with alternative and artificial intelligence–driven underwriting models, prompting heightened state regulatory interest in fairness testing and documentation.

In the News

In 2025, federal activity in the student loan space was concentrated on administering existing student loan programs while reworking repayment options, rather than developing new conduct-based regulatory frameworks or enforcement initiatives regarding student loan servicing or lender conduct. The DOE focused on implementing changes required by the One Big Beautiful Bill Act such as adjusting loan forgiveness processes and implementing new repayment options. For example, the DOE's new "rulemaking will eliminate the Grad PLUS program, […] cap Parent PLUS loans, sunset […] student loan repayment plans" from prior presidential administrations, "and create a new […] Repayment Assistance Plan."

At the same time, states advanced their own policy frameworks:

- Many states, including Colorado and Connecticut, and the District of Columbia continued to require the registration or licensing of student loan servicers, enabling state regulators to oversee servicer conduct and enforce borrower protection requirements.
- The California Department of Financial Protection and Innovation reaffirmed and enforced its licensing regime under the California Student Loan Servicing Act, emphasizing compliance with recordkeeping, payment processing, and borrower protection obligations.
- Lawmakers in states such as New Jersey moved forward with bills aimed at increasing regulatory oversight of student lenders and servicers, including proposals to require lender registration and impose substantive conduct requirements, such as clear disclosures to borrowers to ensure they are equipped with all available information. The New Jersey bill in remains pending as of this publication.
- States such as New Mexico, New York, and North Carolina considered borrower bill of rights legislation, which would create new enforcement standards and potential liability for student loan market participants. New York's proposed bill of rights, for example, aims to "protect borrowers and ensure that student loan servicers act more as loan counselors than debt collectors." New York's bill has been referred to committee review, North Carolina's remains pending, and New Mexico's bill has been postponed indefinitely.

Together, these actions reinforced a trend of decentralized oversight.

2025 Enforcement Highlights

CFPB Enforcement Action Dismissed After Settlement

In January 2025, the Biden-era CFPB entered into a proposed stipulated judgment with the National Collegiate Student Loan Trust (NCSLT), resolving long-running allegations that the NCSLT had, for years, filed debt collection lawsuits against borrowers without the documentation needed to prove ownership or the validity of the debts. The case, originally filed in 2017, was emblematic of systemic documentation issues in older private loan securitizations. After the change in administration, however, the CFPB declined to enforce the proposed settlement and, in April 2025, voluntarily dismissed the lawsuit altogether, effectively ending one of the CFPB's oldest enforcement files.

Massachusetts AG Settlement — AI and Student Lending

In July 2025, Massachusetts Attorney General (AG) Andrea Joy Campbell announced a $2.5 million settlement with a Delaware-based provider of education-financing products, resolving allegations that the company's lending practices violated state consumer protection and fair lending laws. According to the AG's office, the company relied on artificial intelligence (AI) underwriting models that were insufficiently tested for discriminatory outcomes and posed a risk of disparate harm to minority borrowers. The settlement also addressed the company's use of automated eligibility rules — including a "knockout" criterion tied to immigration status — that allegedly resulted in disproportionate denials for Black and Hispanic applicants. Under the agreement, the company committed to significant changes to its underwriting, model governance, and compliance practices to better ensure fair and lawful lending going forward.

Given the reduction in federal enforcement coupled with the rise in AI-based lending, Goodwin anticipates additional oversight from state enforcement arms in 2026.

Auto Loan Origination and Servicing

Welcome to the 11th chapter of our annual report, Consumer Financial Services: 2025 Year in Review.

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Looking Ahead to 2026

Building on the shifts seen in 2025 when enforcement actions decreased while the Consumer Financial Protection Bureau (CFPB) maintained robust supervisory activities, the regulatory environment for auto lending in 2026 is expected to remain fragmented. At the federal level, auto lending was among the markets most directly affected by the CFPB's broader effort to limit its own authority. The CFPB's reduced enforcement posture last year — resulting in only a single enforcement action — combined with proposed rulemaking that would raise the "larger participant" threshold in the auto financing market suggest continued limited federal oversight in 2026, particularly for midsize and independent lenders. On the other hand, state attorneys general are expected to maintain their established enforcement activities, providing a steady counterbalance to federal retrenchment. Legislative initiatives — such as New York's Fostering Affordability and Integrity through Reasonable (FAIR) Business Practices Act, which allows the attorney general and consumers to take action against corporations for unfair, deceptive, and abusive practices, including issues like "junk fees"[4] and the steering of borrowers into higher-cost loan products — and ongoing state-level settlements point to continued emphasis on transparency and fair lending practices in the auto lending space.

Key Trends From 2025

In 2025, Goodwin tracked only three publicly announced auto lending enforcement actions, in a continued downward trend from the eight actions tracked in 2024, nine actions tracked in 2023, and 13 actions tracked in 2022. The amount recovered by these enforcement actions totaled $13.1 million.

In the News

In January 2025, the CFPB signaled that strengthening financial protections for military families continues to be an enforcement priority via its report on service members' experiences in the auto lending market. According to the CFPB, although service members and civilians pay similar vehicle prices, service members typically borrow more, put less money down, and receive loans with higher annual percentage rates and longer terms, which results in higher monthly and lifetime costs. The report highlights that more than 70% of service members purchase add-on products — often at higher prices than civilians — which further increases their financial burden. These patterns, the CFPB notes, stem in part from service members' unique mobility demands and vulnerability to aggressive lending practices.

While service member protections remain a focus area for the CFPB, the agency has indicated it will scale back regulation of smaller auto lenders. In August 2025, the CFPB issued a notice proposing to raise the CFPB's larger participant threshold in the auto financing market. According to the CFPB, the current threshold creates "compliance burdens for many entities" and diverts limited CFPB resources to determine which entities are subject to the CFPB's supervisory authority. The proposed rule would raise the threshold up to $1.05 million aggregate annual originations, which would reduce the number of larger participants by more than 90%. This change would exempt most independent and midsize lenders from routine CFPB examinations, reflecting the CFPB's effort to minimize resource constraints.

In October 2025, California's governor signed the California Combating Auto Retail Scams (CARS) Act into law, which contains various measures to make vehicle purchases more affordable and consumer-friendly. The CARS Act prohibits

[4] "Junk fee" is a broad term the CFPB has used to describe a wide range of fees financial institutions may charge consumers, ranging from so-called "surprise" overdraft fees to "pay-to-pay" convenience fees.

dealers from misrepresenting material information about vehicle sales, including pricing, financing terms, and vehicle availability. It also requires clear, conspicuous disclosures about total price and add-on products and bars dealers from charging for add-ons that provide no benefit to the buyer. The CARS Act also introduces a mandatory three-day right to cancel a contract for certain used vehicles. The law takes effect in October 2026.

In December 2025, the New York governor signed the FAIR Business Practices Act into law, amending the state's primary consumer protection law for the first time in 45 years. This law empowers the attorney general to bring civil actions against corporations engaging in unfair or abusive acts and empowers consumers to bring private rights of action concerning deceptive or abusive practices. For auto lenders, the FAIR Business Practices Act's most direct impact lies in provisions prohibiting junk fees and the steering of borrowers into higher-cost loan products — practices that have historically been applicable to auto financing products.

2025 Enforcement Highlights

CFPB Enters Into Consent Order With Auto Lender Over Improper Credit Reporting Allegations

In January 2025, the CFPB announced that it had entered into a consent order with American Honda Finance Corporation (Honda) resolving allegations of improper credit reporting in violation of the Fair Credit Reporting Act (FCRA) and the Consumer Financial Protection Act (CFPA). Specifically, the CFPB alleged that Honda "furnished inaccurate or incomplete information" to credit reporting agencies for more than 300,000 consumers, failed to investigate disputes in a timely manner, misreported deferred Coronavirus Aid, Relief, and Economic Security Act payments as delinquent, and maintained inadequate policies to ensure reporting accuracy. According to the terms of the consent order, Honda agreed to pay $10.3 million in consumer redress and $2.5 million in civil money penalties.

Alaska Attorney General Settles With Auto Dealerships Over Dealer Fees Not Included in Advertised Prices

In 2025, the Alaska attorney general announced two separate settlements with automobile dealerships (one in January and the other in December), resolving allegations that each dealership unlawfully charged fees not included in advertised vehicle prices in violation of Alaska law. Under the settlements, one dealership agreed to offer refunds in the amount of $220 to each consumer who paid more than the online advertised price, and the other agreed to pay a civil money penalty of $300,000.

CFPB Withdraws Lawsuit Against Subprime Auto Lender

In April 2025, the CFPB withdrew from a 2023 lawsuit it had jointly filed with the New York attorney general (AG) against Credit Acceptance Corporation in the U.S. District Court for the Southern District of New York. In that lawsuit, the CFPB and the New York AG alleged that the lender had engaged in abusive and deceptive acts and practices in violation of the CFPA and New York state law, including misrepresenting loan terms and steering customers toward high-interest loans. New York remains as the sole plaintiff, and the court terminated the lender's pending motion to dismiss while the parties discuss settlement.

CFPB Terminates Consent Order With Auto Lender and Waives Any Alleged Noncompliance

In May 2025, the CFPB terminated a 2023 consent order it had entered into with Toyota Motor Credit Corporation and waived any alleged noncompliance with the settlement. The CFPB alleged that the auto lender had engaged in unfair or abusive acts and practices in violation of the CFPA and FCRA, including obstructing cancellations, mishandling refunds, and inaccurately reporting accounts as delinquent. According to the terms of the consent order, the auto lender had agreed to pay $48 million to affected consumers and $12 million in civil money penalties toward the CFPB's victims relief fund.

The FTC Drops Disparate Impact Claims Against Three Texas Auto Dealerships

In August 2025, to comply with an April 2025 executive order directing federal agencies to deprioritize enforcement actions based on disparate-impact theories, the Federal Trade Commission (FTC) withdrew its discrimination claims against three Texas auto dealerships. Although the FTC said it was dropping the discrimination claims out of "an abundance of caution," it is continuing to pursue the add-on and fee-related allegations against the dealerships.

Major U.S. Supreme Court and Appellate Cases Decided in 2025

Welcome to the 12th and final chapter of our annual report, Consumer Financial Services: 2025 Year in Review.

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Looking Ahead to 2026

The U.S. Supreme Court and the U.S. Courts of Appeals issued a number of significant rulings in 2025 that reshaped the landscape for agency authority and judicial review. Notably, the Supreme Court rejected universal injunctions and reiterated that district courts should not automatically defer to agency interpretations of federal statutes in certain circumstances. The Courts of Appeals also considered issues that will impact the consumer finance industry, including with respect to the Telephone Consumer Protection Act (TCPA), Fair Credit Reporting Act (FCRA), consumer privacy laws, and the federal preemption limits under statutes such as the National Bank Act. Further, the Court of Appeals for the Second Circuit agreed to hear an appeal concerning what requirements, if any, the Electronic Fund Transfer Act (EFTA) may impose on financial institutions to investigate and reimburse consumers alleging claims based on fraudulent online wire transfer schemes. These decisions suggest that consumer finance companies need to prepare for more fragmented regulatory compliance and potentially inconsistent rulings across jurisdictions.

Additionally, while the Consumer Financial Protection Bureau (CFPB) acting director, Russell Vought, recently agreed to request funding for the CFPB for at least the second quarter of fiscal year 2026, the en banc U.S. Court of Appeals for the District of Columbia (D.C. Circuit) recently heard argument concerning whether to uphold the district court's preliminary injunction stopping terminations of most of the CFPB's staff, the canceling of contracts, and other actions. The D.C. Circuit's ruling, and any appeal, has the potential to further overhaul the federal regulatory and enforcement space and responsible agencies over at least the next several years.

In the News

U.S. Supreme Court

Supreme Court Clarifies Scope of Judicial Review Under Hobbs Act

In June 2025, the Supreme Court concluded that the Administrative Orders Review Act (the Hobbs Act), which provides for pre-enforcement judicial review of certain agencies' orders, "does not bind district courts in civil enforcement proceedings to an agency's interpretation of a statute," including the Federal Communications Commission's interpretation of the TCPA, in *McLaughlin Chiropractic Associates, Inc. v. McKesson Corp. et al*. In so doing, the Court rejected the theory that "the Hobbs Act's grant of 'exclusive jurisdiction' to courts of appeals to 'determine the validity' of agency orders" precludes "district courts in enforcement proceedings from independently assessing whether an agency's interpretation" of a statute "is correct." Consistent with last year's ruling in *Loper Bright Enterprises v. Raimondo*, the Court held that district courts must independently interpret statutes "under ordinary principles of statutory interpretation, affording appropriate respect to the agency's interpretation."

Supreme Court Limits Universal Injunctions

Also in June 2025, the Supreme Court decided *Trump v. CASA, Inc.*, a highly anticipated decision addressing the use of universal injunctive relief — injunctions that prohibit the enforcement of a law or policy against anyone as opposed to only the plaintiffs in the lawsuit. Noting that universal injunctions have no "founding-era" analogue, the Court concluded that such injunctions "likely exceed the equitable authority that Congress has granted to federal courts" and granted the government's application for a stay "only to the extent that the injunctions are broader than necessary to provide complete relief to each

plaintiff with standing to sue." This ruling may increase the frequency of class action filings seeking statewide or nationwide injunctive relief, a lawful alternative the Court acknowledged in its ruling.

Supreme Court Declines to Hear Case Concerning Whether Federal Class Actions Can Include Uninjured Class Members

In June 2025, the Supreme Court declined to issue a substantive ruling in an appeal questioning whether or to what extent the presence of uninjured class members may preclude a finding of predominance when plaintiffs seek to certify a class under Federal Rules of Civil Procedure Rule 23(b)(3) — which is not an uncommon issue in class actions involving consumer finance companies. The case, *Laboratory Corp. of America Holdings v. Davis*, involved a class of visually impaired plaintiffs who alleged that Labcorp's self-service appointment check-in "kiosks violated the Americans with Disabilities Act (ADA) and California's Unruh Civil Rights Act." The Supreme Court had granted certiorari to review the Court of Appeals for the Ninth Circuit's decision in which it reiterated its view that Rule 23 does not preclude class certification even if the class "includes more than a de minimis number of uninjured class members."

After certiorari was granted, the plaintiffs argued that Labcorp had taken its appeal from the wrong district court order and that, because the Ninth Circuit had held that all class members suffered an injury, the question presented fell outside the Supreme Court's jurisdiction. The Court ultimately agreed, concluded that certiorari had been "improvidently granted," and dismissed the appeal. Justice Kavanaugh dissented, however, stating that "the Ninth Circuit's decision is incorrect under Rule 23 and this Court's precedents, and it will generate serious real-world consequences." The Court may seek another vehicle to address the question, given that *Laboratory Corp.* is the second time it set out to do so. In the interim, a split of authority persists among the Courts of Appeals on how to handle classes defined to include uninjured members, with some deeming it fatal, others deeming it not a problem at all, and others staking a middle ground turning on precisely how many uninjured members there are and how feasible it will be to weed them out before final judgment.

Courts of Appeals

Eleventh Circuit Strikes Down FCC's "One-to-One Consent" Rule

In January 2025, the Court of Appeals for the Eleventh Circuit struck down the Federal Communications Commission (FCC) "one-to-one consent" rule, which prohibited telemarketing and advertising robocalls to a consumer unless that consumer "consent[ed] to calls from only one entity at a time" and "consent[ed] only to calls" with subject matters "associated with the interaction that prompted the consent," in *Insurance Marketing Coalition Ltd. v. FCC*. The Eleventh Circuit held that the FCC only has statutory authority to "'implement' the TCPA" and the plain language of "the TCPA requires only 'prior express consent'—not 'prior express consent' *plus*" (emphasis in original). Thus, the court reasoned that the one-to-one consent rule "impermissibly alter[ed] what it means to give 'prior express consent.'" The FCC did not appeal this decision and, in August 2025, it formally reinstated the previous definition of "prior express written consent," eliminating one of the plaintiffs' bar's arguments for strict individualized authorization.

Fourth Circuit Reverses Class Certification and Damages for Lack of Standing

In January 2025, the Court of Appeals for the Fourth Circuit conclusively held that "to recover damages from the defendants, '*[e]very class member must have Article III standing*' 'for each claim that they press,' requiring proof that the challenged conduct caused each of them a concrete harm" (emphasis in original), in *Alig v. Rocket Mortgage, LLC*. The court emphasized that plaintiffs cannot establish standing to recover damages by relying "on a 'mere risk of future harm.'" Accordingly, because "the plaintiffs' class-wide showing" was "too speculative," the Fourth Circuit reversed the district court's judgment, certifying a class and awarding that class damages, and directed that the action proceed "only as to the individual named plaintiffs."

Eleventh Circuit Concludes Convenience Fees Can Violate the FDCPA

In February 2025, the Eleventh Circuit considered whether the Fair Debt Collection Practices Act (FDCPA) "prohibits loan servicers from collecting 'pay-to-pay' or 'convenience' fees for the use of certain payment methods" in *Glover v. Ocwen Loan Servicing, LLC*. The plaintiffs alleged that Ocwen acquired servicing rights to the plaintiffs' "mortgages after they defaulted on their loans" and offered them "the option to make expedited payments over the phone or online […] for an additional convenience fee." The plaintiffs alleged these fees were not permitted because they were not expressly named in the

plaintiffs' mortgages or promissory notes. The Eleventh Circuit affirmed the district court's granting of summary judgment for the plaintiffs and held that "a debt collector violates the FDCPA when they charge 'any amount' which is not expressly authorized by the agreement or permitted by law while collecting or attempting to collect a debt."

Seventh Circuit Narrows Meaning of "Telephone Solicitation" Under the TCPA

In March 2025, the Court of Appeals for the Seventh Circuit concluded that, to fall within the TCPA's definition of "telephone solicitation," a call or text must be made "with the purpose of persuading or urging someone to pay for property, goods, or services," not merely to provide information or promote free programs or services, in *Hulce v. Zipongo Inc*. The Seventh Circuit went on to note that the person "the caller intends to encourage is also the party who makes the purchasing decision" because the court "cannot separate the encouragement element from the purchasing element." The court prefaced that its ruling was narrow and cautioned against the creation of "a sweeping loophole within the prohibition of telephone solicitations."

Second Circuit Confirms "Reasonable Investigation" Standard for FCRA Claims

In May 2025, the Second Circuit affirmed summary judgment and held that the defendant, Credit One Bank, satisfied the FCRA by conducting a "reasonable investigation" in *Suluki v. Credit One Bank, NA.* It also held that although there was a genuine dispute as to whether the plaintiff was responsible for the account based on fraud, a reasonable investigation into the plaintiff's claim would not have led to a different conclusion. The plaintiff had alleged that Credit One Bank "failed to conduct a reasonable investigation into her dispute" because she claimed her mother committed identity theft against her and the bank's investigation did not confirm any identity theft. On appeal, the Second Circuit affirmed the lower court's decision, holding that "FCRA does not require furnishers to conduct perfect investigations -- it requires only that furnishers conduct reasonable investigations" and it "does not guarantee that the results of those investigations will favor the consumer lodging the dispute." The court then affirmed summary judgment for Credit One Bank, finding that the investigation was reasonable and, as a matter of law, no reasonable jury could conclude that the purported violation was willful or negligent so as to entitle the plaintiff to damages.

Second Circuit Agrees to Hear Citibank's EFTA Appeal

In September 2025, the Second Circuit granted Citibank's request for interlocutory appeal in a case filed by New York Attorney General (AG) Letitia James. In January 2024, AG James accused Citibank of failing to protect and reimburse customers who lost money to fraudulent online wire transfer schemes. One year later, the U.S. District Court for the Southern District of New York allowed key claims in the case to proceed, including those under the EFTA. Citibank requested an interlocutory review of this order. The New York AG's claims allege that Citibank failed to comply with EFTA requirements after receiving customer reports of scam activity in their online accounts. Citibank counters that wire transfers are carved out from the EFTA and are instead governed by the Uniform Commercial Code, which imposes less stringent reimbursement requirements. In granting Citibank's request for interlocutory review, the Second Circuit also granted requests from nonparties to file amici curiae briefs. Briefing is scheduled to conclude in March 2026, and the court will hear argument in April 2026.

First Circuit Concludes National Bank Act Does Not Preempt Rhode Island Law

In September 2025, the Court of Appeals for the First Circuit concluded that the National Bank Act did not preempt a Rhode Island statute that required mortgage lenders to pay interest on mortgage escrow accounts in *Conti v. Citizens Bank, NA*. Citizens Bank argued that the Rhode Island statute should be preempted because it forces the bank to "comply with a patchwork of varying and conflicting state regulations concerning the payment of interest on mortgage-escrow accounts." The First Circuit disagreed and, after conducting the preemption analysis the Supreme Court outlined in *Cantero v. Bank of America, NA*, it found "no express conflict between the Rhode Island statute and the National Bank Act" and found that Citizens Bank did not establish that the state law would "significantly interfere" with the exercise of its federal-banking powers. This ruling will likely increase compliance obligations as national banks will need to carefully review varying state laws regarding escrow accounts and potentially other consumer financial products.

Tenth Circuit Limits Federal Preemption: Colorado May Enforce Interest Rate Caps After DIDA Opt Out

In November 2025, the Court of Appeals for the Tenth Circuit considered the meaning of "loans made in such State" as used in the Depository Institutions Deregulation and Monetary Control Act (DIDA) of 1980 opt-out provision in *National Association of Industrial Bankers v. Weiser*. DIDA "sets a national standard for interest rates that state-chartered banks may charge on loans" and permits a state to "opt out of this national standard for 'loans made in such State,'" meaning the "state reasserts authority to regulate interest rates on these types of loans." Three trade associations with state-bank members brought an action against Colorado's AG alleging that Colorado's interest rate caps did not apply to loans made by out-of-state banks to Colorado borrowers. As "an issue of first impression," the Tenth Circuit determined that the phrase "'loans made in such State' refers to loans in which either the lender or the borrower is located in the opt-out state." Because Colorado had opted out of the federal statute, "that statute no longer preempts Colorado's interest-rate caps for loans from out-of-state banks to Colorado borrowers."

Fourth Circuit Deepens Circuit Split on Standing Burden in Data Breach Lawsuits

In October 2025, the Fourth Circuit concluded that the public disclosure of a plaintiff's personal information in a data breach incident was sufficient to show they suffered a "concrete injury" in *Holmes v. Elephant Insurance Company*. Specifically, the court held that showing that the plaintiffs' driver's license numbers appeared on the dark web could establish standing to seek damages since the "injury ha[d] already come to pass." However, for the plaintiffs whose personal information was breached but not publicly disclosed, the Fourth Circuit held that the risk that their personal information "may be misused in the future" was not sufficient to establish standing because "they have not alleged facts showing that any particular misuse is imminent." In contrast, the First, Second, and Seventh Circuits have found imminent injury sufficient to show standing when personal information was compromised in an incident.

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