

Semi-Annual Report of the Consumer Financial Protection Bureau

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1. Rules and Orders

1.1 List of significant rules and orders adopted by the CFPB

During the reporting period of this Semi-Annual Report, the Consumer Financial Protection Bureau (CFPB) adopted the following significant rules and orders.¹

Final rules:

- *Final Rule: Facilitating the LIBOR Transition (Regulation Z).* In December 2021, the CFPB published a final rule amending Regulation Z to address the anticipated sunset of LIBOR.²
- *Final Rule: Supervisory Authority Over Certain Nonbank Covered Persons Based on Risk Determination; Public Release of Decisions and Orders.* In April 2022, the CFPB amended its procedures for establishing supervisory authority based on a risk determination, by adding a mechanism for the CFPB to make public final decisions and orders in these proceedings.³
- *Final Rule: Facilitating the LIBOR Transition (Regulation Z).* In December 2021, the CFPB published a final rule amending Regulation Z to address the anticipated sunset of LIBOR.⁴
- *Final Rule: Supervisory Authority Over Certain Nonbank Covered Persons Based on Risk Determination; Public Release of Decisions and Orders.* In April 2022, the CFPB amended its procedures for establishing supervisory authority based on a risk

¹ A complete listing of the CFPB's rulemaking actions taken during this reporting period is available on the CFPB's website: <https://www.consumerfinance.gov/rules-policy/>.

² "Facilitating the LIBOR Transition (Regulation Z)," Consumer Financial Protection Bureau, Dec. 7, 2021, https://files.consumerfinance.gov/f/documents/cfpb_facilitating-libor-transition_final-rule_2021-12.pdf.

³ "Supervisory Authority Over Certain Nonbank Covered Persons Based on Risk Determination; Public Release of Decisions and Orders," Consumer Financial Protection Bureau, Nov. 10, 2022, https://files.consumerfinance.gov/f/documents/cfpb_supervisory-risk-determinations-rule_2022-11.pdf.

⁴ "Facilitating the LIBOR Transition (Regulation Z)," Consumer Financial Protection Bureau, Dec. 7, 2021, https://files.consumerfinance.gov/f/documents/cfpb_facilitating-libor-transition_final-rule_2021-12.pdf.

determination, by adding a mechanism for the CFPB to make public final decisions and orders in these proceedings.⁵

The CFPB released the following significant pre-rule materials:

- *Pre-Rule: Outline of Proposals and Alternatives Under Consideration – Small Business Advisory Review Panel for Automated Valuation Model Rulemaking.* In February 2022, the CFPB released an outline of options to ensure that computer models used to help determine home valuations are accurate and fair.⁶
- *Advance Notice of Proposed Rulemaking: Credit Card Late Fees and Late Payments.* In June 2022, the CFPB published an advance notice of proposed rulemaking seeking information from credit card issuers, consumer groups, and the public regarding credit card late fees and late payments, and card issuers' revenue and expenses.⁷

1.2 List of significant initiatives conducted by the CFPB

1.2.1 Reports

- *Report: Disputes on Consumer Credit Reports.* In November 2021, the CFPB released research finding that consumers in majority Black and Hispanic neighborhoods, as well as younger consumers and those with low credit scores, are far more likely to have disputes appear on their credit reports.⁸ The report found that majority Black and Hispanic neighborhoods continue to face significant challenges with credit records. In nearly every credit category reviewed (auto loans, student loans, credit cards, and retail

⁵ “Supervisory Authority Over Certain Nonbank Covered Persons Based on Risk Determination; Public Release of Decisions and Orders,” Consumer Financial Protection Bureau, Nov. 10, 2022, https://files.consumerfinance.gov/f/documents/cfpb_supervisory-risk-determinations-rule_2022-11.pdf.

⁶ “Consumer Financial Protection Bureau Outlines Options to Prevent Algorithmic Bias in Home Valuations,” Consumer Financial Protection Bureau, Feb. 23, 2022, <https://www.consumerfinance.gov/about-us/newsroom/cfpb-outlines-options-to-prevent-algorithmic-bias-in-home-valuations/>.

⁷ “Credit Card Late Fees and Late Payments,” Consumer Financial Protection Bureau, June 22, 2022, https://files.consumerfinance.gov/f/documents/cfpb_convenience-fees_advisory-opinion_2022-06.pdf. Additional activity has occurred with this matter since the end of this reporting period. More information can be found here: <https://www.consumerfinance.gov/rules-policy/notice-opportunities-comment/credit-card-penalty-fees-regulation-z/>.

⁸ “Disputes on Consumer Credit Reports,” Consumer Financial Protection Bureau, November 2, 2021, https://files.consumerfinance.gov/f/documents/cfpb_disputes-on-consumer-credit-reports_report_2021-11.pdf.

cards), consumers residing in majority Black areas were more than twice as likely to have disputes appear on their credit reports compared to consumers residing in majority white areas.

- *Report: Annual Report of Credit and Consumer Reporting Complaints: An Analysis of Complaint Responses by Equifax, Experian, and TransUnion.*⁹ In January 2022 the CFPB released this report, pursuant to Section 611(e)(5) of the FCRA, that summarizes information gathered by the CFPB regarding certain consumer complaints transmitted by the CFPB to the nationwide consumer reporting agencies (NCRAs).¹⁰ Complaints submitted about the NCRAs accounted for more than 50 percent of all complaints received by the CFPB in 2020 and more than 60 percent in 2021 and the NCRAs together reported relief in response to less than 2 percent of covered complaints in 2021, down from nearly 25 percent of covered complaints in 2019.
- *Report: Justice Involved Individuals and the Consumer Financial Marketplace.* In January 2022, the CFPB released a comprehensive review of the financial issues facing people and families who come in contact with the criminal justice system.¹¹ The report describes an ecosystem with burdensome fees and lack of choice where families are increasingly being forced to shoulder costs. It walks through the financial challenges families encounter at every stage of the criminal justice process, and the ways in which providers—often for-profit private companies—are leveraging a lack of consumer choice or their own market dominance to impose hefty fees at families’ expense.
- *Report: Medical Debt Burden in the United States.* In March 2022, the CFPB released a report highlighting the complicated and burdensome nature of the medical billing system in the United States.¹² The report found that the U.S. healthcare system is supported by a billing, payments, collections, and credit reporting infrastructure where mistakes are common, and where patients often have difficulty getting these errors resolved. The report details how medical bills are often incurred through unexpected and emergency events, are subject to opaque pricing, and involve complicated insurance or

⁹ This entry refers to the 2022 edition of the CFPB’s annual reporting on NCRA consumer complaints. The 2023 edition of this report is referenced in section 1.3.2 discussing other upcoming CFPB initiatives.

¹⁰ “Annual Report of Credit and Consumer Reporting Complaints,” Consumer Financial Protection Bureau, Jan. 5, 2022, https://files.consumerfinance.gov/f/documents/cfpb_fcra-611-e_report_2022-01.pdf.

¹¹ “Justice-Involved Individuals and the Consumer Financial Marketplace,” Consumer Financial Protection Bureau, January 31, 2022, https://files.consumerfinance.gov/f/documents/cfpb_jic_report_2022-01.pdf.

¹² “Medical Debt Burden in the United States,” Consumer Financial Protection Bureau, Mar. 1, 2022, https://files.consumerfinance.gov/f/documents/cfpb_medical-debt-burden-in-the-united-states_report_2022-03.pdf.

charity care coverage and pricing rules. The report outlines how the repercussions of this system are especially acute for people from Black and Hispanic communities, as well as people with low incomes, veterans, older adults, and young adults of all races and ethnicities.

- *Report: Credit Card Late Fees.* In March 2022, the CFPB issued a report outlining the impact of credit card late fees assessed by credit card issuers.¹³ The report found that many major issuers charge the maximum late fee allowed under the immunity provisions set by the Board of Governors of the Federal Reserve System (FRB) in 2010, that late fees are more commonly assessed on subprime and private label cards, and that late fee volume fell in 2020 and 2021 when stimulus checks arrived, particularly for households with lower credit scores. The report also found that low-income areas, Black communities, and areas with lower economic mobility all bear more of the late fee burden.
- *Complaint Bulletin: Medical Billing and Collection Issues Described in Consumer Complaints.* In April 2022 the CFPB released a complaint bulletin analyzing consumer complaints submitted to the CFPB.¹⁴ The topic of medical debt typically arose in complaints about debt collection and complaints about credit or consumer reporting. Complaints provide additional evidence that medical billing poses special risks to individuals and families.
- *Reports: Mortgage Servicing COVID-19 Pandemic Response Metrics.* In August 2021 and May 2022, the CFPB released reports examining mortgage servicers' responses to the COVID-19 pandemic.¹⁵ The August 2021 report addressed key metrics for call center data, forbearance enrollments and exits, delinquency, and borrower profiles and highlighted the industry's widely varied response to the pandemic. The May 2022 report

¹³ "Credit card late fees," Consumer Financial Protection Bureau, Mar. 29, 2022, https://files.consumerfinance.gov/f/documents/cfpb_credit-card-late-fees_report_2022-03.pdf.

¹⁴ "Complaint Bulletin: Medical Billing and Collection Issues Described in Consumer Complaints," Consumer Financial Protection Bureau, Apr. 20, 2022, https://files.consumerfinance.gov/f/documents/cfpb_complaint-bulletin-medical-billing_report_2022-04.pdf.

¹⁵ "Mortgage Servicing COVID-19 Pandemic Response Metrics: Observations from Data Reported by Sixteen Servicers," Consumer Financial Protection Bureau, August 10, 2021, https://files.consumerfinance.gov/f/documents/cfpb_mortgage-servicing-covid-19-pandemic-response-metrics_report_2021-08.pdf; "Mortgage Servicing COVID-19 Pandemic Response Metrics: New Observations from Data Reported by Sixteen Servicers for May-December 2021," May 16, 2022, https://files.consumerfinance.gov/f/documents/cfpb_mortgage-servicing-covid-19-pandemic-response-metrics_report_2022-05.pdf.

found that homeowners continue to face significant risks and challenges connected to working with their mortgage servicers.

- *Report: Paid and Low-Balance Medical Collections on Consumer Credit Reports.* In July 2022, the CFPB published a report examining the potential impacts of actions announced by the three largest NCRCs on people with allegedly unpaid medical debt on their credit reports.¹⁶ The NCRCs announced that starting in 2023 medical collections tradelines less than \$500 will no longer be reported on consumer credit reports. This report finds that these changes likely will result in the majority of individual medical collections tradelines being removed from credit reports, while the majority of the dollar amount of collections reported will still remain. The report also outlines how the benefit distribution is disproportionate across geographic and demographic populations.
- *Report: Buy Now, Pay Later: Market Trends and Consumer Impacts.* In September 2022, the CFPB published a report finding that the Buy Now, Pay Later industry grew rapidly during the pandemic, but that borrowers may be receiving uneven disclosures and protections.¹⁷ While the marketing of these products can make them appear to be a zero-risk credit option, this report identifies several areas of risk of consumer harm, including inconsistent consumer protections standards, data harvesting and monetization may threaten consumers' privacy and security, and the lack of furnishing to credit reporting companies could result in increased debt accumulation and overextension by consumers.
- *Data Spotlight: Challenges in Rural Banking Access.* As part of its Rural Initiative, the CFPB released a report in April 2022 highlighting how many rural communities lack access to physical bank branches, are more likely to seek credit from nonbanks, and are heavily affected by medical bills.¹⁸ The report provides a snapshot of CFPB analyses as well as broader context to serve as a starting point for deeper engagement on rural issues.

¹⁶ "Paid and Low-Balance Medical Collections on Consumer Credit Reports," Consumer Financial Protection Bureau, July 27, 2022, <https://www.consumerfinance.gov/data-research/research-reports/paid-and-low-balance-medical-collections-on-consumer-credit-reports/>.

¹⁷ "Buy Now, Pay Later: Market trends and consumer impacts," Consumer Financial Protection Bureau, Sept. 15, 2022, https://files.consumerfinance.gov/f/documents/cfpb_buy-now-pay-later-market-trends-consumer-impacts_report_2022-09.pdf.

¹⁸ "Data Spotlight: Challenges in Rural Banking Access," Consumer Financial Protection Bureau, Apr. 19, 2022, https://files.consumerfinance.gov/f/documents/cfpb_data-spotlight_challenges-in-rural-banking_2022-04.pdf.

- *Report: Consumer Finances in Rural Appalachia.* The first in a series of reports focusing on the finances of consumers in rural areas, this report, released in September 2022, highlights consumers in rural Appalachia.¹⁹ The report found that consumers who live in rural Appalachia tend to earn less than those in other rural areas, have higher rates of subprime credit, and many struggle with medical debt. The report finds that when compared to national averages, rural Appalachians tend to have higher mortgage denials and interest rates, less access to credit, and a higher median student loan balance as a percentage of household income.
- *Issue Spotlight: Nursing Home Debt Collection.* The CFPB conducted an analysis of the risks that nursing home residents and their caregivers face by assessing consumer complaints, nursing home admission contracts, and debt collection lawsuits for problematic practices that may result in consumer financial harm.²⁰ That analysis, released in September 2022, alongside discussions with key stakeholders, revealed that many facilities include clauses in admission contracts that purport to subject the caregiver to financial liability should the admitted resident incur a debt. The report details the risk of financial harm that nursing homes and their debt collectors cause by attempting to collect invalid debts from residents' family and friends. The CFPB released a *Consumer Financial Protection Circular* addressing debt collection and consumer reporting practices involving invalid nursing home debts with the Issue Spotlight.²¹

1.2.2 Compliance Bulletins

- *Advisory Opinion: Fair Credit Reporting; Name-Only Matching Procedures.* In November 2021, the CFPB published an advisory opinion affirming that a consumer reporting company that uses inadequate matching procedures to match information to consumers, including name-only matching, in preparing consumer reports is not using reasonable procedures to assure maximum possible accuracy under section 607(b) of the Fair Credit Reporting Act (FCRA).²²

¹⁹ “Consumer Finances in Rural Appalachia,” Consumer Financial Protection Bureau, Sept. 1, 2022, https://files.consumerfinance.gov/f/documents/cfpb_consumer-finances-in-rural-appalachia_report_2022-09.pdf.

²⁰ “Issue Spotlight: Nursing Home Debt Collection,” Consumer Financial Protection Bureau, Sept. 8, 2022, https://files.consumerfinance.gov/f/documents/cfpb_issue-spotlight-nursing-home-debt-collection_report_2022-09.pdf.

²¹ “Consumer Financial Protection Circular 2022-05: Debt Collection and Consumer Reporting Practices Involving Invalid Nursing Home Debts,” Consumer Financial Protection Bureau, Sept. 8, 2022, https://files.consumerfinance.gov/f/documents/cfpb_2022-05_circular_2022-09.pdf.

²² “Fair Credit Reporting; Name-Only Matching Procedures,” Consumer Financial Protection Bureau, Nov. 1, 2021, https://files.consumerfinance.gov/f/documents/cfpb_name-only-matching_advisory-opinion_2021-11.pdf.

- *Bulletin 2022-01: Compliance Bulletin on Medical Debt Collection and Consumer Reporting Requirements in Connection with the No Surprises Act.* In January 2022, the CFPB released a compliance bulletin and policy guidance to remind debt collectors of their obligation to comply with the FDCPA's prohibition on false, deceptive, or misleading representations or means in connection with the collection of any debt and unfair or unconscionable means to collect or attempt to collect any debt, and to remind consumer reporting companies and information furnishers to comply with the FCRA's accuracy and dispute resolution requirements, including when collecting, furnishing information about, and reporting medical debts covered by the No Surprises Act.²³

- *Bulletin 2022-03: Compliance Bulletin on Servicer Responsibilities in Public Service Loan Forgiveness Communications.* In February 2022, the CFPB released a bulletin detailing student loan servicers' obligation to halt unlawful conduct regarding borrowers' eligibility and benefits under the Public Service Loan Forgiveness (PSLF) Waiver.²⁴ The bulletin recommends actions servicers should consider taking to ensure they do not misrepresent borrower eligibility or make deceptive statements to borrowers about the PSLF program and the Waiver.

- *Bulletin 2022-02: Compliance Bulletin on the Electronic Fund Transfer Act's Compulsory Use Prohibition and Government Benefit Accounts.* In February 2022, the CFPB released a compliance bulletin to reiterate that a provision of the Electronic Fund Transfer Act, which provides that no person may require a consumer to establish an account for receipt of electronic fund transfers with a particular financial institution as a condition of receipt of a government benefit, applies to government benefit accounts.²⁵

- *Bulletin 2022-04: Compliance Bulletin Regarding Illegal Auto Repossessions.* In February 2022, the CFPB released a compliance bulletin addressing illegal repossessions

²³ "Bulletin 2022-01: Medical Debt Collection and Consumer Reporting Requirements in Connection with the No Surprises Act," Consumer Financial Protection Bureau, Jan. 13, 2022, https://files.consumerfinance.gov/f/documents/cfpb_bulletin-2022-01_no-surprises-act_2022-01.pdf.

²⁴ "Bulletin 2022-03: Servicer Responsibilities in Public Service Loan Forgiveness Communications," Consumer Financial Protection Bureau, Feb. 18, 2022, https://files.consumerfinance.gov/f/documents/cfpb_bulletin_2022-03_servicer-responsibilities-in-public-service-loan-forgiveness.pdf.

²⁵ "Bulletin 2022-02: Compliance Bulletin on the Electronic Fund Transfer Act's Compulsory Use Prohibition and Government Benefit Accounts," Consumer Financial Protection Bureau, Feb. 15, 2022, https://files.consumerfinance.gov/f/documents/cfpb_bulletin-2022-02_electronic-fund-transfer-act_2022-02.pdf.

and sloppy servicing of auto loans.²⁶ The bulletin describes instances, in examinations and enforcement actions, where servicers may have violated or violated the Dodd-Frank Act’s prohibition on engaging in unfair or deceptive acts or practices.

- *Advisory Opinion: Revocations or Unfavorable Changes to the Terms of Existing Credit Arrangements.* In May 2022, the CFPB issued an advisory opinion affirming that the Equal Credit Opportunity Act (ECOA)—which bars creditors from discriminating on a prohibited basis against applicants in any aspect of a credit transaction—protects applicants who have received credit, not just those who are in the process of applying for credit.²⁷
- *Consumer Financial Protection Circular 2022-02: Deceptive representations involving the FDIC’s name or logo or deposit insurance.* In May 2022, the CFPB released a *Consumer Financial Protection Circular* that addresses prohibited practices on claims about Federal Deposit Insurance Corporation (FDIC) insurance.²⁸ The *Circular* emphasizes that firms cannot misuse the name or logo of the FDIC or make deceptive representations about deposit insurance.
- *Consumer Financial Protection Circular 2022-03: Adverse action notice requirements in connection with credit decisions based on complex algorithms.* In May 2022, the CFPB released a *Consumer Financial Protection Circular* to remind the public, including those responsible for enforcing federal consumer financial protection law, of creditors’ adverse action notice requirements under the Equal Credit Opportunity Act (ECOA).²⁹ The *Circular* affirmed that federal anti-discrimination law requires companies to explain to applicants the specific reasons for denying an application for credit or taking other adverse action, and that this remains true even if the creditor is relying on credit models that use complex algorithms.

²⁶ “Bulletin 2022-04: Mitigating Harm from Repossession of Automobiles,” Consumer Financial Protection Bureau, Feb. 28, 2022, https://files.consumerfinance.gov/f/documents/cfpb_bulletin-2022-04_mitigating-harm-from-repossession-of-automobiles.pdf.

²⁷ “Equal Credit Opportunity (Regulation B); Revocations or Unfavorable Changes to the Terms of Existing Credit Arrangements,” Consumer Financial Protection Bureau, May 5, 2022, https://files.consumerfinance.gov/f/documents/cfpb_revoking-terms-of-existing-credit-arrangement_advisory-opinion_2022-05.pdf.

²⁸ “Consumer Financial Protection Circular 2022-02: Deceptive representations involving the FDIC’s name or logo or deposit insurance,” Consumer Financial Protection Bureau, May 17, 2022, https://files.consumerfinance.gov/f/documents/cfpb_2022-02_circular_2022-05.pdf.

²⁹ “Consumer Financial Protection Circular 2022-03: Adverse action notification requirements in connection with credit decisions based on complex algorithms,” Consumer Financial Protection Bureau, May 26, 2022, https://files.consumerfinance.gov/f/documents/cfpb_2022-03_circular_2022-05.pdf.

- *Advisory Opinion: Debt Collection Practices (Regulation F); Pay-to-Pay Fees.* In June 2022, the CFPB issued an advisory opinion affirming that the Fair Debt Collection Practices Act (FDCPA) and Regulation F prohibit debt collectors from charging consumers pay-to-pay fees (also known as convenience fees) for making payment a particular way, such as by telephone or online, unless those fees are expressly authorized by the underlying agreement that created the debt or are affirmatively permitted by law.³⁰ The advisory opinion also states that a debt collector may violate the FDCPA and Regulation F when the debt collector collects pay-to-pay fees through a third-party payment processor.
- *Advisory Opinion: Fair Credit Reporting; Permissible Purposes for Furnishing, Using, and Obtaining Consumer Reports.* In July 2022, the CFPB published an advisory opinion to outline certain obligations of consumer reporting companies and consumer report users under section 604 of the FCRA.³¹

1.2.3 Orders to file information

- *Inquiry into Big Tech Payment Platforms.* In October 2021, the CFPB issued orders to collect information on the business practices of large technology companies operating payments systems in the United States.³² The information will help the CFPB better understand how these firms use personal payments data and manage data access to users so the CFPB can ensure adequate consumer protection. The orders were sent to Amazon, Apple, Facebook, Google, PayPal, and Square. The CFPB is also studying the payment system practices of Chinese tech giants, including Alipay and WeChat Pay.
- *Inquiry into Buy Now Pay Later.* In December 2021, the CFPB issued orders to five companies offering “buy now, pay later” (BNPL) credit.³³ The CFPB issued these orders to Affirm, Afterpay, Klarna, PayPal, and Zip to collect information on the risks and

³⁰ “Debt Collection Practices (Regulation F); Pay-to-Pay Fees,” Consumer Financial Protection Bureau, June 29, 2022, https://files.consumerfinance.gov/f/documents/cfpb_convenience-fees_advisory-opinion_2022-06.pdf.

³¹ “Fair Credit Reporting; Permissible Purposes for Furnishing, Using, and Obtaining Consumer Reports,” Consumer Financial Protection Bureau, July 7, 2022, https://files.consumerfinance.gov/f/documents/cfpb_fair-credit-reporting_advisory-opinion_2022-07.pdf.

³² “Order to File Information on Payments Products,” Consumer Financial Protection Bureau, Oct. 21, 2021, https://files.consumerfinance.gov/f/documents/cfpb_section-1022_generic-order_2021-10.pdf.

³³ “Order to File Information on Buy Now, Pay Later Products,” Consumer Financial Protection Bureau, December 16, 2021, https://files.consumerfinance.gov/f/documents/cfpb_bnpl_sample-order_2021-12.pdf.

benefits of these fast-growing loans. The CFPB is concerned about accumulating debt, regulatory arbitrage, and data harvesting in a consumer credit market already quickly changing with technology. BNPL credit is a type of deferred payment option that generally allows the consumer to split a purchase into smaller installments, typically four or less, often with a down payment of 25 percent due at checkout.

1.3 Plan of the CFPB for rules, orders, or other initiatives conducted by the CFPB

1.3.1 Rules and orders

Upcoming Period:

- *Pre-Rule: Outline of Proposals and Alternatives Under Consideration – Small Business Advisory Review Panel for Required Rulemaking on Personal Financial Data Rights.* In October 2022, the CFPB released an outline of proposals under consideration to strengthen consumers’ access to, and control over, their financial data as a first step before issuing a proposed consumer data rights rule that would implement section 1033 of the Dodd-Frank Act.³⁴
- *Proposed Rule: Registry of Nonbank Covered Persons Subject to Certain Agency and Court Orders.* In December 2022, the CFPB proposed a rule that would require certain nonbank financial firms to register with the CFPB when they become subject to certain local, state, or Federal agency or court orders in connection with the offering or provision of a consumer financial product or service.³⁵ The CFPB’s proposed rule would help the agency identify and mitigate risks to American households in the offering or provision of consumer financial products or services, facilitate the CFPB’s supervision of nonbank financial firms, and ensure that supervised companies are legitimate entities and are able to perform their obligations to consumers.

³⁴ “Outline of Proposals and Alternatives Under Consideration – Small Business Advisory Review Panel for Required Rulemaking on Personal Financial Data Rights,” Consumer Financial Protection Bureau, Oct. 27, 2022, https://files.consumerfinance.gov/f/documents/cfpb_data-rights-rulemaking-1033-SBREFA_outline_2022-10.pdf. A Small Business Review panel was held in February 2023.

³⁵ “Registry of Nonbank Covered Persons Subject to Certain Agency and Court Orders,” Consumer Financial Protection Bureau, Dec. 12, 2022, https://files.consumerfinance.gov/f/documents/cfpb_proposed-rule_registry-of-nonbank-covered-persons_2022.pdf.

- *Proposed Rule: Registry of Supervised Nonbanks that Use Form Contracts to Impose Terms and Conditions that Seek to Waive or Limit Consumer Legal Protections.* In January 2023, the CFPB proposed a rule to establish a public registry of certain supervised nonbanks’ use of terms and conditions in “take it or leave it” form contracts that claim to waive or limit consumers’ rights and other legal protections.³⁶ Under the proposed rule, nonbanks subject to the CFPB’s supervisory jurisdiction generally would need to submit information on terms and conditions in form contracts they use that seek to waive or limit consumers’ rights and other legal protections. That information would be posted in a registry that would be open to the public, including to other consumer financial protection enforcers.
- *Final rule: Small Business Lending under the Equal Credit Opportunity Act (Regulation B).* Section 1071 of the Dodd-Frank Act amended the Equal Credit Opportunity Act to require, subject to rules prescribed by the CFPB, financial institutions to report information concerning credit applications made by women-owned, minority-owned, and small businesses. On March 30, 2023, the CFPB issued a final rule implementing this section.³⁷

1.3.2 Other initiatives

Upcoming Period:

- *Advisory Opinion: Fair Credit Reporting; Facially False Data.* In October 2022, the CFPB issued an advisory opinion to affirm that a consumer reporting company that does not implement reasonable internal controls to prevent the inclusion of facially false data, including logically inconsistent information, in consumer reports it prepares is not using reasonable procedures to assure maximum possible accuracy under section 607(b) of the FCRA.³⁸
- *Consumer Financial Protection Circular 2022-06: Unanticipated Overdraft Fee Assessment Practices.* In October 2022, the CFPB issued a *Circular* stating that

³⁶ “Registry of Supervised Nonbanks that Use Form Contracts to Impose Terms and Conditions that Seek to Waive or Limit Consumer Legal Protections,” Consumer Financial Protection Bureau, Jan. 11, 2023, https://files.consumerfinance.gov/f/documents/cfpb_registry-of-supervised-nonbanks_2023-01.pdf.

³⁷ “Small Business Lending under the Equal Credit Opportunity Act (Regulation B),” Consumer Financial Protection Bureau, Mar. 30, 2023, https://files.consumerfinance.gov/f/documents/cfpb_1071-final-rule.pdf.

³⁸ “Fair Credit Reporting; Facially False Data,” Consumer Financial Protection Bureau, Oct. 20, 2022, https://files.consumerfinance.gov/f/documents/cfpb_fair-credit-reporting-facially-false-data_advisory-opinion_2022-10.pdf.

overdraft fees assessed by financial institutions on transactions that a consumer would not reasonably anticipate are likely unfair.³⁹ These unanticipated overdraft fees are likely to impose substantial injury on consumers that they cannot reasonably avoid and that is not outweighed by countervailing benefits to consumers or competition.

- *Consumer Financial Protection Circular 2022-07: Reasonable Investigation of Consumer Reporting Disputes.* In November 2022, the CFPB released a *Circular* to affirm that neither consumer reporting companies nor information furnishers can skirt dispute investigation requirements.⁴⁰ The *Circular* outlines how federal and state consumer protection enforcers, including regulators and attorneys general, can bring claims against companies that fail to investigate and resolve consumer report disputes.
- *Report: Protecting Those Who Protect Us: Evidence of activated Guard and Reserve servicemembers' usage of credit protections under the Servicemembers Civil Relief Act:* The Servicemembers Civil Relief Act (SCRA) provides important legal and financial protections to active duty servicemembers, including the ability to reduce the interest rate on any pre-service obligations or liabilities to a maximum of 6 percent.⁴¹ Building on existing literature finding the SCRA interest reduction is underutilized, this report, issued in December of 2022, finds that for the National Guard and Reserves, only small fractions of activated Guard and Reserve servicemembers likely receive interest rate reductions. For more servicemembers to benefit from this legal right, the CFPB recommends that creditors apply SCRA interest rate reductions for all accounts held at an institution if a servicemember invokes their rights for a single account; that creditors automatically apply SCRA rights; and for the development of comprehensive and periodic indicators of SCRA interest rate reduction utilization.
- *2023 Annual Report of Consumer and Credit Reporting Complaints: An Analysis of Complaint Responses by Equifax, Experian, TransUnion.* In January 2023 the CFPB released this report, pursuant to Section 611(e)(5) of the FCRA, that summarizes

³⁹ “Consumer Financial Protection Circular 2022-06: Unanticipated Overdraft Fee Assessment Practices,” Consumer Financial Protection Bureau, October 26, 2022, https://files.consumerfinance.gov/f/documents/cfpb_unanticipated-overdraft-fee-assessment-practices_circular_2022-10.pdf.

⁴⁰ “Consumer Financial Protection Circular 2022-07: Reasonable Investigation of Consumer Reporting Disputes,” Consumer Financial Protection Bureau, December 12, 2022, https://files.consumerfinance.gov/f/documents/cfpb_reasonable-investigation-of-consumer-reporting-disputes_circular-2022-07.pdf.

⁴¹ “Protecting Those Who Protect Us: Evidence of activated Guard and Reserve servicemembers' usage of credit protections under the Servicemembers Civil Relief Act,” Consumer Financial Protection Bureau, Dec. 7, 2022, https://files.consumerfinance.gov/f/documents/cfpb_servicemembers-usage-of-scra-credit-protections_2022.pdf.

information gathered by the CFPB regarding certain consumer complaints transmitted by the CFPB to Equifax, Experian, and TransUnion.⁴² The report is based on the 488,000 consumer complaints the CFPB received from consumers and transmitted to Equifax, Experian, and TransUnion from October 2021 through September 2022, and its findings follow the prior year’s report that detailed failures by Equifax, Experian, and TransUnion when responding to consumer complaints.

- *Consumer Financial Protection Circular 2023-01: Unlawful Negative Option Marketing Practices:*⁴³ In January 2023, the CFPB released a *Consumer Financial Protection Circular* that addresses “negative option” marketing programs, which include subscription services that automatically renew unless the consumer affirmatively cancels, and trial marketing programs that charge a reduced fee for an initial period and then automatically begin charging a higher fee. The *Circular* emphasizes that covered persons and service providers engaged in negative option marketing practices may violate the prohibition on unfair, deceptive, or abusive acts or practices in the Consumer Financial Protection Act (CFPA) where they (1) misrepresent or fail to clearly and conspicuously disclose the material terms of a negative option program; (2) fail to obtain consumers’ informed consent; or (3) mislead consumers who want to cancel, erect unreasonable barriers to cancellation, or fail to honor cancellation requests that comply with their promised cancellation procedures.

⁴² “Annual report of credit and consumer reporting complaints: An Analysis of complaint responses by Equifax, Experian, and TransUnion,” Consumer Financial Protection Bureau, Jan. 3, 2023, https://files.consumerfinance.gov/f/documents/cfpb_fcra-611-e_report_2023-01.pdf.

⁴³ “Consumer Financial Protection Circular 2023-01: Unlawful Negative Option Marketing Practices,” Consumer Financial Protection Bureau, Jan. 19, 2023, https://files.consumerfinance.gov/f/documents/cfpb_unlawful-negative-option-marketing-practices-circular_2023-01.pdf.

2. Complaints

The CFPB has a statutory obligation to collect and monitor consumer complaints.⁴⁴ Consumers' complaints and companies' responses provide the CFPB with important information about the types of challenges consumers are experiencing with financial products and services and how companies are responding to consumers' concerns. The CFPB uses this information to monitor risk in financial markets, assess risk at companies, and prioritize agency action.

2.1 An analysis of complaints about consumer financial products or services that the CFPB has received and collected in its central database on complaints

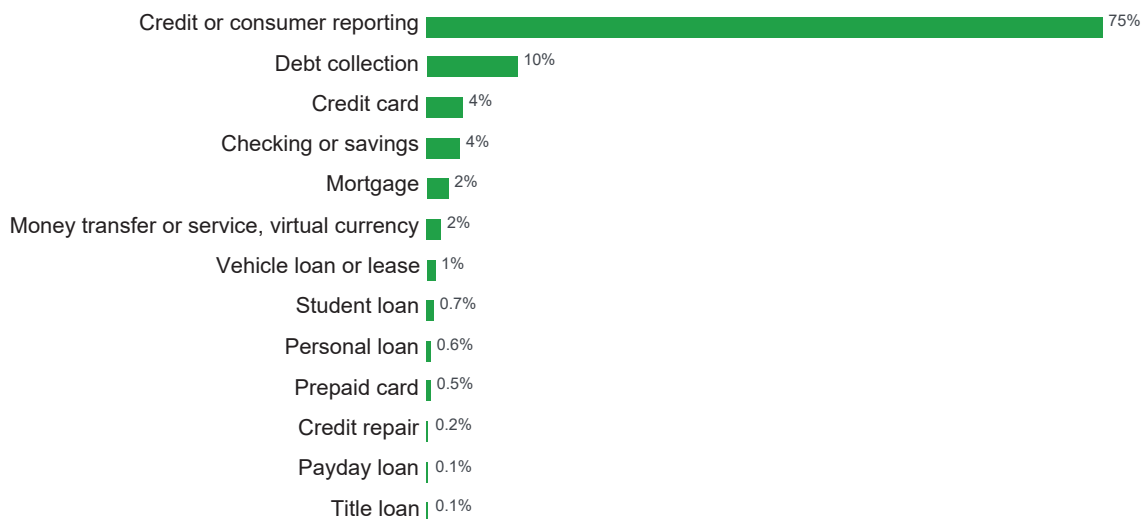
During the period of October 1, 2021, through September 30, 2022, the CFPB received approximately 1,236,900 consumer complaints.⁴⁵ Consumers submitted approximately 95 percent of these complaints through the CFPB's website and three percent via telephone calls. Referrals from other state and federal agencies accounted for two percent of complaints.

When consumers submit complaints, the CFPB's complaint form prompts them to select the consumer financial product or service with which they have a problem as well as the type of problem they are having with that product or service. The CFPB uses these consumer selections to group the financial products and services about which consumers complain to the CFPB for public reports. As shown in Figure 1, credit or consumer reporting was the most complained about consumer financial product or service during the period, followed by debt collection.

⁴⁴ Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, Pub. L. No. 111 -203, Sections 1013(b)(3)(A) and 1021(b)(3)(A).

⁴⁵ Complaint data in this report are current as of February 1, 2023. Percentages in this section of the report may not sum to 100 percent due to rounding. This analysis excludes multiple complaints submitted by a given consumer on the same issue and whistleblower tips. For more information on our complaint process, refer to the Bureau's website at: <https://www.consumerfinance.gov/complaint/process>.

FIGURE 1: COMPLAINT VOLUME BY FINANCIAL PRODUCT OR SERVICE



The CFPB sent approximately 745,400 complaints received to companies for review and response.⁴⁶ Companies responded to approximately 99 percent of complaints that the CFPB sent to them for response during the period. Company responses typically include descriptions of steps taken or that will be taken in response to the consumer’s complaint, communications received from the consumer, any follow-up actions or planned follow-up actions, and a categorization of the company’s response. Companies’ responses also describe a range of monetary and non-monetary relief. Examples of non-monetary relief include correcting inaccurate data provided or reported in consumers’ credit reports, stopping unwanted calls from debt collectors, correcting account information, issuing corrected documents, restoring account access, and addressing formerly unmet customer service issues.

The CFPB analyzes consumer complaints, company responses, and consumer feedback to assess the accuracy, completeness, and timeliness of company responses so that the CFPB, other regulators, consumers, and the marketplace have relevant information about consumers’

⁴⁶ The CFPB referred 5 percent of the complaints it received to other regulatory agencies and found 34 percent to be not actionable. Complaints that are not actionable include incomplete submissions, withdrawn complaints, and complaints in the CFPB discontinued processing because it had reason to believe that a submitter did not disclose its involvement in the complaint process. At the end of this period, less than 0.01 percent of complaints were pending with the consumer and 0.01 percent were pending with the CFPB.

challenges with financial products and services. The CFPB uses a variety of approaches to identify trends and possible consumer harm. Examples include:

- Reviewing cohorts of complaints and company responses to assess the accuracy, timeliness, and completeness of an individual company’s responses to complaints sent to them for response;
- Conducting text analytics to identify emerging trends and statistical anomalies; and
- Visualizing data to highlight geographic and temporal patterns.

The CFPB publishes periodic reports about its complaint analyses. For example, in January 2023, the CFPB published an *Annual Report of Credit and Consumer Reporting Complaints*,⁴⁷ which is required by Section 611(e) of FCRA. In March 2022, the CFPB also published the *Consumer Response Annual Report*,⁴⁸ which is required by Section 1013(b)(3)(C) of the Dodd-Frank Act. The CFPB also published complaint analyses in other mandatory and discretionary reports.

In addition to public reports, the CFPB makes complaint data available to the public in the Consumer Complaint Database (Database).⁴⁹ The Database contains certain de-identified, individual complaint level data as well as dynamic visualization tools, including geospatial and trend views based on recent complaint data, to help users of the database understand current and recent marketplace conditions. Finally, the CFPB also shares consumer complaint information with prudential regulators, the Federal Trade Commission (FTC), other federal agencies, and state and local agencies.

⁴⁷ “Annual report of consumer and credit reporting complaints: An analysis of complaint responses by Equifax, Experian, TransUnion,” Consumer Financial Protection Bureau, Jan. 3, 2023, <https://www.consumerfinance.gov/data-research/research-reports/annual-report-consumer-credit-reporting-complaints-analysis-of-complaint-responses-equifax-experian-transunion-2022/>.

⁴⁸ “Consumer Response Annual Report,” Consumer Financial Protection Bureau, Mar. 31, 2022, <https://www.consumerfinance.gov/data-research/research-reports/2021-consumer-response-annual-report/>.

⁴⁹ See Consumer Financial Protection Bureau, Consumer Complaint Database, <https://www.consumerfinance.gov/data-research/consumer-complaints/>.

3. Supervisory and Enforcement Actions

The CFPB’s supervisory activities with respect to specific institutions are non-public. The CFPB has, however, issued numerous supervisory guidance documents and bulletins during the preceding year.

The public enforcement actions during the reporting period to which the CFPB was a party are set forth in the following section. This section also identifies those actions involving Office of Administrative Adjudication Orders with respect to covered persons that are not credit unions or depository institutions.

3.1 List of public supervisory and enforcement actions

3.1.1 Statement of issues for public supervisory and enforcement actions

The CFPB was a party in the following public enforcement actions from October 1, 2021, through September 30, 2022, which are listed in descending chronological order by filing date.

- *Consumer Financial Protection Bureau v. MoneyLion Technologies Inc.; ML Plus, LLC; MoneyLion of Alabama LLC; MoneyLion of Arizona LLC; MoneyLion of California LLC; MoneyLion of Colorado LLC; MoneyLion of Connecticut LLC; MoneyLion of Delaware LLC; MoneyLion of Florida LLC; MoneyLion of Georgia LLC; MoneyLion of Idaho LLC; MoneyLion of Illinois LLC; MoneyLion of Indiana LLC; MoneyLion of Kansas LLC; MoneyLion of Kentucky LLC; MoneyLion of Louisiana LLC; MoneyLion of Maryland LLC; MoneyLion of Michigan LLC; MoneyLion of Minnesota LLC; MoneyLion of Mississippi LLC; MoneyLion of Missouri LLC; MoneyLion of Nevada LLC; MoneyLion of New Jersey LLC; MoneyLion of New Mexico LLC; MoneyLion of New York LLC; MoneyLion of North Carolina LLC; MoneyLion of North Dakota LLC; MoneyLion of Ohio LLC; MoneyLion of Oklahoma LLC; MoneyLion of Oregon LLC; MoneyLion of South Carolina LLC; MoneyLion of South Dakota LLC; MoneyLion of Tennessee LLC; MoneyLion of Texas LLC; MoneyLion of Utah LLC; MoneyLion of Virginia LLC; MoneyLion of Washington LLC; MoneyLion of Wisconsin LLC; and MoneyLion of Wyoming LLC* (S.D.N.Y. No. 1:22-cv-08308). On September 29, 2022, the

CFPB filed a lawsuit against MoneyLion Technologies Inc. (MoneyLion), ML Plus, LLC, and 37 MoneyLion lending subsidiaries. MoneyLion is a fintech company (formerly known as MoneyLion Inc.) that offers online installment loans and other products to consumers through its lending subsidiaries and membership programs through its subsidiary ML Plus. The Military Lending Act (MLA) contains a number of protections for active-duty servicemembers and their dependents, defined as “covered borrowers.” The CFPB alleges that MoneyLion and its lending subsidiaries violated the MLA by: imposing membership fees on covered borrowers that, when combined with loan-interest-rate charges, exceeded the MLA’s annual percentage rate cap; inserting illegal arbitration provisions into contracts; and failing to make required disclosures to covered borrowers. The CFPB also alleges that MoneyLion, its lending subsidiaries, and ML Plus engaged in deceptive acts or practices in violation of the CFPA by misrepresenting that covered borrowers owed loan payments and associated fees that they did not in fact owe because loan contracts were void from their inception. The CFPB further alleges that MoneyLion and ML Plus engaged in unfair, deceptive, and abusive acts and practices by: not permitting consumers with unpaid loan balances to exit the membership program and stop monthly membership-fee charges; misrepresenting consumers’ right to cancel their memberships for any reason and not clearly disclosing these restrictions on membership cancellation when consumers took out loans; and continuing to charge and collect monthly membership fees after consumers had asked to cancel their memberships or terminate ACH-fee withdrawals. The CFPB’s complaint seeks redress for consumers, injunctive relief, and a civil money penalty. The case remains pending.

- *In the matter of Regions Bank (2022-CFPB-0008)*. On September 28, 2022, the CFPB issued an order against Regions Bank (Regions), a bank headquartered in Birmingham, Alabama with consolidated assets over \$163 billion. Previously, in 2015, the CFPB ordered Regions to cease certain unlawful conduct related to its charging overdraft fees to resolve the CFPB’s findings that Regions: (1) violated the law when it charged overdraft fees on certain transactions without first obtaining the consumers’ affirmative consent; and (2) deceived customers by charging them overdraft fees in connection with repaying deposit advances despite the bank’s representations that it would not charge such fees. In this case, the CFPB found that, from August 2018 through July 2021, Regions charged overdraft fees on debit-card purchases and ATM withdrawals even though consumers had sufficient funds when they made the transaction (“Authorized-Positive Overdraft Fees”). There is a delay between the time a customer makes a purchase with a debit card and when Regions pays the merchant from the customer’s account for the purchase. When a customer had sufficient funds in their account to make a debit-card purchase, Regions authorized the transaction. And yet, until July 2021, when it came time for Regions to pay the merchant for the initial purchase, Regions

charged an overdraft fee on that purchase if the account's available funds were insufficient to cover the purchase at that time. Regions assessed these fees as a result of counter-intuitive, complex practices that it knew customers did not understand. The CFPB found that Regions acted unfairly and abusively in violation of the CFPB when it charged these Authorized-Positive Overdraft Fees. The CFPB also found that Regions could have discontinued the fee years ago but chose to wait while it pursued changes that would generate new overdraft fees to make up for the lost revenue from the illegal fee. The order prohibits Regions from charging Authorized-Positive Overdraft Fees and requires it to refund at least approximately \$141 million in unlawful overdraft fees and pay a \$50 million civil money penalty.

- *In the matter of Hello Digit, LLC (2022-CFPB-0007)* (not a credit union or depository institution). On August 10, 2022, the CFPB issued an order against Hello Digit, LLC (Hello Digit), a financial-technology company that offers consumers an automated-savings tool. When consumers sign up for the service, Hello Digit uses a proprietary algorithm to make automatic transfers from the consumer's checking account, called "auto-saves," to an account held in Hello Digit's name for the benefit of the consumers. Hello Digit represented that the tool "never transfers more than you can afford," provided a "no overdraft guarantee," and represented that, in the unlikely event of an overdraft, Hello Digit would reimburse all overdraft fees incurred by consumers. The CFPB found that Hello Digit engaged in deceptive acts or practices because, in fact, Hello Digit's automated-savings tool routinely caused consumers to incur overdraft fees charged by their banks, and Hello Digit did not always reimburse consumers for overdraft fees caused by the auto-save tool. The CFPB also found that as early as mid-2017, Hello Digit deceived consumers when it represented that it would not keep any interest earned on consumer funds that it was holding, when in fact Hello Digit kept a significant amount of the interest earned. The order enjoins Hello Digit from making any misrepresentations related to its auto-save tool and from requiring consumers to connect their third-party bank account to Hello Digit's account to obtain reimbursement for overdrafts. The order also requires that Hello Digit provide at least \$68,145 in redress to all consumers who were denied reimbursement requests for overdraft fees caused by Hello Digit's auto-save tool. Hello Digit must also pay a \$2.7 million penalty.
- *In the Matter of U.S. Bank National Association (2022-CFPB-0006)*. On July 28, 2022, the CFPB issued an order against U.S. Bank National Association, a national bank headquartered in Minneapolis, Minnesota. To increase sales of certain consumer financial products or services, U.S. Bank imposed sales goals on bank employees as part of their job description and implemented an incentive-compensation program that financially rewarded employees for selling those products and services. The CFPB found that U.S. Bank issued credit cards and lines of credit and opened deposit accounts for

certain consumers without their knowledge and consent and without required applications and disclosures in violation of the Truth in Lending Act (TILA), Truth in Savings Act (TISA), and their implementing regulations. The CFPB also found that the bank's opening of accounts without consumers' permission was abusive in violation of the CFPA. The CFPB further found that U.S. Bank violated the FCRA by using or obtaining consumer reports without a permissible purpose in connection with unauthorized applications for credit cards. The bank's conduct harmed consumers in the form of fees; negative effects on consumer-credit profiles; the loss of control over personal identifying information; and the expenditure of consumer time and effort. The order requires U.S. Bank to stop its unlawful practices and to develop a plan to remediate all harmed consumers by returning all unlawfully charged fees and costs, plus interest. The order also requires U.S. Bank to pay a \$37.5 million penalty to the CFPB.

- *Consumer Financial Protection Bureau and United States of America v. Trident Mortgage Company, LP* (E.D. Pa. No. 2:22-cv-02936). On July 27, 2022, the CFPB, together with the United States Department of Justice (DOJ), filed a complaint and proposed consent order to resolve their allegations against Trident Mortgage Company, LP (Trident). The court entered the order on September 14, 2022. Trident is incorporated in Delaware and had locations in Delaware, New Jersey, and Pennsylvania at the time of the alleged conduct. Before the complaint was filed, Trident ceased originating mortgages. The states of Delaware, New Jersey, and Pennsylvania entered into concurrent agreements with Trident. The CFPB's and DOJ's joint complaint alleged that Trident engaged in unlawful discrimination on the basis of race, color, or national origin against applicants and prospective applicants, including by redlining majority-minority neighborhoods in the Philadelphia-Camden-Wilmington, PA-NJ-DE-MD Metropolitan Statistical Area (Philadelphia MSA) and engaged in acts and practices directed at prospective applicants that would discourage prospective applicants from applying for credit in violation of the ECOA, Regulation B, and the CFPA. DOJ also alleged that Trident's conduct violated the Fair Housing Act (FHA). The order requires Trident to invest \$18.4 million in a loan subsidy program under which Trident will contract with a lender to increase the credit extended in majority-minority neighborhoods in the Philadelphia MSA and make the loans under the loan subsidy fund. That lender must also maintain at least four licensed branch locations in majority-minority neighborhoods in the Philadelphia MSA. Trident must also fund targeted advertising to generate applications for credit from qualified consumers in majority-minority neighborhoods in the Philadelphia MSA and take other remedial steps to serve the credit needs of majority-minority neighborhoods in the Philadelphia MSA. Trident must also pay a civil money penalty of \$4 million.

- *In the Matter of Hyundai Capital America (2022-CFPB-0005)* (not a credit union or depository institution). On July 26, 2022, the CFPB issued an order against Hyundai Capital America (Hyundai), a nonbank automotive finance company based in Irvine, California. Hyundai purchases and services retail installment contracts and vehicle leases originated by Hyundai, Kia, and Genesis dealerships. Hyundai furnishes credit information on the auto loans it services by sending monthly data files to consumer reporting companies. The CFPB found that over several years Hyundai repeatedly furnished to consumer reporting companies information containing numerous systemic errors and that it knew of many of these inaccuracies for years before attempting to fix them. When Hyundai furnished inaccurate negative consumer information, it may have negatively affected consumers' access to credit. The CFPB found that Hyundai violated FCRA and Regulation V by failing to promptly update and correct information it furnished to consumer reporting companies that it determined was not complete or accurate, and continuing to furnish this inaccurate and incomplete information; failing to provide the FCRA-required date of first delinquency on certain delinquent or charged-off accounts; failing to modify or delete information disputed by consumers that it found to be inaccurate; failing to establish reasonable identity theft and related blocking procedures to respond to identity theft notifications from consumer reporting companies such that Hyundai continued to report such information that should have been blocked on a consumer's report; and failing to establish and implement reasonable written policies and procedures regarding the accuracy and integrity of information provided to consumer reporting companies. These FCRA violations also constituted violations of the CFPA. The CFPB also concluded that Hyundai's use of ineffective manual processes and systems to furnish consumer information was unfair in violation of the CFPA. The order requires Hyundai to take steps to prevent future violations and to pay \$13,200,000 in redress to affected consumers and a \$6,000,000 civil money penalty.

- *In the Matter of Bank of America, N.A. (2022-CFPB-0004)*. On July 14, 2022, the CFPB issued an order against Bank of America, N.A., which is a national bank headquartered in Charlotte, North Carolina, with branches and ATMs located in 38 states and the District of Columbia. Since 2020, Bank of America had contracts with 12 states, including California, to deliver unemployment insurance and other government benefit payments to consumers through prepaid debit cards. The onset of the COVID-19 pandemic in March 2020 led to a surge in consumers seeking unemployment insurance benefits. In the fall of 2020, and continuing through mid-2021, Bank of America changed its practices for investigating prepaid debit cardholder notices of error to solely rely on an automated fraud filter, which it knew or should have known would incorrectly determine that no error had occurred and which led to its incorrectly freezing or blocking accounts. The CFPB found that Bank of America engaged in unfair acts or practices by

denying prepaid debit cardholders' notices of error and freezing their prepaid debit card accounts based solely on the results of the bank's flawed fraud filter. Bank of America also engaged in abusive acts or practices by retroactively applying its fraud filter to deny notices of error submitted by prepaid debit cardholders that it had previously investigated and paid. Further, Bank of America engaged in unfair acts and practices by impeding unemployment insurance benefit prepaid debit cardholders' efforts to file notices of error concerning their prepaid debit card accounts. Bank of America's failure to conduct a reasonable investigation of prepaid debit cardholders' notices of error and failure to timely investigate and resolve prepaid debit cardholders' error claims also violated the Electronic Fund Transfer Act (EFTA) and its implementing Regulation E. The CFPB's order requires Bank of America to redress harmed consumers who suffered hundreds of millions of dollars in direct and consequential financial harm; harmed consumers will also be eligible to receive additional remediation through an individualized review process. Bank of America must also review and reform its unemployment insurance benefit prepaid debit card program and pay a \$100 million civil penalty to the CFPB. The Office of the Comptroller of the Currency (OCC) concurrently issued an order against the Bank separately fining it \$125 million.

- *Consumer Financial Protection Bureau v. Populus Financial Group, Inc., d/b/a ACE Cash Express, Inc.* (N.D. Tex. No. 3:22-cv-01494). On July 12, 2022, the CFPB filed a lawsuit against Populus Financial Group, Inc., which does business as ACE Cash Express, Inc. (ACE). ACE is a payday lender headquartered in Irving, Texas and has approximately 979 stores in 22 states and the District of Columbia. The CFPB had previously found that ACE abusively induced borrowers with a demonstrated inability to repay their existing loan to take out a new ACE loan with accompanying fees, and on July 10, 2014, the CFPB ordered ACE to cease encouraging or suggesting that a delinquent borrower pay off their loan and then take out a new loan. ACE's loans come with a fee that is equivalent to a triple-digit interest rate, and consumers who cannot afford to pay back the loan and this fee often refinance their loans, incurring another fee to extend their loan for 14 or 30 days. Consumers in ten states, however, had the contractual right to one free repayment plan per year if they indicated they could not repay their loan, which is designed to help consumers get out of a debt trap. Under the free repayment plan, consumers would owe their outstanding balance in four equal installments over their next four paydays, rather than owing one lump sum, without paying any additional fees or interest. The CFPB alleges that ACE engaged in unfair, abusive, and deceptive acts or practices in violation of the CFPA by concealing this free repayment plan from consumers who were entitled to it, instead inducing them to refinance their loans for additional fees. As alleged in the complaint, since July 10, 2014, hundreds of thousands of consumers have paid ACE over \$240 million in reborrowing fees while eligible for a

free repayment plan. The CFPB also alleges that when ACE attempted to collect payment on its payday and title loans, it unfairly made electronic withdrawals of consumers' money without their authorization. The CFPB seeks permanent injunctive relief, redress for consumers, and civil money penalties. On September 23, 2022, ACE filed a motion to dismiss, which remains pending. The case remains pending.

- *Consumer Financial Protection Bureau v. Frank Ronald Gebase, Jr.* (S.D. Cal. No. 3:22-cv-00844). On June 9, 2022, the CFPB filed a lawsuit against Frank R. Gebase Jr., along with a proposed stipulated final judgment and order, which the court entered that same day. On March 30, 2016, the CFPB ordered Student Aid Institute (SAI) to shut down its debt-relief operations and rescind all of its consumer agreements; that order resolved the CFPB's findings that SAI violated federal consumer law including by charging upfront fees for student loan debt-relief services and making false promises to consumers about possible savings through reduced payments and loan forgiveness. The CFPB alleged that Gebase founded, owned, and operated a student loan debt-relief company named Processingstudentloans, which obtained student loan account and billing information for hundreds of former SAI consumers without their knowledge or consent. The CFPB alleged that Processingstudentloans collected fees from consumers' bank accounts even though they had never signed any agreements with the company or otherwise consented to the withdrawals. The CFPB alleged that through his actions as Processingstudentloans' chief executive, Gebase engaged in and substantially assisted in unfair acts and practices in violation of the CFPA. The stipulated final judgment and order prevents Gebase from directly or indirectly providing debt-relief services and requires Gebase to pay a civil money penalty of \$175,000.
- *In the Matter of RAM Payment, LLC, also d/b/a Reliant; Account Management Systems, LLC, f/k/a Reliant Account Management; Gregory Winters; and Stephen Chaya* (2022-CFPB-0003) (not a credit union or depository institution). On May 11, 2022, the CFPB issued an order against Tennessee-based RAM Payment, LLC; Account Management Systems, LLC (AMS); and AMS's co-founders, Gregory Winters and Stephen Chaya. Since January 4, 2019, RAM Payment has offered account maintenance and payment processing services to debt relief companies and to consumers. Until AMS sold its assets to RAM Payment on January 4, 2019, AMS operated as "Reliant Account Management" and offered account maintenance and payment processing services to debt relief companies and to consumers. The CFPB found that the respondents (1) substantially assisted student loan and traditional debt-relief service providers in requesting or accepting advance fees for debt-relief services in violation of the Telemarketing Sales Rule (TSR); (2) engaged in deceptive acts or practices in violation of the CFPA, including by misrepresenting itself as an independent third party and misrepresenting the companies' actions before disbursing fees to student loan debt relief

service providers; and (3) engaged in unfair acts or practices in violation of the CFPB by disbursing unearned fees for student-loan debt-relief services after consumers had unenrolled from or canceled the services. The order requires respondents to pay \$8,676,180 in redress to consumers, which reflects the amount of unrefunded fees charged by AMS or RAM Payment and, for consumers enrolled in student loan debt relief services financed by a company affiliated with the companies, any unrefunded consumer fee payments for student loan debt relief services that AMS or RAM Payment disbursed to the affiliated company. The order also bans AMS, Winters, and Chaya from the debt relief payment processing and account maintenance industry, and, among other things, RAM Payment must (1) stop providing services to both student loan debt relief service providers and debt relief service providers receiving funding from or owned by an affiliated company; (2) stop paying commission to third-party marketing companies for consumer referrals; and (3) consent to the CFPB's supervisory authority. Respondents also must pay a \$3 million civil money penalty.

- *In the Matter of Bank of America, N.A. (2022-CFPB-0002)*. On May 4, 2022, the CFPB issued an order against Bank of America, N.A., a very large national bank headquartered in Charlotte, to address Bank of America's processing of garnishment notices. A garnishment notice is a notice issued by a court or judgment creditor directing a financial institution to freeze and then turn over a consumer's funds to pay off a court-ordered debt. The CFPB found that Bank of America engaged in unfair and deceptive acts and practices in violation of the CFPB. Specifically, Bank of America unfairly required consumers to waive its liability as to consumers' garnishment-related protections in its deposit agreement and misrepresented to consumers that they could not go to court to attempt to prevent wrongful garnishments. The CFPB also found that Bank of America failed to disclose to courts in states that restricted the garnishment of out-of-state accounts that the garnishment notice pertained to bank accounts located out-of-state; and Bank of America froze accounts and sent funds to creditors even though it was prohibited by state law. Bank of America also, in some instances, applied the wrong state's exemption laws and represented to consumers that their rights to have certain funds exempted from garnishment were governed by the law of the issuing state when, in reality, the consumer's own state law applies. The order requires Bank of America to refund at least \$592,000 in, or cancel, associated unlawful garnishment-related fees and pay a \$10 million civil money penalty. The order also requires Bank of America to review and reform its system for processing garnishments, to notify courts or other garnishment issuers when consumer accounts are out-of-state, and to cease using language in its consumer contracts that unlawfully limit consumers' rights to challenge garnishments.

- *Consumer Financial Protection Bureau and the People of the State of New York by Letitia James, Attorney General for the State of New York v. MoneyGram International, Inc. and MoneyGram Payment Systems, Inc.* (S.D.N.Y. 1:22-cv-03256). On April 21, 2022, the CFPB filed a lawsuit jointly with the Attorney General of New York against MoneyGram International, Inc. and MoneyGram Payment Systems, Inc. (collectively, MoneyGram), nonbank remittance transfer providers. The CFPB and New York filed an amended complaint on July 5, 2022. The CFPB alleges that MoneyGram violated the Remittance Transfer Rule and Regulation E, which implements EFTA by failing to disclose accurate fund availability dates, failing to investigate error notices promptly, failing to timely report the results of its error investigations to consumers, failing to provide a written explanation of its findings to consumers, failing to notify senders of their right to request documents related to their investigation, failing to provide fee refunds when required to remedy errors, failing to develop and maintain sufficient error resolution and document retention policies and procedures, and failing to retain documents showing its compliance with the Remittance Transfer Rule and EFTA. The CFPB and New York additionally allege that violations of the Remittance Transfer Rule constituted violations of the CFPA. The CFPB and New York also allege that MoneyGram engaged in unfair acts and practices in violation of the CFPA by failing to timely make remittance transfer funds or refunds available. The CFPB and New York seek relief, including redress to consumers, disgorgement, appropriate injunctive relief, and the imposition of civil money penalties. On August 4, 2022, MoneyGram filed a motion to dismiss and to transfer venue, which remains undecided. The case remains pending.
- *Consumer Financial Protection Bureau v. TransUnion, TransUnion, LLC, TransUnion Interactive, Inc., and John T. Danaher* (N.D. Ill. No. 1:22-cv-01880). On April 12, 2022, the CFPB filed a lawsuit against TransUnion, parent company of one of the three nationwide consumer reporting agencies, and two of its subsidiaries, TransUnion, LLC, and TransUnion Interactive, Inc. (collectively, the TransUnion Companies), which are headquartered in Chicago, Illinois, as well as former executive John Danaher. On January 3, 2017, the CFPB issued an order against the TransUnion Companies to address the CFPB's findings that they deceptively marketed credit scores and credit-related products, including credit monitoring, to consumers. In this action, the CFPB alleges that the TransUnion Companies and Danaher have violated multiple requirements of the CFPB's Order in violation of the CFPA, including enrolling consumers in negative option products without obtaining required consents; failing to offer a simple mechanism for cancelling products; and failing to provide required disclosures. The CFPB also alleges that the TransUnion Companies' marketing and sale of its credit-related products have, in several ways, been deceptive in violation of the

CFPA, including by misrepresenting that products were free or \$1; misrepresenting that credit card or other payment information provided by consumers would be used for identification purposes rather than payment; misrepresenting the central characteristics of its VantageScore credit score; and misrepresenting that cancellation of products would publicly expose the consumer's personal information and that re-enrolling in the product is the only way consumers can protect their information. The CFPB further alleges that the TransUnion Companies' advertisement of credit-related products on annualcreditreport.com, a website intended to provide consumers access to free credit reports, undermined the purpose the website, in violation of Regulation V. Also, the CFPB alleges that the TransUnion Companies violated EFTA and its implementing regulation, Regulation E, by failing to obtain required written authorization for recurring charges to consumers' debit cards and for failing to provide consumers with copies of such authorizations. Finally, the complaint alleges that by violating EFTA, Regulation E, and Regulation V, the TransUnion Companies have violated the CFPA. The CFPB seeks redress to consumers, disgorgement, appropriate injunctive relief, and the imposition of civil money penalties. The defendants filed a motion to dismiss on July 8, 2022, which as of the end of the reporting period remained pending. The case remains pending.

- *In the Matter of Edfinancial Services, LLC (2022-CFPB-0001)* (not a credit union or depository institution). On March 30, 2022, the CFPB issued an order against Edfinancial Services, LLC. (Edfinancial). Edfinancial, headquartered in Knoxville, Tennessee, is a student loan servicer that services both Federal Family Education Loan Program (FFELP) loans, which are loans from private companies, and Direct Loans, which are loans directly from the Department of Education. The Public Service Loan Forgiveness (PSLF) Program is a government program that forgives student-loan debt for certain borrowers who work in public service and make 120 qualifying loan payments. Ordinarily, FFELP loans must be consolidated into Direct Loans before any payments qualify towards the PSLF program; but in October 2021 the Department of Education provided a limited waiver allowing payments to FFELP loans to retroactively qualify so long as the borrower consolidated into Direct Loans by a certain date. The CFPB found that Edfinancial made various deceptive statements to FFELP borrowers, including in many instances telling borrowers that they were not eligible for the PSLF program even though borrowers could become eligible by consolidating their loans; that borrowers could not consolidate their loans; that borrowers' past payments qualified when they did not qualify; and that qualifying jobs did not qualify for PSLF. The CFPB also found that, in numerous instances, when FFELP borrowers asked about forgiveness options available to them, Edfinancial's representatives did not mention PSLF as an available option. The order requires Edfinancial to contact all its FFELP borrowers to inform them of the limited waiver so that eligible borrowers can take advantage of the

waiver before it expires. The limited waiver was then set to expire by October 31, 2022. The order also requires Edfinancial to pay a \$1 million civil money penalty.

- *Consumer Financial Protection Bureau v. Craig Manseth, Jacob Adamo, Darren Turco, United Debt Holding LLC, JTM Capital Management, LLC, UHG, LLC, UHG I LLC (also known as United Holding Group), and UHG II LLC (collectively holding themselves out as United Holding Group, United Holding Group, LLC, and United Holdings Group, LLC)* (W.D.N.Y. 1:22-cv-29). On January 10, 2022, the CFPB filed a lawsuit against several individual debt collectors and buyers, and their companies. As set forth in the February 23, 2022 amended complaint, the CFPB alleges that the defendants, located in Colorado and New York, purchased defaulted consumer debt worth tens of millions of dollars and then collected on those debts using third-party agents who engaged in illegal debt-collection tactics. Specifically, the CFPB alleges that since at least 2014, defendants have used collection agents to collect debts knowing that these agents were using false threats and misrepresentations to coerce immediate payment from consumers, in violation of the CFPB and the FDCPA. The CFPB’s complaint seeks redress for consumers, injunctive relief, and a civil money penalty. The defendants filed motions to dismiss on March 21, 2022. The motions and the case remain pending.
- *Consumer Financial Protection Bureau v. FirstCash, Inc., and Cash America West, Inc.* (N.D. Tex. 4:21-cv-01251). On November 12, 2021, the CFPB filed a lawsuit against FirstCash, Inc. and Cash America West, Inc. On June 21, 2022, the CFPB filed an amended complaint to add defendants FCFS AL, Inc., Cash America East, Inc., Cash America Inc. of Alaska, Georgia Cash America, Inc., FCFS IN, Inc., FCFS TN, Inc., FCFS OH, Inc., FCFS KY, Inc., Cash America, Inc. of Louisiana, FCFS MO, Inc., Cash America of Missouri, Inc., Cash America, Inc. of North Carolina, FCFS NC, Inc., FCFS OK, Inc., FCFS SC, Inc., Pawn TX, Inc., Cash America Pawn L.P., and Cash America Advance, Inc. (with Cash America West, referred to as the FirstCash Subsidiaries). FirstCash owns and operates over 1,000 retail pawnshops in the United States, offering pawn loans through its wholly owned corporate subsidiaries. The FirstCash Subsidiaries operate pawn stores in Alabama, Alaska, Arizona, Florida, Georgia, Indiana, Kentucky, Louisiana, Missouri, Nevada, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas, Utah, and Washington. The CFPB alleges that FirstCash and the FirstCash Subsidiaries made pawn loans to active-duty servicemembers and their dependents that violated the MLA. The MLA puts in place protections in connection with extensions of consumer credit for active-duty servicemembers and their dependents, who are defined as “covered borrowers.” These protections include a maximum allowable annual percentage rate of 36 percent, a prohibition against required arbitration, and certain mandatory loan disclosures. The CFPB alleges that, between June 2017 and May 2021, FirstCash and the FirstCash Subsidiaries made thousands of pawn loans to more than 1,000 covered

borrowers that violated prohibitions of the MLA by imposing a rate greater than the MLA's 36-percent cap; using loan agreements requiring arbitration in the case of a dispute; and without making required loan disclosures. In 2013, the CFPB ordered Cash America International, Inc. to halt its misconduct against military families, prohibiting Cash America and its successors from violating the MLA. FirstCash is a successor to Cash America and therefore subject to the 2013 order. In this action, the CFPB alleges that FirstCash's violations of the MLA violated the prohibitions of the CFPB's 2013 order and consequently the CFPA. The CFPB's amended complaint seeks redress for consumers, injunctive relief, and civil money penalties. On March 28, 2022, the CFPB filed a motion to strike affirmative defenses, and on April 27, 2022, FirstCash and Cash America West filed a motion for partial summary judgment. Both motions and the case remain pending.

- *United States and Consumer Financial Protection Bureau v. Trustmark National Bank* (W.D. Tenn. 2:21-cv-02664). On October 22, 2021, the CFPB, together with the DOJ, filed a complaint and proposed consent order in settlement of claims against Trustmark National Bank (Trustmark), which is headquartered in Jackson, Mississippi. The joint complaint alleged that Trustmark engaged in unlawful discrimination against applicants and prospective applicants, including by redlining majority Black and Hispanic communities in the Memphis, Tennessee-Mississippi-Arkansas metropolitan statistical area (Memphis MSA) and engaged in acts and practices directed at prospective applicants that would discourage prospective applicants from applying for credit in violation of ECOA, Regulation B, and CFPA. In the joint complaint, DOJ also alleged that Trustmark's conduct violated the FHA. The order, as entered by the court on October 27, 2021, requires Trustmark to invest \$3.85 million in a loan subsidy program that will offer qualified applicants for credit secured by properties in majority Black and Hispanic neighborhoods in Memphis loans on a more affordable basis than otherwise available from Trustmark; open a new loan production office in a majority Black and Hispanic neighborhood in the Memphis MSA; fund targeted advertising to generate applications for credit from qualified consumers in majority Black and Hispanic neighborhoods in Memphis; and take other remedial steps to improve its fair lending compliance and serve the credit needs of majority Black and Hispanic neighborhoods in the Memphis MSA. The order also requires Trustmark to pay a civil money penalty of \$5 million, \$4 million of which would be remitted as a penalty paid to the OCC for FHA violations arising from the same conduct alleged in the complaint.
- *In the Matter of JPay, LLC* (2021-CFPB-0006) (not a credit union or depository institution). On October 19, 2021, the CFPB issued an order against JPay, LLC (JPay). JPay is headquartered in Miramar, Florida. JPay contracts with Departments of Corrections around the country to provide financial products and services to justice-

involved individuals. JPay provided prepaid cards to formerly incarcerated individuals upon their release from prison or jail (JPay debit release card). The debit release cards contained the balance of funds owed to former inmates upon their release, including their commissary money, as well as any ‘gate money,’ which are entitlements provided pursuant to state or local law, policy, or regulation to ease transition to society after release from prison or jail. The CFPB found that JPay violated EFTA and its implementing Regulation E by requiring consumers to establish an account with the particular financial institution that issued the JPay debit release card as a condition of receiving a government benefit, namely their gate money. JPay’s violations of EFTA and Regulation E also constituted violations of the CFPA. The CFPB also found that JPay engaged in unfair and abusive acts and practices by causing fees to be imposed through its JPay debit release card on consumers who were required to get a JPay debit release card to access the money owed to them at the time of their release from prison or jail. In addition, the CFPB found that JPay violated the CFPA’s prohibition against unfair acts and practices by causing some consumers to be charged fees on their JPay debit release card that were not authorized by their cardholder agreements, and the CFPA’s prohibition against deceptive acts and practices by misrepresenting fees of some JPay debit release cards. The order requires JPay to pay \$4 million for consumer redress, prohibits JPay from engaging in the illegal conduct found by the CFPB, and requires JPay to pay a \$2 million civil money penalty.

- *Consumer Financial Protection Bureau v. American Advisors Group* (C.D. Cal 8:21-cv-01674). On October 8, 2021, the CFPB filed a lawsuit and proposed stipulated final judgment and order against American Advisors Group (AAG), which the court entered on October 25, 2021. AAG, based in Irvine, California, is the nation’s largest provider of reverse mortgages. In 2016, the CFPB issued an order against AAG to address the CFPB’s finding that AAG used deceptive advertisements, including falsely claiming that consumers could not lose their homes. In this action, the CFPB alleged that in marketing its reverse mortgage product, AAG inflated consumers’ estimated home values to entice them to enter into negotiations to open a reverse mortgage with the company and falsely reassured consumers that AAG made “every attempt to ensure the home value information provided is reliable,” when in fact it did not. The CFPB alleged that this conduct was deceptive under the CFPA and violated the CFPB’s 2016 order. The stipulated final judgment and order requires AAG to pay \$173,400 in consumer redress, stop its unlawful conduct, and pay a \$1,100,000 civil money penalty.
- *Consumer Financial Protection Bureau v. Daniel A. Rosen, Inc., d/b/a Credit Repair Cloud, and Daniel Rosen* (C.D. Cal. 2:21-cv-07492). On September 20, 2021, the CFPB filed a lawsuit against Credit Repair Cloud – a Los Angeles, California, company that since at least 2013 has provided an “all-in-one solution” for people to start their own

credit-repair businesses – and its owner and CEO, Daniel Rosen. The CFPB alleges that Credit Repair Cloud and Daniel Rosen have violated the TSR by providing substantial assistance to credit-repair businesses that violate the TSR’s advance-fee prohibition. The CFPB also alleges that by violating the TSR, Credit Repair Cloud and Daniel Rosen have violated the CFPB. On January 7, 2022, the CFPB filed an amended complaint. The amended complaint seeks redress to consumers, disgorgement, appropriate injunctive relief, and the imposition of civil money penalties against Credit Repair Cloud and Daniel Rosen. The defendants filed a motion to dismiss the amended complaint on January 28, 2022, which the court denied on April 5, 2022. The case remains pending.

- *Consumer Financial Protection Bureau v. LendUp Loans, LLC* (N.D. Cal. 3:21-cv-06945). On September 8, 2021, the CFPB filed a lawsuit against LendUp Loans, LLC. LendUp is an online lender offering single-payment and installment loans to consumers. The CFPB alleged that LendUp’s brand identity is tied to its marketing claims that through on-time payments and repeat borrowing, borrowers will accrue points and ascend the “LendUp Ladder,” gaining access to loans with more favorable interest rates or larger loan amounts as consumers reach higher Ladder levels. In 2016, the CFPB issued an order against LendUp to address the CFPB’s finding that LendUp misled consumers about the benefits of its loans. That order prohibits LendUp from misrepresenting the benefits of borrowing from the company. In this action, the CFPB alleged that, though LendUp claimed that consumers who ascended the LendUp Ladder would gain access to lower interest rates and larger loans, many borrowers did not actually get those benefits. The CFPB alleged that LendUp’s marketing claims were deceptive under the CFPB and violated the prohibitions of the CFPB’s 2016 order. The CFPB also alleged that LendUp failed to timely issue required adverse-action notices and failed to provide accurate denial reasons on its adverse-action notices to thousands of loan applicants, in violation of ECOA and Regulation B, and that these violations also constitute violations of the CFPB. On December 21, 2021, the CFPB filed a proposed stipulated final judgment and order to settle the lawsuit, which the court entered on December 30, 2021. The order imposes an injunction, prohibiting LendUp from offering or providing extensions of credit, or assisting others that are offering or providing extensions of credit; from collecting on, selling, or assigning outstanding subject loans, or assisting others in doing so; from selling consumer information; and from making misrepresentations in the sale of credit or collection of consumer debt, or assisting others in doing so. The order also imposes a \$100,000 civil money penalty and requires the payment of \$40,500,000 in consumer redress, to be suspended upon payment of the civil money penalty based on LendUp’s demonstrated inability to pay.
- *Consumer Financial Protection Bureau and the People of the State of New York, by Letitia James, Attorney General for the State of New York v. Douglas MacKinnon, Amy*

MacKinnon, Mary-Kate MacKinnon, and Matthew MacKinnon (W.D.N.Y. 1:21-cv-00573). On April 22, 2021, the CFPB filed a lawsuit jointly with the Attorney General of New York against Douglas MacKinnon, who operated a debt-collection enterprise, and Amy MacKinnon, Mary-Kate MacKinnon, and Matthew MacKinnon, relatives of Douglas MacKinnon. The complaint alleges that defendants fraudulently conveyed a house with the intent to hinder collection efforts by creditors, including the CFPB and the State of New York, in violation of the Federal Debt Collection Procedures Act of 1990 and New York state law. The complaint specifically alleges that Douglas MacKinnon transferred ownership of his home, valued at approximately \$1.6 million, to his wife and daughter for \$1 shortly after he learned that the CFPB and the State of New York were investigating him for illegal debt-collection activities. That investigation resulted in a \$60 million judgment against Douglas MacKinnon and the companies he operated and permanently banned him from the industry. The CFPB and New York seek a declaratory judgment that a fraudulent conveyance occurred and to recover the value of the property in partial satisfaction of the \$60,000,000 judgment. On June 21, 2021, all defendants moved to dismiss the complaint, which the court denied on October 27, 2021. The case remains pending.

- *Consumer Financial Protection Bureau v. Judith Noh d/b/a Student Loan Pro, Judith Noh as an individual, Syed Faisal Gilani, and FNZA Marketing, LLC* (C.D. Cal. No. 8:21-cv-00488). On March 16, 2021, the CFPB filed a lawsuit against Student Loan Pro, a California sole proprietorship that telemarketed and provided debt-relief services focused on federal student-loan debt; Judith Noh, its owner; and Syed Gilani, its manager and owner-in-fact. The CFPB also named as a relief defendant FNZA Marketing, LLC (FNZA), a California company nominally owned by Noh and controlled by Gilani. The CFPB alleges that Student Loan Pro conducted a student-loan debt-relief business from 2015 through 2019 that charged about 3,300 consumers with federal student-loan debt approximately \$3.5 million in illegal upfront fees in violation of the TSR to file paperwork on their behalf to apply for programs that were available to them for free from the Department of Education. The CFPB alleges that Noh and Gilani are individually liable for and substantially assisted Student Loan Pro's violations of the TSR. The CFPB also alleges that FNZA was the recipient of some portion of the unlawful advance fees obtained by Student Loan Pro without legitimate claim to the funds. The CFPB seeks redress to consumers, appropriate injunctive relief, and the imposition of civil money penalties against Student Loan Pro, Noh, and Gilani, and seeks to have FNZA disgorge the funds it received from Student Loan Pro. Defendants filed a motion to dismiss the complaint on July 2, 2021, which the court denied on January 18, 2022. The CFPB filed a motion to strike a number of defendants' affirmative defenses on March 21, 2022, most of which the court granted on July 24, 2022. The case remains pending.

- *Consumer Financial Protection Bureau v. BrightSpeed Solutions, Inc. and Kevin Howard* (N.D. Ill 1:21-cv-01199). On March 3, 2021, the CFPB filed a lawsuit against BrightSpeed Solutions, Inc. (BrightSpeed) and its founder and former chief executive officer, Kevin Howard. BrightSpeed was a privately-owned, third-party payment processor based in Chicago, Illinois. Howard founded BrightSpeed in 2015 and ran the company until he wound it down in March 2019. The CFPB alleged that between 2016 and 2018, Howard and BrightSpeed knowingly processed payments for companies that purported to offer technical-support services and products over the internet, but actually tricked consumers into purchasing expensive and unnecessary antivirus software or services. The CFPB alleged that Howard’s and BrightSpeed’s actions were unfair practices in violation of the CFPA as well as deceptive telemarketing practices in violation of the TSR. On January 18, 2022, the CFPB filed a proposed stipulated judgment and order to resolve its claims, which the court entered on January 19, 2022. The stipulated judgment and order permanently bans defendants from the payment processing, consumer lending, deposit-taking, and financial advisory industries and from engaging in debt collection activities and telemarketing with respect to consumer financial products or services. The stipulated judgment and order also requires the defendants to pay \$54 million in redress, which amount will be suspended upon Howard’s payment of a \$500,000 civil money penalty.
- *Consumer Financial Protection Bureau; Commonwealth of Massachusetts; The People of the State of New York, by Letitia James, Attorney General of the State of New York; and Commonwealth of Virginia, ex rel. Mark R. Herring, Attorney General v. Nexus Services, Inc.; Libre by Nexus, Inc.; Michael Donovan; Richard Moore; and Evan Ajin* (W.D. Va. 5:21-cv-00016). On February 22, 2021, the CFPB filed a lawsuit against Nexus Services, Inc. (Nexus Services), Libre by Nexus, Inc. (Libre), and their principals, Michael Donovan, Richard Moore, and Evan Ajin. Libre is a wholly owned subsidiary of Nexus Services, and both are non-banks with their principal places of business in Virginia. The CFPB alleges that Libre and its owners operated a scheme through which Libre offers to pay immigration bonds to secure the release of consumers held in federal detention centers in exchange for large upfront fees and hefty monthly payments, and that Libre creates the impression that it has paid cash for consumers’ bonds, creating a debt that must be repaid to Libre through an upfront fee and subsequent monthly payments. The CFPB further alleges that Libre’s efforts to collect monthly payments include making false threats and threatening to re-detain or deport consumers for non-payment and that Libre and its owners conceal or misrepresent the true costs of its services. Specifically, the CFPB alleges that Libre and its owners engaged in deceptive and abusive acts or practices in violation of the CFPA, and that Nexus Services and Libre’s owners provided substantial assistance to Libre’s violations. The CFPB filed its

complaint jointly with the Attorneys General of Virginia, Massachusetts, and New York. The CFPB seeks an injunction, damages or restitution to consumers, disgorgement of ill-gotten gains, and the imposition of civil money penalties. On March 1, 2021, the defendants filed a motion to dismiss the complaint, which the court denied on March 22, 2022. The case remains pending.

- *Bureau of Consumer Financial Protection v. 1st Alliance Lending, LLC; John Christopher DiIorio; Kevin Robert St. Lawrence; and Socrates Aramburu* (D. Conn. 3:21-cv-00055). On January 15, 2021, the CFPB filed a lawsuit against 1st Alliance Lending, LLC, John Christopher DiIorio, Kevin Robert St. Lawrence, and Socrates Aramburu. 1st Alliance, based in Hartford, Connecticut, originated residential mortgages from 2004 to September 2019 and stopped operating in November 2019. DiIorio was its chief executive officer and he, St. Lawrence, and Aramburu were 1st Alliance’s three managing executives. The CFPB’s complaint alleges that 1st Alliance engaged in various unlawful mortgage lending practices in violation of TILA, FCRA, ECOA, and the Mortgage Acts and Practices Advertising Rule (MAP Rule); and that 1st Alliance, DiIorio, St. Lawrence, and Aramburu engaged in unfair and deceptive practices under the CFPA. The CFPB filed an amended complaint on April 1, 2021. The CFPB’s amended complaint seeks injunctions against the defendants, as well as damages, redress to consumers, disgorgement of ill-gotten gains, and the imposition of a civil money penalty. 1st Alliance and the individual defendants filed motions to dismiss on May 11, 2021, which on March 31, 2022, the court denied as to all but one claim against the individual defendants, which it dismissed without prejudice. As of the end of the reporting period, the case remained pending.⁵⁰
- *Bureau of Consumer Financial Protection v. BounceBack, Inc. and Gale Krieg* (W.D. Mo. 5:20-cv-06179). On December 9, 2020, the CFPB filed a lawsuit against BounceBack, Inc. BounceBack, based in Kansas City, Missouri, operates bad-check pretrial-diversion programs on behalf of more than 90 district attorneys’ offices throughout the United States. The CFPB alleged that since at least 2015, in the course of administering these bad-check pretrial-diversion programs, BounceBack used district-attorney letterheads to threaten more than 19,000 consumers with prosecution if they did not pay the amount of the check, enroll and pay for a financial-education course, and pay various other fees. BounceBack did not reveal to consumers that BounceBack—and not district attorneys—sent the letters, or that district attorneys almost never prosecuted these cases, even against consumers who ignored BounceBack’s threats. In fact, in most

⁵⁰ Additional activity has occurred with this matter since the end of the reporting period. More information can be found at: <https://www.consumerfinance.gov/enforcement/actions/1st-alliance-lending-llc-et-al/>.

cases, BounceBack did not refer cases for prosecution at all. BounceBack's letters also failed to include disclosures required under the FDCPA. The CFPB alleged that BounceBack's conduct violated the FDCPA, was deceptive under both the FDCPA and the CFPA, and that its violations of the FDCPA constituted violations of the CFPA. On August 27, 2021, the CFPB filed an amended complaint, which also named BounceBack's president and majority owner, Gale Krieg, and alleged that Krieg exercised control over BounceBack and materially participated in the conduct of BounceBack's affairs. The complaint alleged that Krieg engaged in deceptive acts and practices in violation of the CFPA because, among other things, he oversaw BounceBack's deceptive activities. On September 21, 2021, the CFPB filed a proposed stipulated final judgment and order to resolve the lawsuit, which the court entered on November 1, 2021. The stipulated judgment and order required BounceBack and Krieg to pay about \$1.4 million to redress consumers, which amount would be suspended based upon defendants' demonstrated inability to pay more upon BounceBack's and Krieg's compliance with the certain provisions of the judgment and order including paying a \$30,000 civil money penalty. The order also permanently bans BounceBack and Krieg from, inter alia, engaging in debt collection related to any consumer financial product or service.

- *Bureau of Consumer Financial Protection v. FDATR, Inc., Dean Tucci, and Kenneth Wayne Halverson* (N.D. Ill. 1:20-cv-06879). On November 20, 2020, the CFPB filed a lawsuit against FDATR, Inc., and its owners, Dean Tucci and Kenneth Wayne Halverson. FDATR was a corporation headquartered in Wood Dale, Illinois, that promised to provide student-loan debt-relief and credit-repair services to consumers nationwide. FDATR involuntarily dissolved in September 2020. Tucci and Halverson both owned and managed FDATR. The CFPB alleges that FDATR, Tucci, and Halverson violated the TSR by engaging in deceptive and abusive telemarketing acts or practices as well as the CFPA by engaging in deceptive acts or practices. The CFPB seeks injunctions against FDATR, Tucci, and Halverson, as well as damages, redress to consumers, disgorgement of ill-gotten gains, and the imposition of civil money penalties. On February 25, 2021, the CFPB filed a notice of voluntary dismissal of Halverson, now deceased, and the court dismissed him from this action the next day. On February 7, 2022, the CFPB obtained a default judgment and order against FDATR imposing \$2,117,133.28 in consumer redress, a \$41,123,897 civil money penalty, and injunctive relief permanently banning it from offering or providing financial advisory, debt-relief, or credit-repair services and from telemarketing consumer financial products or services. The case remains pending against Tucci.
- *Bureau of Consumer Financial Protection v. Driver Loan, LLC, and Angelo Jose Sarjeant* (S.D. Fla. 1:20-cv-24550). On November 5, 2020, the CFPB filed a lawsuit against Driver Loan, LLC and its Chief Executive Officer, Angelo Jose Sarjeant, for

violations of the CFPB. Driver Loan is a limited-liability company based in Doral, Florida that offers short-term, high-interest loans to consumers funded by deposits made by other consumers. The CFPB alleged that Driver Loan and Sarjeant engaged in deceptive acts or practices that violated the CFPB by misrepresenting the risks associated with the deposit product offered to consumers and by misrepresenting the annual percentage rates associated with extensions of credit it offered to other consumers. On June 1, 2021, the court entered a stipulated final judgment and order that requires defendants to return consumers' deposits—roughly \$1 million—plus all interest due to consumers under the terms of the advertised product, and to pay a \$100,000 penalty. The defendants are also permanently banned from engaging in deposit-taking activity and from making deceptive statements to consumers. On December 22, 2021, the CFPB filed an application for an order to show cause, which the court granted the same day, ordering Driver Loan and Sarjeant to set forth why they are not in violation of the stipulated final judgment and not in contempt of court. The matter remains pending.

- *Bureau of Consumer Financial Protection v. Performance SLC, LLC, Performance Settlement, LLC and Daniel Crenshaw* (C.D. Cal. 8:20-cv-02132). On November 5, 2020, the CFPB filed a lawsuit against Performance SLC, LLC (PSLC), a California debt-relief business focused on federal student loan debt; Performance Settlement, LLC (PSettlement), a California debt-settlement company; and Daniel Crenshaw, the owner and CEO of the two companies. The CFPB alleged that: PSLC and Crenshaw conducted a student-loan debt-relief business that charged thousands of consumers with federal student-loan debt approximately \$9.2 million in illegal upfront fees in violation of the TSR, to file paperwork on their behalf to apply for programs that were available to them for free from the Department of Education; PSLC failed to provide disclosures mandated by the TSR to consumers it required to place funds in trust accounts; Crenshaw and PSettlement used deceptive sales tactics to sign consumers up for PSettlement's debt-relief services, in violation of the CFPB; and Crenshaw substantially assisted PSLC in requesting or receiving fees illegally and PSettlement in engaging in deceptive acts and practices. On July 6, 2021, the CFPB filed an amended complaint adding a claim against PSettlement alleging it violated the TSR and CFPB when it asked consumers who enrolled in its program to sign a form that preauthorized PSettlement to agree to settlements on the consumer's behalf. On April 29, 2022, the CFPB filed a proposed stipulated judgment and order, which the court entered the same day. The order permanently bans PSLC from debt-relief services; bans Crenshaw from debt-relief services for five years; and permanently enjoins PSettlement from obtaining referrals from companies purporting to make or arrange loans. The order requires Crenshaw to pay a civil money penalty of \$30,000, and the companies to pay \$1 penalties each, based on their demonstrated inability to pay. It imposes a monetary judgment for redress of

\$10,448,467.90 for consumers harmed by PSLC and \$704,350.30 for consumers harmed by PSettlement. This judgment will be suspended, conditioned on the defendants' payment of the civil money penalty, among other things, and based on the defendants' demonstrated inability to pay.

- *Bureau of Consumer Financial Protection and the People of the State of New York, by Letitia James, Attorney General for the State of New York v. JPL Recovery Solutions, LLC; Check Security Associates, LLC (dba Warner Location Services, Pinnacle Location Services, and Orchard Payment Processing Systems); ROC Asset Solutions LLC (dba API Recovery Solutions and Northern Information Services); Regency One Capital LLC; Keystone Recovery Group, LLC; Bluestreet Asset Partners, Inc.; Christopher L. Di Re; Scott A. Croce; Brian J. Koziel; Marc D. Gracie; and Susan A. Croce* (W.D.N.Y. 1:20-cv-01217). On September 8, 2020, the CFPB, in partnership with the New York Attorney General, filed suit against a network of five different companies based outside of Buffalo, New York, two of their owners, and two of their managers, for their participation in a debt-collection operation using illegal methods to collect debts. As set forth in the amended complaint filed on December 20, 2021, the company defendants are: JPL Recovery Solutions, LLC; Regency One Capital LLC; ROC Asset Solutions LLC, which does business as API Recovery Solutions; Check Security Associates LLC, which does business as Warner Location Services and Orchard Payment Processing Systems; Keystone Recovery Group; and Blue Street Asset Partners, Inc. The individual defendants are Christopher Di Re, Scott Croce, and Susan Croce, who have held ownership interests in some or all of the defendant companies, and Brian Koziel and Marc Gracie, who are members of Keystone Recovery Group, and have acted as managers of some or all of the defendant companies. Susan Croce is also a relief defendant. The complaint alleged that from at least 2015 through the present, the defendants have participated in a debt-collection operation that has used deceptive, harassing, and improper methods to induce consumers to make payments to them in violation of the FDCPA and the CFPA. On May 25, 2022, the court entered a stipulated judgment which requires the defendants to pay \$4 million in civil money penalties split between the CFPB and New York, which would increase to \$5 million upon a failure to make timely payment. The judgment also permanently bans them from being debt collectors and prohibits them from engaging in deceptive practices in connection with consumer financial products or services.
- *Bureau of Consumer Financial Protection v. Townstone Financial, Inc. and Barry Sturner* (N.D. Ill. 1:20-cv-04176). On July 15, 2020, the CFPB filed a lawsuit against Townstone Financial, Inc., a nonbank retail-mortgage creditor and broker based in Chicago. The CFPB alleges that Townstone violated ECOA; its implementing regulation, Regulation B; and the CFPA. The CFPB alleges that, for years, Townstone drew almost

no applications for properties in majority African American neighborhoods located in the Chicago-Naperville-Elgin Metropolitan Statistical Area (Chicago MSA) and few applications from African Americans throughout the Chicago MSA. The CFPB alleges that Townstone engaged in discriminatory acts or practices, including making statements during its weekly radio shows and podcasts through which it marketed its services, that would discourage prospective African-American applicants from applying for mortgage loans; would discourage prospective applicants living in African-American neighborhoods in the Chicago MSA from applying for mortgage loans; and would discourage prospective applicants living in other areas from applying for mortgage loans for properties located in African-American neighborhoods in the Chicago MSA. On November 25, 2020, the CFPB filed an amended complaint, which added as a defendant Barry Sturner, Townstone’s cofounder, sole owner, and sole director, as the fraudulent transferee of more than \$2.4 million from Townstone. The CFPB’s amended complaint seeks an injunction against Townstone, as well as damages, redress to consumers, the imposition of a civil money penalty, and other relief. The defendants filed a motion to dismiss the amended complaint on February 8, 2021. As of the end of the reporting period, the motion to dismiss the amended complaint remained pending. The case remains pending.⁵¹

- *Bureau of Consumer Financial Protection v. My Loan Doctor LLC d/b/a Loan Doctor and Edgar Radjabli* (S.D.N.Y. 1:20-cv-05159). On July 6, 2020, the CFPB filed a lawsuit against My Loan Doctor LLC, a Delaware financial company operating in West Palm Beach, Florida and New York City and doing business as Loan Doctor (Loan Doctor), and its founder, Edgar Radjabli. The CFPB alleged that Loan Doctor and Radjabli made several false, misleading, and inaccurate marketing representations in advertising Loan Doctor’s “Healthcare Finance (HCF) Savings CD Account,” in violation of the CFPB’s prohibition against deceptive acts or practices. The CFPB alleged that, starting in August 2019, Loan Doctor took more than \$15 million from at least 400 consumers who opened and deposited money into Loan Doctor’s deceptively advertised product. The defendants filed a motion to dismiss the complaint on December 16, 2020, which the court denied without prejudice. On September 10, 2021, the defendants filed an amended motion to

⁵¹ Additional activity has occurred with this matter since the end of the reporting period. More information can be found at: <https://www.consumerfinance.gov/enforcement/actions/townstone-financial-inc-and-barry-sturner/>.

dismiss, which the court denied on September 30, 2022. As of the end of the reporting period, the case remained pending.⁵²

- *Bureau of Consumer Financial Protection and the Commonwealth of Massachusetts ex rel. Maura Healey, Attorney General v. Commonwealth Equity Group, LLC (d/b/a Key Credit Repair); Nikitas Tsoukales (a/k/a Nikitas Tsoukalis)* (D. Mass. 1:20-cv-10991). On May 22, 2020, the CFPB and Commonwealth of Massachusetts Attorney General Maura Healey jointly filed a lawsuit against Commonwealth Equity Group, LLC, which does business as Key Credit Repair, and Nikitas Tsoukales (also known as Nikitas Tsoukalis), Key Credit Repair's president and owner. An amended complaint was filed on September 16, 2020. As the amended complaint alleges, from 2016 through 2019 alone, Key Credit Repair enrolled nearly 40,000 consumers nationwide, and since 2011, it collected at least \$23 million in fees from consumers. The CFPB alleges that in their telemarketing of credit-repair services, the defendants violated the CFPA's prohibition against deceptive acts or practices and the TSR's prohibitions against deceptive and abusive telemarketing acts or practices. Massachusetts also alleges violations of Massachusetts laws. The amended complaint seeks redress to consumers, an injunction, and the imposition of civil money penalties. The defendants filed a motion to dismiss the amended complaint on September 30, 2020, which the court denied on August 10, 2021. On September 9, 2021, the defendants moved for reconsideration of the order denying the motion to dismiss, which the court denied on October 13, 2021. The case remains pending.
- *Bureau of Consumer Financial Protection v. Fifth Third Bank, National Association* (N.D. Ill. 1:20-cv-01683), transferred to (S.D. Ohio 1:21-cv-00262). On March 9, 2020, the CFPB filed a lawsuit against Fifth Third Bank, National Association (Fifth Third). On February 12, 2021, the court granted Fifth Third's motion to transfer the case to the Southern District of Ohio. The CFPB filed an amended complaint on June 16, 2021. The CFPB alleges that by misleading consumers about the bank's sales practices, opening products and services and engaging in consumer-account transactions without consumer consent, and failing to adequately address the misconduct, Fifth Third engaged in unfair and abusive acts or practices in violation of the CFPA and also violated FCRA, TILA, the TISA, and TILA's and TISA's implementing regulations. The CFPB seeks an injunction to stop Fifth Third's unlawful conduct, redress for affected consumers, the imposition of a civil money penalty, and other legal and equitable relief. On July 12, 2021, Fifth Third

⁵² Additional activity has occurred with this matter since the end of the reporting period. More information can be found at: <https://www.consumerfinance.gov/enforcement/actions/my-loan-doctor-llc-edgar-adjabli/>.

filed a motion for judgment on the pleadings, and on August 13, 2021, the CFPB filed a motion for partial judgment on the pleadings. The motions and the case remain pending.

- *Bureau of Consumer Financial Protection v. Citizens Bank, N.A.* (D.R.I. No. 1:20-cv-00044). On January 30, 2020, the CFPB filed a lawsuit against Citizens Bank, N.A. (Citizens), alleging violations of TILA and its implementing Regulation Z, including TILA provisions passed under the Fair Credit Billing Act (FCBA) and CARD Act, as well as violations of the CFPA based on TILA violations. The CFPB alleges that Citizens systematically violated TILA and Regulation Z by failing to properly manage and respond to consumers' credit card disputes and fraud claims. The CFPB also alleges that Citizens violated TILA and Regulation Z by not providing credit counseling referrals to consumers as required by law. The CFPB seeks, among other remedies, an injunction against Citizens and the imposition of civil money penalties. On December 1, 2020, the Court denied Citizens' motion to dismiss. The case remains pending.
- *Bureau of Consumer Financial Protection v. Monster Loans, Lend Tech Loans, and Associated Student Loan Debt-Relief Companies* (C.D. Cal. 8:20-cv-00043). On January 9, 2020, the CFPB filed a lawsuit against Chou Team Realty, LLC f/k/a Chou Team Realty, Inc., d/b/a MonsterLoans, d/b/a Monster Loans; Lend Tech Loans, Inc.; Docu Prep Center, Inc., d/b/a DocuPrep Center, d/b/a Certified Document Center; Document Preparation Services, LP, d/b/a DocuPrep Center, d/b/a Certified Document Center; Certified Doc Prep, Inc.; Certified Doc Prep Services, LP; Assure Direct Services, Inc.; Assure Direct Services, LP; Direct Document Solutions, Inc.; Direct Document Solutions, LP; Secure Preparation Services, Inc.; Secure Preparation Services, LP; Docs Done Right, Inc.; Docs Done Right, LP; Bilal Abdelfattah a/k/a Belal Abdelfattah a/k/a Bill Abdel; Robert Hoose; Eduardo "Ed" Martinez; Jawad Nesheiwat; Frank Anthony Sebreros; David Sklar; Thomas "Tom" Chou; Sean Cowell; Kenneth Lawson; Cre8labs, Inc.; XO Media, LLC; and TDK Enterprises, LLC. The CFPB alleges that many of the defendants violated FCRA by wrongfully obtaining consumer report information and that, in connection with the marketing and sale of student loan debt relief products and services, certain defendants charged unlawful advance fees and engaged in deceptive acts and practices. The CFPB also alleges that certain entities and individuals are liable as relief defendants because they received profits resulting from the illegal conduct.

On May 14, 2020, the court entered a stipulated final judgment against Chou Team Realty, LLC, Thomas Chou, TDK Enterprises, LLC, Cre8labs, Inc., and Sean Cowell, which resolves the CFPB's claims against those defendants and relief defendants. The judgment imposes an \$18 million redress judgment against Monster Loans; bans Monster Loans, Chou, and Cowell from the debt-relief industry; and imposes a total \$450,001 civil money penalty against them. On July 7, 2020, the court entered a

stipulated final judgment against Robert Hoose, which imposes a \$7 million redress judgment against him, bans him from the debt-relief industry, and imposes a \$1 civil money penalty. On July 10, 2020 and August 26, 2020, the CFPB filed a first and second amended complaint, respectively, adding factual allegations regarding certain defendants. On October 19, 2020, the court entered a stipulated final judgment against relief defendants Kenneth Lawson and XO Media, LLC, which imposes a \$200,000 redress judgment against Lawson and XO Media, LLC. On May 4, 2021, the court entered stipulated final judgments against Lend Tech Loans, Inc. and David Sklar. The judgment as to Lend Tech Loans requires it to dissolve and cease to exist as a corporate entity, bans it from offering or providing any consumer financial product or service, and imposes a \$1 civil money penalty against it based on its limited ability to pay. The judgment as to Sklar imposes a \$7 million redress judgment against him, full payment of which is suspended based upon his limited ability to pay upon his payment of \$3,000 to the CFPB; it also bans him from the debt-relief industry and from telemarketing consumer financial products or services and imposes a \$1 civil money penalty against him. On May 7, 2021, the court entered a default judgment against the following student loan debt relief companies: Docu Prep Center, Inc., d/b/a DocuPrep Center, d/b/a Certified Document Center; Document Preparation Services, LP, d/b/a DocuPrep Center, d/b/a Certified Document Center; Certified Doc Prep, Inc.; Certified Doc Prep Services, LP; Assure Direct Services, Inc.; Assure Direct Services, LP; Direct Document Solutions, Inc.; Direct Document Solutions, LP; Secure Preparation Services, Inc.; and Secure Preparation Services, LP. The default judgment imposes redress judgments against the companies that collectively total \$19,699,869 and civil penalties against the companies that collectively total \$11,382,136. The default judgment also bans the companies from the debt relief industry. On May 7, 2021, the court also entered a default judgment against Bilal Abdelfattah a/k/a Belal Abdelfattah a/k/a Bill Abdel, which imposes a civil penalty of \$3,262,244 against him and bans him from the debt-relief industry.

On May 11, 2021, the court entered a stipulated final judgment against Docs Done Right, Inc., Docs Done Right, LP (collectively, “Docs Done Right”), and Eduardo Martinez. The judgment imposes an \$18 million redress judgment against Martinez and Docs Done Right, full payment of which is suspended based on their limited ability to pay upon their payment of the ordered penalty, bans them from the debt-relief industry, and imposes a \$125,000 civil money penalty against them. On May 11, 2021, the court also entered a stipulated final judgment against Frank Anthony Sebreros, which imposes a \$3,404,455 redress judgment against him, full payment of which is suspended based on a limited ability to pay upon payment of \$35,000; it also bans him from the debt relief industry and from telemarketing consumer financial products or services, and imposes a \$1 civil money penalty against him. On August 10, 2021, the district court granted in full the

CFPB's Motion for Summary Judgment against Jawad Nesheiwat, the sole remaining defendant. The court found Nesheiwat was liable for violating FCRA, the TSR advance fee ban, the TSR and CFPB prohibitions on deceptive practices and substantially assisting violations, and §1036(a)(1)(A). The court found the CFPB was entitled to injunctive relief, restitution, and civil money penalties. On September 23, 2021, the court entered a judgment and order against Nesheiwat imposing a judgment of nearly \$20 million in consumer redress, a \$20 million civil money penalty, and injunctive relief including permanent bans from the debt-relief and mortgage industries, from using consumer reports for business purposes, and from telemarketing consumer financial products and services. On September 25, 2021, Nesheiwat appealed the judgment against him, which as of the end of the reporting period, remained pending. The case remains pending.⁵³

- *Bureau of Consumer Financial Protection; State of Minnesota, by its Attorney General, Keith Ellison; State of North Carolina, ex rel. Joshua H. Stein, Attorney General; and The People of the State of California, Michael N .Feuer, Los Angeles City Attorney v. Consumer Advocacy Center Inc., d/b/a Premier Student Loan Center; True Count Staffing Inc., d/b/a SL Account Management; Prime Consulting LLC, d/b/a Financial Preparation Services; Albert Kim, a/k/a Albert King; Kaine Wen, a/k/a Wenting Kaine Dai, Wen Ting Dai, and Kaine Wen Dai; and Tuong Nguyen, a/k/a Tom Nelson (C.D. Cal. 8:19-cv-01998).* On October 21, 2019, the CFPB filed a complaint and sought a temporary restraining order and preliminary injunction against Consumer Advocacy Center Inc., d/b/a Premier Student Loan Center (Premier); True Count Staffing Inc., d/b/a SL Account Management (True Count); Prime Consulting LLC, d/b/a Financial Preparation Services (Prime); Albert Kim; Kaine Wen; and Tuong Nguyen. The CFPB alleges the debt relief companies operate as a common enterprise and have engaged in deceptive practices and charged unlawful advance fees in connection with the marketing and sale of student loan debt relief services to consumers. The CFPB also alleges the individuals substantially assisted the student loan debt relief companies. The complaint also names several relief defendants and seeks disgorgement of those relief defendants' ill-gotten gains. The court granted the request for the temporary restraining order on October 21, 2019. The court entered a stipulated preliminary injunction on November 15, 2019.

⁵³ Additional activity has occurred with this matter since the end of the reporting period. More information can be found at: <https://www.consumerfinance.gov/enforcement/actions/monster-loans-lend-tech-loans-and-associated-student-loan-debt-relief-companies/>.

The CFPB filed a first amended complaint on February 24, 2020. The CFPB's amended complaint seeks an injunction against defendants, as well as damages, redress to consumers, disgorgement of ill-gotten gains, and the imposition of a civil money penalty. The amended complaint also names several additional defendants and relief defendants. On August 26, 2020, the court entered a corrected, amended stipulated final judgment as to defendants Prime and Horizon Consultants LLC (Horizon). The order imposes a judgment of \$95,057,757 against Prime to provide redress to consumers. Horizon is jointly and severally liable for \$12,942,045 of this amount. Full payment of these amounts is suspended based on Prime's and Horizon's demonstrated inability to pay following, among other things, their turnover of assets and their payment of a \$1 civil money penalty to the CFPB. The order also bans Prime and Horizon from telemarketing or offering or providing debt relief services. On August 28, 2020, the court entered a stipulated final judgment and order as to defendant Tuong Nguyen and relief defendant TN Accounting Inc. The order imposes a judgment of \$95,057,757 against Nguyen to provide redress to consumers. Relief defendant TN Accounting is jointly and severally liable for \$444,563 of this amount. Full payment of these amounts is suspended based on their demonstrated inability to pay following, among other things, Nguyen and TN Accounting's turnover of assets and Nelson's payment of a \$1 civil money penalty to the CFPB. The order also bans Nguyen from telemarketing or offering or providing debt relief services. On September 8, 2020, the court entered a stipulated final judgment as to relief defendants Hold the Door, Corp., and Mice and Men LLC. The order imposes a judgment of \$1,638,687 against relief defendant Hold the Door and \$5,041,069 against relief defendant Mice and Men to provide redress to consumers. Full payment of these amounts will be suspended based on their demonstrated inability to pay following their turnover of assets. On December 15, 2020, the court entered a default judgment against First Priority, LLC, and True Count Staffing, Inc. The order imposes a judgment of \$55,360,817.14 and \$165,848.05 against True Count and First Priority, respectively, to provide redress to consumers. The order also requires True Count to pay a \$30 million penalty, of which \$29,850,000 is payable to the CFPB. It also requires First Priority to pay \$3.75 million in penalties, of which \$2,470,000 is payable to the CFPB. The order also bans the defaulted defendants from telemarketing or offering or providing debt relief services.

The CFPB filed a second amended complaint on April 20, 2021, adding additional claims and an additional relief defendant. On June 15, 2021, the court entered a stipulated final judgment and order as to relief defendant Judy Dai. The order imposes a judgment of \$3,088,381.80 against Dai for the purpose of providing redress to consumers. On July 1, 2021, the court entered a stipulated final judgment and order as to relief defendant's 1st Generation Holdings, LLC (1st Generation) and Infinite Management Corp (Infinite

Management). The order imposes a judgment of \$3,984,779.28 and \$2,049,189.07 against 1st Generation and Infinite Management, respectively, for the purpose of providing redress to consumers. Full payment of the amount imposed on Infinite Management will be suspended based on its demonstrated inability to pay following its turnover of assets. On July 14, 2021, the court entered a stipulated final judgment and order as to defendant Consumer Advocacy Center, Inc. (CAC). The order imposes a judgment of \$35,105,017.93 against CAC for the purpose of providing consumer redress. The amount of redress to be collected will be based on the amount recovered by the bankruptcy trustee and the resolution of multiple claims against the CAC bankruptcy estate. The court also imposed a \$1 civil money penalty in favor of the CFPB and against the CAC bankruptcy estate. The court permanently restrained CAC from participating in any debt-relief service or telemarketing any consumer financial product. The CFPB filed a third amended complaint on August 5, 2021, to remove remaining claims relating to a relief defendant against whom a stipulated final judgment was previously entered.

On March 22, 2022, the court entered a stipulated final judgment and order as to defendant TAS 2019 LLC. The order imposes a judgment of \$2,866,314.24 in consumer redress, a \$1 civil money penalty, and injunctive relief permanently banning TAS 2019 LLC from participating in any debt relief service or telemarketing any consumer financial product. On May 24, 2022, the court entered a stipulated final judgment and order against relief defendant Sarah Kim imposing a judgment amount of \$483,662.60, which was suspended upon her payment of \$85,000 and turnover of certain assets for liquidation. On June 10, 2022, the court entered a stipulated final judgment and order as to defendant Albert Kim. The order imposes a judgment of \$95,057,757 in consumer redress, a \$1 civil money penalty, and injunctive relief including banning him from participating in any debt relief service or telemarketing any consumer financial product or service and making misrepresentations about certain aspects of any consumer financial products or services. Full payment of the judgment is suspended based on a demonstrated inability to pay following, among other things, Kim's turnover of assets and payment of a \$1 civil money penalty. The case remains pending against remaining defendant Kaine Wen. Additionally, claims against relief defendant Anan Enterprise, Inc. are currently stayed pending the outcome of a bankruptcy adversary action filed in the Southern District of Florida.

- *Bureau of Consumer Financial Protection v. FCO Holding, Inc., Fair Collections & Outsourcing, Inc., Fair Collections & Outsourcing of New England, Inc., FCO Worldwide, Inc., and Michael E. Sobota* (D. Md. No. 8:19-cv-02817). On September 25, 2019, the CFPB filed a complaint against Maryland-based debt collector FCO Holding, Inc. and its subsidiaries, Fair Collections & Outsourcing, Inc., Fair Collections & Outsourcing of New England, Inc., and FCO Worldwide, Inc. (collectively, FCO). Also

named as a defendant in the CFPB's lawsuit is Michael E. Sobota, the chief executive officer, president, director, and owner of FCO Holding, Inc. The CFPB alleged that FCO, which furnishes information to consumer reporting agencies, violated FCRA and Regulation V by failing to maintain reasonable policies and procedures regarding the accuracy and integrity of the information it furnishes, including the handling of consumer disputes, failing to conduct reasonable investigations of certain consumer disputes, and failing to cease furnishing information that was alleged to have been the result of identity theft before it made any determination whether the information was accurate. In addition, the CFPB alleged that FCO and Sobota violated the FDCPA when FCO represented that consumers owed certain debts when, in fact, FCO did not have a reasonable basis to assert that the consumers owed those debts. On October 27, 2021, the court entered a stipulated final judgment and order, which requires defendants to pay a \$850,000 civil money penalty and put in place policies and procedures to prevent future violations.

- *Bureau of Consumer Financial Protection v. Forster & Garbus, LLP* (E.D.N.Y. No. 2:19-cv-02928). On May 17, 2019, the CFPB filed suit against Forster & Garbus, LLP, a debt-collection law firm based in Commack, New York. The CFPB alleged that from 2014 through 2016, fewer than a dozen attorneys at Forster & Garbus filed more than 99,000 debt-collection lawsuits, while having documents to support only a fraction of those debts. The CFPB alleged that these lawsuits were filed without meaningful attorney involvement, and thus the signatures of attorneys on these lawsuits violated the FDCPA's prohibition against the use of false, deceptive, or misleading representations or means to collect a debt and the CFPA's prohibition against deceptive acts and practices. On January 18, 2023, the court entered a stipulated final judgment and order, which requires Forster & Garbus to possess specific documents supporting consumer debts and have an attorney review these documents before filing any new lawsuit, and to dismiss any pending lawsuit unless it certifies its compliance with these documentation and meaningful-attorney-involvement requirements. The order also requires Forster & Garbus to pay a civil money penalty of \$100,000.

Bureau of Consumer Financial Protection v. Progrexion Marketing, Inc.; PGX Holdings, Inc.; Progrexion Teleservices, Inc.; eFolks, LLC; CreditRepair.com, Inc.; John C. Heath, Attorney at Law, P.C., d/b/a/ Lexington Law (D. Utah No. 2:19-cv-00298). On May 2, 2019, the CFPB filed a complaint against PGX Holdings, Inc. and its subsidiaries (collectively, Progrexion) and against John C. Heath, Attorney at Law PLLC, which does business as Lexington Law, in federal district court. The CFPB amended the complaint on August 17, 2022. The CFPB alleges the defendants violated the TSR by requesting and receiving payment of prohibited upfront fees for their credit repair services. The CFPB also alleges that Progrexion violated the TSR and the CFPA by

making deceptive representations in its marketing, or by substantially assisting others in doing so. The CFPB seeks an injunction, as well as damages, redress to consumers, disgorgement of ill-gotten gains, and the imposition of civil money penalties. Defendants filed a motion to dismiss on July 19, 2019, which the court denied on February 18, 2020. Defendant Heath, P.C., filed a motion for partial summary judgment on August 20, 2021, which the court denied on January 21, 2022. Defendant Progrexion filed a motion for summary judgment on January 21, 2022, which the court denied on May 16, 2022. The CFPB filed a motion for partial summary judgment on December 10, 2021. That motion and the case remain pending.

- *Bureau of Consumer Financial Protection v. Future Income Payments, LLC, et al.* (C.D. Cal. 8:18-cv-01654), transferred to (D.S.C. No. 6:19-cv-02950). On September 13, 2018, the CFPB filed a complaint against Future Income Payments, LLC, Scott Kohn, and several related entities. The CFPB alleged that defendants represented to consumers that their pension-advance products were not loans, were not subject to interest rates, and were comparable in cost to – or cheaper than – credit-card debt when, in actuality, the pension-advance products were loans, and were subject to interest rates that were substantially higher than credit-card interest rates. The CFPB also alleged that the defendants failed to disclose a measure of the cost of credit, expressed as a yearly rate, for its loans. On February 22, 2021, the court entered a default judgment against all defendants and appointed a receiver. The default judgment imposes a permanent injunction, including a permanent ban on advertising, marketing, promoting, offering for sale, or selling any pension-advance products, and requires defendants to pay over \$436 million in consumer restitution and a \$65,481,736 penalty. The receiver’s work is ongoing.
- *Consumer Financial Protection Bureau v. The National Collegiate Master Student Loan Trust, et al.* (D. Del. No. 17-cv-1323). On September 18, 2017, the CFPB filed a complaint and proposed consent judgment against several National Collegiate Student Loan Trusts (collectively, “NCSLT”). The CFPB alleges that NCSLT brought debt collection lawsuits for private student loan debt that the companies could not prove was owed or was too old to sue over; that they filed false and misleading affidavits or provided false and misleading testimony; and that they falsely claimed that affidavits were sworn before a notary. Soon after the CFPB’s filing, several entities moved to intervene to object to the proposed consent judgment. The judge granted the intervention motions, and on May 31, 2020, the court denied the CFPB’s motion to approve the proposed consent judgment filed with the original complaint. Several of the intervenors then filed motions to dismiss, one of which was granted in part, dismissing the complaint without prejudice. On April 30, 2021, the CFPB filed an amended complaint, adding clarifying allegations related to several issues raised in the motions to dismiss the original complaint. On May 21, 2021,

defendants and certain intervenors filed a motion to dismiss the amended complaint, which the court denied on December 13, 2021. On February 11, 2022, the court certified two holdings in its opinion denying the motion to dismiss for interlocutory appeal to the Third Circuit and stayed the matter. On April 29, 2022, the Third Circuit granted the petition to appeal. The case remains pending.

- *Consumer Financial Protection Bureau v. Ocwen Financial Corporation, Ocwen Mortgage Servicing, Inc., Ocwen Loan Servicing, LLC, and PHH Mortgage Corporation* (S.D. Fla. No. 17-cv-80495). On April 20, 2017, the CFPB filed a complaint against mortgage loan servicer Ocwen Financial Corporation and its subsidiaries. The CFPB alleges that they used inaccurate and incomplete information to service loans, misrepresented to borrowers that their loans had certain amounts due, illegally foreclosed on homeowners that were performing on agreements on loss mitigation options, failed to adequately investigate and respond to borrower complaints, and engaged in other conduct in violation of the CFPA, TILA, FDCPA, Real Estate Settlement Procedures Act (RESPA), and Homeowners Protection Act (HPA). On September 5, 2019, the district court rejected the majority of Ocwen's arguments in its motion to dismiss but required the CFPB to re-plead its allegations, which the CFPB did on October 4, 2019. The case was partially consolidated with a related case against Ocwen brought by the Office of the Attorney General and Office of Financial Regulation for the State of Florida, and the Florida plaintiffs settled their claims against Ocwen. On March 4, 2021, the district court granted in part defendants' Motion for Summary Judgment as to Counts 1-9 of the CFPB's First Amended Complaint based on *res judicata*. On April 19, 2021, the CFPB filed a Second Amended Complaint that dropped Count 10 of its First Amended Complaint and limited the claims set forth in Counts 1 through 9 to allegations of violations for the time period of January 2014 through February 26, 2017. On April 21, 2021, in light of the CFPB's recently filed Second Amended Complaint, the district court entered a final judgment in favor of the defendants. The CFPB filed a notice of appeal the same day. On April 6, 2022, the Eleventh Circuit held that the parties intended to preclude new challenges to conduct covered by the parties' prior 2013 settlement agreement's servicing standard, monitoring, and enforcement regime. It vacated the district court's decision and remanded the case for further analysis of the CFPB's claims and the parties' prior 2013 settlement agreement. The case remains pending.
- *Consumer Financial Protection Bureau v. RD Legal Funding, LLC, RD Legal Finance, LLC, and RD Legal Funding Partners, LP, and Roni Dersovitz* (S.D.N.Y. No. 1:17-cv-0890). On February 7, 2017, the CFPB and the New York Attorney General filed a complaint against RD Legal Funding, LLC, two related entities, and the companies' founder and owner, Roni Dersovitz. The CFPB alleged that they made misrepresentations to potential borrowers and engaged in abusive practices in connection with cash

advances on settlement payouts from victim-compensation funds and lawsuit settlements. The lawsuit sought monetary relief, disgorgement, and civil money penalties. On May 15, 2017, the defendants filed a motion to dismiss the CFPB's complaint, which the CFPB opposed. On June 21, 2018, the court issued an opinion concluding that the defendants are subject to the CFPA's prohibitions and that the complaint properly pleaded claims against all of them. The court held, however, that the removal provision that applied to the CFPB's Director violated the constitutional separation of powers and could not be severed from the remainder of Title X of the Dodd-Frank Act. Based on that conclusion, the court ultimately dismissed the entire case. The United States Court of Appeals for the Second Circuit vacated the district court's judgment and remanded the case for further proceedings. On March 12, 2021, the defendants filed a motion to dismiss, which the court denied on March 16, 2022. As of the end of the reporting period, the case remained pending.⁵⁴

- *Consumer Financial Protection Bureau v. Navient Corporation, Navient Solutions, Inc., and Pioneer Credit Recovery, Inc.* (M.D. Pa. No. 17-cv-0101). On January 18, 2017, the CFPB filed a complaint against Navient Corporation and its subsidiaries, Navient Solutions, Inc., and Pioneer Credit Recovery, Inc. The CFPB alleges that Navient Solutions and Navient Corporation steered borrowers toward repayment plans that resulted in borrowers paying more than other options; misreported to credit reporting agencies that severely and permanently disabled borrowers who had loans discharged under a federal program had defaulted on the loans when they had not; deceived private student loan borrowers about requirements to release their co-signer from the loan; and repeatedly incorrectly applied or misallocated borrower payments to their accounts. The CFPB also alleges that Pioneer and Navient Corporation misled borrowers about the effect of rehabilitation on their credit reports and the collection fees that would be forgiven in the federal loan rehabilitation program. The CFPB seeks consumer redress and injunctive relief. On March 24, 2017, Navient moved to dismiss the complaint. On August 4, 2017, the court denied Navient's motion. On May 19, 2020, the CFPB and all three defendants moved for summary judgment and these motions are pending. On July 10, 2020, Navient filed a motion for judgment on the pleadings, which the court denied on January 13, 2021. The case remains pending.
- *Consumer Financial Protection Bureau v. Access Funding, LLC, Access Holding, LLC, Reliance Funding, LLC, Lee Jundanian, Raffi Boghosian, Michael Borkowski, and*

⁵⁴ Additional activity has occurred with this matter since the end of the reporting period. More information can be found at: <https://www.consumerfinance.gov/enforcement/actions/rd-legal-funding-llc-rd-legal-finance-llc-rd-legal-funding-partners-lp-and-roni-dersovitz/>.

Charles Smith (D. Md. No. 1:16-cv-3759). On November 21, 2016, the CFPB filed a complaint against Access Funding, LLC, Access Holding, LLC, Reliance Funding, LLC, three of the companies' principals—Lee Jundanian, Raffi Boghosian, and Michael Borkowski—and a Maryland attorney, Charles Smith. The CFPB alleged that Access Funding was aware that the individuals from whom they purchased structured settlement payments were frequently in need of the funds the company could supply. The CFPB also alleged that the companies and their principals steered consumers to receive “independent advice” from Smith, who was paid directly by Access Funding and provided only cursory communications to consumers. The CFPB alleged that Smith's conduct was unfair, abusive, and deceptive in violation of the CFPB and that Access Funding and its leadership unlawfully aided Smith's illegal conduct. The CFPB further alleged that Access Funding engaged in abusive conduct by advancing money to some consumers and represented to those consumers that the advances obligated them to go forward with transactions even if they realized that the transactions were not in their best interests. On September 13, 2017, the court granted defendants' motions to dismiss counts I–IV, arising out of Smith's conduct, on the grounds that he had attorney-client relationships with the consumers in question. The court denied the defendants' motions to dismiss the CFPB's claim relating to the advances Access Funding offered consumers. The court granted the CFPB's motion to file an amended complaint alleging that Smith did not have attorney-client relationships with the consumers in question. Defendants again filed motions to dismiss, which the court denied. The defendants filed a motion for partial summary judgment, which the court denied on January 18, 2019. On December 26, 2019, the court stayed the case pending the Supreme Court's decision in *Seila Law LLC v. CFPB*, No. 19-7 (cert. granted Oct. 18, 2019). On October 23, 2020, based on the parties' stipulation, the court dismissed the claims against Reliance Funding, LLC. The parties moved for summary judgment, which the Court denied on July 12, 2021.

On November 18, 2021, the court entered a stipulated judgment and order against Charles Smith, which requires him to pay \$40,000 in disgorgement and a \$10,000 civil money penalty. The order also permanently bans him from the structured-settlement industry. On December 17, 2021, the court entered a stipulated judgment and order against Access Funding, LLC, Access Holding, LLC, Lee Jundanian, and Raffi Boghosian, requiring the settling defendants to pay \$40,000 in disgorgement and a \$10,000 civil money penalty. On May 18, 2022, the court entered a consent order against Michael Borkowski requiring him to pay a \$5,000 civil money penalty. The December 2021 and May 2022 orders also prohibit the settling defendants from referring consumers to a specific individual or for-profit entity for advice concerning any structured-settlement transaction or taking unreasonable advantage of consumers' lack of understanding of the material risks, costs, or conditions of any cash advance. The orders also prohibit the

settling defendants from misrepresenting the relationship between themselves and providers of independent professional advice, and any other fact material to consumers – such as the material risks, total costs, or conditions of any advance – in connection with the transfer of payment streams from structured-settlement holders.

- *Consumer Financial Protection Bureau v. All American Check Cashing, Inc., Mid-State Finance, Inc., and Michael E. Gray* (S.D. Miss. No. 16-cv-0356). On May 11, 2016, the CFPB filed a complaint against two companies, All American Check Cashing, Inc. and Mid-State Finance, Inc., which offered check-cashing services and payday loans, and their president and sole owner, Michael Gray. The CFPB alleged that the defendants tried to keep consumers from learning how much they would be charged to cash a check and used deceptive tactics to stop consumers from backing out of transactions. The CFPB also alleged that the defendants made deceptive statements about the benefits of its high-cost payday loans and failed to provide refunds after consumers made overpayments on their loans. The CFPB’s lawsuit sought injunctive relief, restitution, and the imposition of a civil money penalty. The defendants moved for judgment on the pleadings on May 24, 2017, and the CFPB moved for summary judgment on August 4, 2017. On March 21, 2018, the court denied the defendants’ motion for judgment on the pleadings, and on March 26, 2018, the defendants moved to certify that denial for interlocutory appeal. The next day, the court granted the defendants’ motion in part, holding that interlocutory appeal was justified with respect to defendants’ constitutional challenge to the CFPB’s statutory structure. On April 24, 2018, the court of appeals granted the defendants’ petition for permission to appeal the district court’s interlocutory order. The district court action was stayed pending the appeal. On March 3, 2020, the Fifth Circuit affirmed the district court’s denial of All American’s motion for judgment on the pleadings. On March 20, 2020, the court of appeals, *sua sponte*, vacated the panel’s decision and decided to rehear the matter *en banc*. On September 8, 2020, the court placed the case in abeyance pending a decision by the Supreme Court in *Collins v. Mnuchin*, which is now captioned, *Collins v. Yellen*, No. 19-422. The Supreme Court issued its opinion in *Collins* on June 23, 2021, finding that the structure of the Federal Housing Finance Agency (FHFA) was unconstitutional. On June 21, 2021, the Fifth Circuit directed the parties to file supplemental briefing addressing the impact of the *Collins* decision on the present matter. Supplemental briefing was completed on September 8, 2021, and a supplemental *en banc* argument was held on January 19, 2022. On May 2, 2022, the Fifth Circuit held that the CFPB’s single-director structure was unconstitutional, but that the removal provision was severable and that the CFPB may continue its enforcement action. The matter was remanded to the district court for further proceedings, including

consideration of any other constitutional challenges. As of the end of the reporting period, the case remained pending in the District Court.⁵⁵

- *In the Matter of Integrity Advance, LLC and James R. Carnes* (2015-CFPB-0029) (not a credit union or depository institution). On November 18, 2015, the CFPB filed a notice of charges against an online lender, Integrity Advance, LLC, and its CEO, James R. Carnes. The CFPB alleged that they deceived consumers about the cost of short-term loans and that the company's contracts did not disclose the costs consumers would pay under the default terms of the contracts. The CFPB also alleged that the company unfairly used remotely created checks to debit consumers' bank accounts even after the consumers revoked authorization for automatic withdrawals. On September 27, 2016, the Administrative Law Judge (ALJ) issued a Recommended Decision finding liability and recommending injunctive and monetary relief. The Recommended Decision was appealed to the Director, and the Director remanded the case for a new hearing and recommended decision by the CFPB's ALJ. In response to cross motions for summary disposition, on August 4, 2020, the ALJ issued a Recommended Decision finding in the CFPB's favor on all counts, which the respondents appealed. On January 11, 2021, the Director affirmed and reversed in part the Recommended Decision. She affirmed the ALJ's conclusion that Integrity Advance violated TILA and EFTA and that both respondents violated the CFPA. With respect to the appropriate remedy, she concluded that Integrity Advance and James Carnes were jointly and severally liable for more than \$38 million in restitution and imposed a \$7.5 million civil money penalty against Integrity Advance and \$5 million penalty against Carnes. The Director did not order restitution for conduct that pre-dated July 21, 2011, which is the CFPB's designated transfer date. On February 10, 2021, Integrity Advance filed a petition for review in the Tenth Circuit. On May 19, 2021, the CFPB filed a petition to enforce the CFPB Director's order in United States District Court for the Northern District of Kansas. The district court granted the CFPB's petition on July 30, 2021, and entered judgment for \$38,453,341.62 in restitution against Integrity Advance and Carnes, and a civil money penalty of \$7.5 million against Integrity and \$5 million against Carnes. The CFPB is currently pursuing asset discovery against Carnes in order to satisfy the judgment. On February 10, 2021, Integrity Advance filed a petition for review in the Tenth Circuit. On September 15, 2022, the Tenth Circuit affirmed the Director's order, and on September

⁵⁵ Additional activity has occurred with this matter since the end of this reporting period. More information can be found at: <https://www.consumerfinance.gov/enforcement/actions/all-american-check-cashing-inc-mid-state-finance-inc-db-thrifty-check-advance-and-michael-gray/>.

29, 2022, the defendants petitioned for rehearing *en banc*, which as of the end of the reporting period remained pending.

- *Consumer Financial Protection Bureau v. Global Financial Support, Inc., d/b/a Student Financial Resource Center, d/b/a College Financial Advisory; and Armond Aria a/k/a Armond Amir Aria, individually, and as owner and CEO of Global Financial Support, Inc.* (S.D. Cal. No. 15-cv-2440). On October 29, 2015, the CFPB filed a complaint against Global Financial Support, Inc. (Global Financial), which operated under the names Student Financial Resource Center and College Financial Advisory, and its owner and CEO, Armond Aria. The CFPB alleged that the defendants issued marketing letters instructing students to fill out a form and pay a fee in exchange for the company providing a financial aid program or conducting extensive searches to target or match students with individualized financial aid opportunities. The CFPB also alleged that consumers who paid the fee received nothing or a generic booklet that failed to provide individualized advice. The CFPB also alleged that the defendants misrepresented that missing the deadline indicated in the marketing letter could jeopardize consumers' ability to obtain financial aid when the deadline actually had no consequences. On January 25, 2021, the court granted, in part, the CFPB's motion for partial summary judgment against Armond Aria and default judgment against Global Financial, finding that 76,000 consumers purchased Global Financial's "program" based on its misrepresentations. On February 16, 2021, the CFPB filed an amended complaint dismissing the remaining claims against Aria. On March 29, 2021, the court entered a final judgment and order against both defendants imposing injunctive relief, \$4,738,028 in restitution to consumers, and a \$10 million civil money penalty. Armond Aria filed an appeal of the final judgment to the Ninth Circuit on May 19, 2021, which as of the end of the reporting period remained pending. The case remains pending.⁵⁶
- *Consumer Financial Protection Bureau v. Nationwide Biweekly Administration, Inc., et al.* (N.D. Cal. No. 3:15-cv-2106). On May 11, 2015, the CFPB filed a complaint against Nationwide Biweekly Administration, Inc., Loan Payment Administration LLC, and Daniel S. Lipsky alleging that they engaged in abusive and deceptive acts and practices in violation of the CFPB and the TSR regarding a mortgage payment product known as the "Interest Minimizer Program," or IM Program. The CFPB alleges that the defendants misrepresented their affiliation with consumers' mortgage lenders; the amount of interest savings consumers would realize and when consumers would achieve savings on

⁵⁶ Additional activity has occurred with this matter since the end of this reporting period. More information can be found at: <https://www.consumerfinance.gov/enforcement/actions/student-financial-resource-center-college-financial-advisory/>.

the IM Program; consumers' ability to attain the purported savings on their own or through a low- or no-cost option offered by the consumers' servicer; and fees for the program. The CFPB seeks a permanent injunction, consumer redress, and civil money penalties. A trial was held beginning on April 24, 2017, and on September 8, 2017, the court issued an opinion and order finding that the defendants had engaged in deceptive and abusive conduct in violation of the CFPA and TSR. The court imposed a \$7.93 million civil money penalty but denied the CFPB's request for restitution and disgorgement. On November 9, 2017, the court reduced the previous order to a judgment that included a permanent injunction forbidding defendants from engaging in specified acts or practices. Both parties filed a notice of appeal. As of the end of the reporting period, the parties' appeals remained pending before the United States Court of Appeals for the Ninth Circuit.⁵⁷

- *Consumer Financial Protection Bureau v. Universal Debt & Payment Solutions, LLC, et al.* (N.D. Ga. No. 15-cv-0859). On March 26, 2015, the CFPB filed a lawsuit against a group of seven debt collection agencies and six individual debt collectors, four payment processors and individual sales organizations, and a telephone marketing service provider alleging unlawful conduct related to a phantom debt collection operation. Phantom debt is debt that consumers do not actually owe or debt that is not payable to those attempting to collect it. The CFPB alleges that the individuals, acting through a network of corporate entities, used threats and harassment to collect phantom debt from consumers. The CFPB alleges the defendants violated the FDCPA and the CFPA's prohibition on unfair and deceptive acts and practices and substantial assistance to unfair or deceptive conduct. On April 7, 2015, the CFPB obtained a preliminary injunction against the debt collectors that froze their assets and enjoined their unlawful conduct. On August 25, 2017, as a discovery sanction against the CFPB, the court dismissed the CFPB's claims against the payment processors and the telephone marketing service provider: Frontline Processing Corp., Global Payments, Inc., Pathfinder Payment Solutions, Inc., Francis David Corp. d/b/a/ Electronic Merchant Systems, and Global Connect, LLC. Five of the seven corporate debt collectors defaulted and the CFPB voluntarily dismissed one individual defendant, Varinderjit Bagga. On March 21, 2019, the court granted the CFPB's motion for summary judgment on all its claims against four individual debt collectors, Marcus Brown, Mohan Bagga, Sarita Brown, and Tasha Pratcher, and against the non-defaulted corporate debt collector WNY Account Solutions, LLC. The court further granted the CFPB's motion as to one of its claims against the other individual debt collector defendant, Sumant Khan, but denied

⁵⁷ Additional activity has occurred with this matter since the end of this reporting period. More information can be found at: <https://www.consumerfinance.gov/enforcement/actions/nationwide-biweekly-administration/>.

summary judgment on the remaining claims. The court also denied the CFPB's motion for summary judgment against the other non-defaulted corporate debt collector Payment Processing Solutions, LLC. Lastly, the court denied the latter two defendants' motions for summary judgment against the CFPB.

On August 21, 2019, the court entered a stipulated final judgment and order against Sumant Khan and S Payment Processing Solutions, LLC. Among other things, the stipulated judgment and order requires the settling defendants to transfer all the funds in their various bank accounts to the CFPB in partial satisfaction of a judgment of equitable monetary relief and damages in the amount of \$633,710, which is partially suspended based on inability to pay. The stipulated judgment and order permanently bans the settling defendants from engaging in debt collection activities and prohibits them from making certain misrepresentations. On November 15, 2019, the court entered a stipulated final judgment and order against Mohan Bagga. Among other things, the stipulated judgment and order imposes a suspended judgment against Bagga of equitable monetary relief and damages in the amount of \$5,261,484, orders him to pay a \$1 civil money penalty, permanently bans him from engaging in debt collection activities, and prohibits him from making certain misrepresentations. The suspension of the judgment and the \$1 civil money penalty are based on his inability to pay. On February 19, 2020, the court appointed a receiver to, among other things, identify and conserve frozen assets of certain defendants for future potential consumer redress. On December 15, 2020, the court entered a stipulated final judgment and order against Tasha Pratcher. Among other things, the stipulated judgment and order imposes a \$300,000 judgment against Pratcher for monetary relief and damages, which amount is suspended upon her payment of \$2,500 and turnover of assets, orders her to pay a \$1 civil money penalty, permanently bans her from engaging in debt collection activities, and prohibits her from making certain misrepresentations.

On October 20, 2021, the court entered a permanent injunction and final judgment against Marcus Brown, Sarita Brown, and WNY Account Solutions, LLC, and a default judgment against the five corporate debt collectors—Check & Credit Recovery, LLC, Credit Power, LLC, Universal Debt & Payment Solutions, LLC, Universal Debt Solutions, LLC, and WNY Solutions Group, LLC—which had previously defaulted. These orders impose judgments for monetary relief against Marcus Brown, Sarita Brown, WNY Account Solutions, LLC, and the defaulted defendants, joint and severally, in the amount of \$5,183,947.71 and require them to pay civil money penalties totaling \$2,016,000. The orders also permanently ban them from engaging in debt collection activities, prohibit them from making certain misrepresentations, and prohibit them from using consumer information they obtained during the course of the debt collection scheme. On December 17, 2021, the CFPB filed a notice of appeal of the court's August 25, 2017 order dismissing

its claims against the payment processors and the telephone marketing services provider. The CFPB's appeal and the case remain pending.

- *Consumer Financial Protection Bureau v. The Mortgage Law Group, LLP, d/b/a The Law Firm of Macey, Aleman & Searns; Consumer First Legal Group, LLC; Thomas G. Macey; Jeffrey J. Aleman; Jason E. Searns; and Harold E. Stafford* (W.D. Wis. No. 3:14-cv-0513). On July 22, 2014, the CFPB filed a complaint against The Mortgage Law Group, LLP (TMLG), the Consumer First Legal Group, LLC (CFLG), and attorneys Thomas Macey, Jeffrey Aleman, Jason Searns, and Harold Stafford. The CFPB brought suit alleging that the defendants violated Regulation O, formerly known as the Mortgage Assistance Relief Services Rule, by taking payments from consumers for mortgage modifications before the consumers signed a mortgage modification agreement from their lender, by failing to make required disclosures, by directing consumers not to contact lenders, and by making deceptive statements to consumers when providing mortgage assistance relief services. A trial was held in April 2017. On June 21, 2017, the district court entered a stipulated judgment against the bankruptcy estate of TMLG, which sought Chapter 7 bankruptcy. The court enjoined TMLG from operating and ordered TMLG to pay \$18,331,737 in redress and \$20,815,000 in civil money penalties. On May 29, 2018, the CFPB filed an unopposed motion to increase the redress amount ordered by the court to \$18,716,725.78, based on newly discovered information about additional advance fees paid by consumers. The amended stipulated judgment against TMLG increasing redress to \$18,716,725.78 was issued by the court on November 11, 2018. On November 15, 2018, the court issued an opinion and order ruling that defendants CFLG, Macey, Aleman, Searns, and Stafford violated Regulation O by taking upfront fees and by failing to make required disclosures, and that some of the defendants also violated Regulation O by directing consumers not to contact their lenders and by making deceptive statements. The court directed that the parties submit briefs addressing what damages, injunctive relief, and civil money penalties, if any, should be awarded. On November 4, 2019, the court issued an opinion and order against defendants CFLG, Macey, Aleman, Searns, and Stafford, imposing a total of \$21,709,022 in restitution (\$18.7 million of which TMLG is also jointly and severally liable for) and \$37,294,250 in civil money penalties. CFLG, Macey, Aleman, and Searns were permanently enjoined from marketing, selling, providing, or assisting others in selling or providing any mortgage-assistance-relief or debt-relief products or services. Stafford was enjoined from marketing, selling, providing, or assisting others in selling or providing mortgage-assistance-relief services for five years. CFLG, Macey, Aleman, Searns, and Stafford filed an appeal with the Seventh Circuit on December 4, 2019. On July 23, 2021, the Seventh Circuit affirmed the district court's rulings that defendants violated Regulation O, vacated the remedial order, and remanded to the district court for further

proceedings on remedies. On August 1, 2022, the district court awarded \$10,854,510.85 in restitution and \$18,410,500 in penalties against the defendants, and imposed an eight-year ban on all the defendants except Stafford, whose five-year ban remained in place, on mortgage-assistance relief services. On August 11, 2022, defendants filed a notice of appeal, and the CFPB filed a notice of cross-appeal on September 15, 2022. The case remains pending.

- *Consumer Financial Protection Bureau v. CashCall, Inc.; WS Funding, LLC; Delbert Services Corporation; and J. Paul Reddam* (D. Mass. No. 1:13-cv-13167), transferred to (C.D. Cal. No. 2:15-cv-07522). On December 16, 2013, the CFPB filed a complaint against online lender CashCall Inc.; its owner J. Paul Reddam; WS Funding, LLC, a subsidiary; and Delbert Services Corporation, an affiliate, for collecting money consumers did not owe. The CFPB's amended complaint, filed on March 21, 2014, alleges that the defendants violated the CFPA's prohibition against unfair, deceptive, and abusive acts and practices by collecting and attempting to collect consumer-installment loans that were void or uncollectible because they violated either state caps on interest rates or state licensing requirements for lenders. The complaint alleges that CashCall serviced loans it made in the name of an entity, Western Sky, which was located on the Cheyenne River Sioux Tribe's land. The loan agreements included a choice-of-law provision saying that the Tribe's law applied to the loans. On August 31, 2016, the court granted the CFPB's motion for partial summary judgment, concluding that the choice-of-law provision in the loan agreements was not enforceable and that the law of the borrowers' states applied, resulting in the loans being void or uncollectable. Because the loans were void, the court found that the defendants engaged in deceptive acts or practices by demanding and collecting payment on debts that consumers did not owe. On January 19, 2018, the court issued findings of fact and conclusions of law imposing a \$10.28 million civil money penalty but denying the CFPB's request for restitution and an injunction. The CFPB and the defendants appealed. On May 23, 2022, the Ninth Circuit affirmed the district court's finding of liability; vacated the district court's penalty, remanding for the district court to reassess the penalty taking into account defendants' reckless conduct; and vacated the district court's decision to award no restitution, remanding to the district court to determine whether and what restitution would be appropriate in consideration of the Ninth Circuit Court's opinion. The case remains pending.⁵⁸

⁵⁸ Additional activity has occurred with this matter since the end of this reporting period. More information can be found at: <https://www.consumerfinance.gov/enforcement/actions/cashcall-inc-ws-funding-and-delbert-services/>.

3.2 Actions taken regarding rules, orders, and supervisory and enforcement actions with respect to covered persons which are not credit unions or depository institutions

The CFPB's *Supervisory Highlights* publications provide information about the CFPB's supervisory activities at banks and nonbanks without identifying specific companies. The CFPB published two issues of *Supervisory Highlights* between April 1, 2022, and September 30, 2022.⁵⁹

All public enforcement actions are listed in Section 5.1 of this Report. Those actions taken with respect to covered persons, which are not credit unions or depository institutions, are noted within the summary of the action.

⁵⁹ Supervisory Highlights, Issue 26, Spring 2022, https://files.consumerfinance.gov/f/documents/cfpb_supervisory-highlights_issue-26_2022-04.pdf; Supervisory Highlights, Issue 27, Fall 2022, https://files.consumerfinance.gov/f/documents/cfpb_student-loan-servicing-supervisory-highlights-special-edition_report_2022-09.pdf.

4. State Consumer Financial Law

For purposes of the Section 1016(c)(7) reporting requirement, the CFPB has determined that any actions asserting claims pursuant to Section 1042 of the Dodd-Frank Act are “significant.”

4.1 Assessment of significant actions by attorneys general and state regulators relating to federal consumer financial law

The CFPB is aware of the following developments in pending state attorney general and regulatory actions asserting claims under the Dodd-Frank Act during the April 1, 2022 through September 30, 2022 reporting period.

- *Consumer Financial Protection Bureau and the People of the State of New York by Letitia James, Attorney General for the State of New York v. MoneyGram International, Inc. and MoneyGram Payment Systems, Inc.* (S.D.N.Y. 1:22-cv-03256). On April 21, 2022, the CFPB filed a lawsuit jointly with the Attorney General of New York against MoneyGram International, Inc. and MoneyGram Payment Systems, Inc. (collectively, MoneyGram), nonbank remittance transfer providers. The CFPB and New York filed an amended complaint on July 5, 2022. The CFPB alleges that MoneyGram violated the Remittance Transfer Rule and Regulation E, which implements the Electronic Fund Transfer Act (EFTA), by failing to disclose accurate fund availability dates, failing to investigate error notices promptly, failing to timely report the results of its error investigations to consumers, failing to provide a written explanation of its findings to consumers, failing to notify senders of their right to request documents related to their investigation, failing to provide fee refunds when required to remedy errors, failing to develop and maintain sufficient error resolution and document retention policies and procedures, and failing to retain documents showing its compliance with the Remittance Transfer Rule and EFTA. The CFPB and New York additionally allege that violations of the Remittance Transfer Rule constituted violations of the Consumer Financial Protection Act (CFPA). The CFPB and New York also alleges that MoneyGram engaged in unfair acts and practices in violation of the CFPA by failing

to timely make remittance transfer funds or refunds available. New York brings a state law claim as well. The CFPB and New York seek relief including redress to consumers, disgorgement, appropriate injunctive relief, and the imposition of civil money penalties. On August 4, 2022, MoneyGram filed a motion to dismiss and to transfer venue, which remains undecided. The case remains pending.

- *Consumer Financial Protection Bureau; Commonwealth of Massachusetts; The People of the State of New York, by Letitia James, Attorney General of the State of New York; and Commonwealth of Virginia, ex rel. Mark R. Herring, Attorney General v. Nexus Services, Inc.; Libre by Nexus, Inc.; Michael Donovan; Richard Moore; and Evan Ajin* (W.D. Va. 5:21-cv-00016). On February 22, 2021, the CFPB filed a lawsuit against Nexus Services, Inc. (Nexus Services), Libre by Nexus, Inc. (Libre), and their principals, Michael Donovan, Richard Moore, and Evan Ajin. Libre is a wholly owned subsidiary of Nexus Services, and both are non-banks with their principal places of business in Virginia. The CFPB alleges that Libre and its owners operated a scheme through which Libre offers to pay immigration bonds to secure the release of consumers held in federal detention centers in exchange for large upfront fees and hefty monthly payments, and that Libre creates the impression that it has paid cash for consumers' bond, creating a debt that must be repaid to Libre through an upfront fee and subsequent monthly payments. The CFPB further alleges that Libre's efforts to collect monthly payments include making false threats and threatening to re-detain or deport consumers for non-payment and that Libre and its owners conceal or misrepresent the true costs of its services. Specifically, the CFPB alleges that Libre and its owners engaged in deceptive and abusive acts or practices in violation of the CFPA, and that Nexus Services and Libre's owners provided substantial assistance to Libre's violations. The CFPB filed its complaint jointly with the Attorneys General of Virginia, Massachusetts, and New York. The CFPB seeks an injunction, damages or restitution to consumers, disgorgement of ill-gotten gains, and the imposition of civil money penalties. On March 1, 2021, the defendants filed a motion to dismiss the complaint, which the court denied on March 22, 2022. The case remains pending.
- *In the Matter of Solo Funds, Inc.* (NMLS # 1909701). On May 4, 2022, the Connecticut Banking Commissioner issued a Temporary Order to Cease and Desist against SoLo Funds, Inc., a small-dollar platform lender, for allegedly offering, brokering, and collecting on loans without holding required state licenses. The Commissioner also alleged that SoLo provided false and misleading information concerning the costs and terms of the loans in violation of state law and CFPA's prohibition against deceptive practices. 12 U.S.C. § 5536(a)(1)(B). The administrative action remains pending.

- *Commonwealth of Pennsylvania, by Attorney General Josh Shapiro; District of Columbia, through the Office of the Attorney General; Matthew J. Platkin, Acting Attorney General of the State of New Jersey; State of Oregon, ex rel. Ellen F. Rosenblum, in her official capacity as Attorney General; State of Utah, by Attorney General Sean D. Reyes; and State of Washington v. Mariner Finance, LLC* (E.D. Pa. No. 2:22-cv-3253). On August 16, 2022, the attorneys general of Pennsylvania, the District of Columbia, New Jersey, Oregon, Utah, and Washington filed a lawsuit against Mariner Finance, LLC, a subprime installment lender. The attorneys general alleged that: (1) Mariner engages in unfair and deceptive acts and practices in violation of the CFPA by charging consumers for add-on products without obtaining their consent and by loan flipping; (2) the design and implementation of Mariner’s loan closing process is abusive in violation of the CFPA; (3) Mariner engages in abusive acts and practices that take unreasonable advantage of a lack of consumers’ understanding of the material risks, costs, or conditions of add-on products and by loan flipping in violation of the CFPA; (4) the disclosures Mariner provides to its customers fail to disclose accurate finance charges and annual percentage rates in violation of Regulation Z and the CFPA; and (5) Mariner fails to disclose to consumers the commission payments it retains and deducts from insurance premium payments paid to credit insurers in violation of ILA and the CFPA. The attorneys general of Pennsylvania, Washington, and New Jersey have also alleged that Mariner has violated their respective state consumer protection statutes. The case remains pending.
- *Bureau of Consumer Financial Protection and the People of the State of New York, by Letitia James, Attorney General for the State of New York v. JPL Recovery Solutions, LLC; Check Security Associates, LLC (dba Warner Location Services, Pinnacle Location Services, and Orchard Payment Processing Systems); ROC Asset Solutions LLC (dba API Recovery Solutions and Northern Information Services); Regency One Capital LLC; Keystone Recovery Group, LLC; Bluestreet Asset Partners, Inc.; Christopher L. Di Re; Scott A. Croce; Brian J. Koziel; Marc D. Gracie; and Susan A. Croce* (W.D.N.Y. 1:20-cv-01217). On September 8, 2020, the CFPB, in partnership with the New York Attorney General, filed suit against a network of five different companies based outside of Buffalo, New York, two of their owners, and two of their managers, for their participation in a debt-collection operation using illegal methods to collect debts. As set forth in the amended complaint filed on December 20, 2021, the company defendants are: JPL Recovery Solutions, LLC; Regency One Capital LLC; ROC Asset Solutions LLC, which does business as API Recovery Solutions; Check Security Associates LLC, which does business as Warner Location Services and Orchard Payment Processing Systems; Keystone Recovery Group; and Blue Street Asset Partners, Inc. The individual defendants are Christopher Di Re, Scott Croce, and Susan Croce, who have held ownership interests

in some or all of the defendant companies, and Brian Koziel and Marc Gracie, who are members of Keystone Recovery Group, and have acted as managers of some or all of the defendant companies. Susan Croce is also a relief defendant. The complaint alleged that from at least 2015 through the present, the defendants have participated in a debt-collection operation that has used deceptive, harassing, and improper methods to induce consumers to make payments to them in violation of the FDCPA and the CFPB. On May 25, 2022, the court entered a stipulated judgment which requires the defendants to pay \$4 million in civil money penalties split between the CFPB and New York, which would increase to \$5 million upon a failure to make timely payment. The judgment also permanently bans them from being debt collectors and prohibits them from engaging in deceptive practices in connection with consumer financial products or services.

- *Bureau of Consumer Financial Protection and the Commonwealth of Massachusetts ex rel. Maura Healey, Attorney General v. Commonwealth Equity Group, LLC (d/b/a Key Credit Repair); Nikitas Tsoukales (a/k/a Nikitas Tsoukalis)* (D. Mass. 1:20-cv-10991). On May 22, 2020, the CFPB and Commonwealth of Massachusetts Attorney General Maura Healey jointly filed a lawsuit against Commonwealth Equity Group, LLC, which does business as Key Credit Repair, and Nikitas Tsoukales (also known as Nikitas Tsoukalis), Key Credit Repair's president and owner. An amended complaint was filed on September 16, 2020. As the amended complaint alleges, from 2016 through 2019 alone, Key Credit Repair enrolled nearly 40,000 consumers nationwide, and since 2011, it collected at least \$23 million in fees from consumers. The CFPB alleges that in their telemarketing of credit-repair services, the defendants violated the CFPB's prohibition against deceptive acts or practices and the TSR's prohibitions against deceptive and abusive telemarketing acts or practices. Massachusetts also alleges violations of Massachusetts laws. The amended complaint seeks redress to consumers, an injunction, and the imposition of civil money penalties. The defendants filed a motion to dismiss the amended complaint on September 30, 2020, which the court denied on August 10, 2021. On September 9, 2021, the defendants moved for reconsideration of the order denying the motion to dismiss, which the court denied on October 13, 2021. The case remains pending.

5. Fair Lending

5.1 An analysis of efforts to fulfill the Fair Lending mission of the CFPB

Fair lending supervision

The CFPB assesses compliance with federal fair lending consumer financial laws at banks and nonbanks over which the CFPB has supervisory authority. To fulfill its fair lending mission during this reporting period, the CFPB initiated 16 supervisory activities onsite at financial services institutions under the CFPB’s jurisdiction to determine compliance with federal laws, including the Equal Credit Opportunity Act (ECOA) and the Home Mortgage Disclosure Act (HMDA).

For supervisory communications issued by the Office of Supervision during the reporting period, the most frequently identified issues related to the CFPB’s review of redlining in mortgage origination based on race and national origin.

During this reporting period, the CFPB examiners issued fewer matters requiring attention (MRAs) or memoranda of understanding (MOUs) than in the prior period. MRAs and MOUs direct entities to take corrective actions and are monitored by the CFPB through follow-up supervisory events. Among other things, examiners encouraged mortgage lenders to enhance oversight of fair lending risks with respect to granting of competitive pricing exceptions in mortgage lending.

Fair lending enforcement

The CFPB engages in research, conducts investigations, and—where appropriate—takes public enforcement actions for violations of fair lending laws under the CFPB’s jurisdiction. Like other federal agencies responsible for enforcing ECOA, the CFPB is required to refer matters to the Department of Justice when it has reason to believe that a creditor has engaged in a pattern or practice of lending discrimination.⁶⁰ During this reporting period, the CFPB referred four matters regarding a pattern or practice of lending discrimination to the Department of Justice pursuant to Section 706(g) of ECOA.

⁶⁰ See 15 U.S.C. § 1691e(g).

The CFPB announced one fair lending-related enforcement action during the reporting period. On July 27, 2022, the CFPB announced, together with the Department of Justice, the Attorneys General of Pennsylvania, New Jersey, and Delaware, an action against Trident Mortgage Company, LP, a nonbank mortgage lender, engaged in illegal redlining and discouragement in the Philadelphia area. For more information, please see Section 3.1.1 of this report.

Fair lending rulemaking

During the reporting period, the CFPB did not issue any rules related to fair lending.

Fair lending guidance

On May 9, 2022, the CFPB issued an advisory opinion affirming that ECOA, which bars creditors from discriminating on a prohibited basis against applicants in any aspect of a credit transaction, protects applicants who have received credit, not just those who are in the process of applying for credit.⁶¹ The advisory opinion is consistent with a legal brief filed in 2021 by the CFPB, the Federal Trade Commission (FTC), the Federal Reserve Board (FRB), and the Department of Justice.⁶²

On May 26, 2022, the CFPB released a *Consumer Financial Protection Circular* affirming that federal anti-discrimination law requires companies to explain to applicants the specific reasons for denying an application for credit or taking other adverse action, and that this remains true even if the creditor is relying on credit models using complex algorithms.⁶³ The *Circular* affirms that federal consumer financial protection laws and adverse action requirements should be enforced regardless of the technology used by creditors, and that creditors cannot justify noncompliance with ECOA based on the mere fact that the technology they use to evaluate credit applications is too complicated, too opaque in its decision-making, or too new. For more information, please see Section 1.2.2 of this report.

⁶¹ “Equal Credit Opportunity (Regulation B); Revocations or Unfavorable Changes to the Terms of Existing Credit Arrangements,” Consumer Financial Protection Bureau, May 5, 2022, https://files.consumerfinance.gov/f/documents/cfpb_revoking-terms-of-existing-credit-arrangement_advisory-opinion_2022-05.pdf.

⁶² *Fralish v. Bank of America, N.A.*, Brief amicus curiae of Consumer Financial Protection Bureau, Dept. of Justice, Bd. Of Governors of the Federal Reserve System, and Federal Trade Commission, Dec 16, 2021, https://files.consumerfinance.gov/f/documents/cfpb_fralish-v-bank-of-america_amicus-brief_2021-12.pdf.

⁶³ “Consumer Financial Protection Circular 2022-03, Adverse action notification requirements in connection with credit decisions based on complex algorithms,” Consumer Financial Protection Bureau, May 26, 2022, <https://www.consumerfinance.gov/compliance/circulars/circular-2022-03-adverse-action-notification-requirements-in-connection-with-credit-decisions-based-on-complex-algorithms/>.

On August 10, 2022, the CFPB issued an interpretive rule setting forth when digital marketing providers for financial firms must comply with federal consumer financial protection law.⁶⁴ Digital marketers that are involved in the identification or selection of prospective customers or the selection or placement of content to affect consumer behavior are typically service providers for purposes of the law. Under the Dodd-Frank Act, digital marketers acting as service providers can be held liable by the CFPB or other law enforcers⁶⁵ for committing unfair, deceptive, or abusive acts or practices as well as other consumer financial protection violations. The interpretive rule explains that digital marketers provide material services to financial firms and that the CFPB and other consumer protection enforcers can sue digital marketers to stop violations of federal consumer financial protection law.

Interagency fair lending coordination

During the reporting period, the CFPB coordinated its fair lending regulatory, supervisory, and enforcement activities with other federal agencies and state regulators and enforcement agencies to promote consistent, efficient, and effective enforcement of federal fair lending laws.

The CFPB, along with the FTC, U.S. Department of Housing and Urban Development (HUD), Federal Deposit Insurance Corporation (FDIC), FRB, National Credit Union Administration (NCUA), Office of the Comptroller of the Currency (OCC), the Department of Justice, and Federal Housing Finance Agency (FHFA), constitute the Interagency Task Force on Fair Lending. This Task Force meets regularly to discuss fair lending enforcement efforts, share current methods of conducting supervisory and enforcement fair lending activities, and coordinate fair lending policies.

The CFPB also participates in the Interagency Working Group on Fair Lending Enforcement, a standing working group of federal agencies—with the Department of Justice, HUD, and FTC—that meets regularly to discuss issues relating to fair lending enforcement. The agencies use these meetings to also discuss fair lending developments and trends, methodologies for evaluating fair lending risks and violations, and coordination of fair lending enforcement efforts.

The Federal Financial Institutions Examination Council’s (FFIEC) Appraisal Subcommittee (ASC), comprising designees from the CFPB and certain other federal agencies, provides federal

⁶⁴ “Interpretive rule on the Limited Applicability of Consumer Financial Protection Act’s “Time or Space” Exception with Respect to Digital Marketing Providers.” Consumer Financial Protection Bureau, Aug. 10, 2022, https://files.consumerfinance.gov/f/documents/cfpb_time-or-space_interpretive-rule_signed_2022-08.pdf.

⁶⁵ Section 1042 of the CFPA generally authorizes states to enforce the CFPA’s provisions including section 1036(a)(1)(A), which makes it unlawful for covered persons or service providers to violate federal consumer financial laws. See “Authority of States to Enforce the Consumer Financial Protection Act of 2010,” Consumer Financial Protection Bureau, May 19, 2022, https://files.consumerfinance.gov/f/documents/cfpb_section-1042_interpretive-rule_2022-05.pdf.

oversight of state appraiser and appraisal management company regulatory programs, and a monitoring framework for the Appraisal Foundation. On April 1, 2022, CFPB Deputy Director Zixta Martinez became the chair of the ASC. Through the ASC, the CFPB addresses topics including discriminatory bias in home appraisals.

The CFPB also engages with other agencies on issues of bias in home appraisals through the Property Appraisal and Valuation Equity (PAVE) Task Force.

Fair lending outreach and education

The CFPB regularly engages in outreach with stakeholders, including consumer advocates, civil rights organizations, industry, academia, and other government regulators and agencies to educate or communicate about fair lending issues.

The CFPB achieves its educational objectives through publication of proposed rules, advisory opinions, and interpretive rules; issuance of compliance bulletins and CFPB circulars; policy statements; requests for information; press releases, blog posts, podcasts, videos, brochures, and website updates; and reports regarding fair lending issues. Additionally, CFPB staff deliver speeches, panel remarks, webinars, and presentations addressing fair lending issues; and participate in smaller meetings and discussions with external stakeholders, including federal and state regulators and agencies, industry, and consumer and civil rights organizations.

During the reporting period, the CFPB also issued a range of content available to the public and to market participants related to fair lending.⁶⁶

⁶⁶ The fair lending and access to credit related blogs, press releases, speeches, and reports are available at: <https://www.consumerfinance.gov/about-us/newsroom/> and <https://www.consumerfinance.gov/about-us/blog/>.

6. Workforce and Contracting Diversity

The Office of Minority and Women Inclusion (OMWI) is charged with overseeing all matters at the CFPB relating to diversity in management, employment, and business activities.

6.1 An analysis of CFPB efforts to increase workforce and contracting diversity consistent with procedures established by OMWI

During the reporting period, the CFPB continued its work to advance diversity and inclusion under the mandates of Section 342 of the Dodd-Frank Act. The CFPB's efforts in promoting diversity, equity, inclusion, and accessibility in its workforce is guided by the CFPB's Diversity, Equity, Inclusion, and Accessibility Strategic Plan (DEIA Strategic Plan), FY 2022–2026.⁶⁷ The DEIA Strategic Plan aligns with the CFPB's overall FY 2022–2026⁶⁸ Strategic Plan.

6.2 Office of Minority and Women Inclusion

6.2.1 Significant Initiatives

Current period:

During this period the Disability and Accessibility Program Section (DAPS) completed its transition into OMWI. While maintaining a firewall between the OMWI Director and the confidential work of the DAPS, the DAPS under OMWI continued to provide Accessibility program oversight to the CFPB, and partnered with the other OMWI business units, the Office

⁶⁷ “CFPB Diversity, Equity, Inclusion, and Accessibility Strategic Plan FY 2022 – FY 2026,” Consumer Financial Protection Bureau, June 2, 2022, <https://www.consumerfinance.gov/data-research/research-reports/cfpb-diversity-equity-inclusion-and-accessibility-strategic-plan/>.

⁶⁸ Strategic Plan FY 2022 – FY 2026, Consumer Financial Protection Bureau, <https://www.consumerfinance.gov/about-us/budget-strategy/strategic-plan/>.

of Civil Rights (OCR), and the CFPB's Office of Human Capital (OHC) on actions outlined in the CFPB's Affirmative Action Plan (AAP) for Persons with Disabilities⁶⁹.

In April 2022, the CFPB launched a professional development pilot program in its Supervision, Enforcement, and Fair Lending (SEFL) division designed to assist employees in administrative positions with skills development and career planning to support advancement beyond their current administrative positions. The learnings from the pilot will be used to establish a cross-agency program targeted for FY 2023.

In May 2022, OHC, in collaboration with OMWI and the Diversity and Inclusion Council of Employees (DICE) established a Recruitment Ambassadors Program that relies on centrally trained CFPB staff to conduct outreach and recruitment activity. This program leverages the knowledge and experience of our staff to enhance and personalize CFPB recruitment efforts while ensuring a more consistent enterprise perspective and voice for all recruitment activities for the CFPB.

In July 2022 the CFPB's DAPS Section Chief partnered with the CFPB's Offices of Administrative Operations, Facilities, and Technology and Innovation (T&I) to ensure that CFPB facilities and technology are accessible to users in the provision of CFPB services and the procurement of supplies and services. As a result, all CFPB documents and systems now go through a clearance process to ensure 508 compliance.

In August 2022, each of the CFPB's six business divisions began developing separate diversity and inclusion plans, including action items and metrics, to integrate DEIA goals and objectives into mission operations. Division leadership also appointed a diversity and inclusion administrator to lead the implementation of the diversity and inclusion strategic plan, and to work closely with their leadership and OMWI throughout the year. The divisional plans were implemented October 1, 2022.

The mandatory diversity and inclusion training launched in FY 2021 continued throughout FY 2022, with each Division receiving a set of trainings focused on skills building and practical applications to implement new skills in the workplace. The CFPB plans to conclude the mandatory training in early FY 2023 and to follow up with a refresher course for all employees and supervisors in early FY 2024. The training is aligned with the mandates of the Dodd-Frank Act, Section 342 and facilitates the CFPB's annual performance standards that require CFPB

⁶⁹ Affirmative Action Plan for Recruitment, Hiring, Advancement, and Retention of Persons with Disabilities, Consumer Financial Protection Bureau, https://files.consumerfinance.gov/f/documents/cfpb_disability-affirmative-action-plan_2021_2022-04.pdf.

employees to have competencies that cultivate a diverse and inclusive workplace.

Upcoming Period:

OMWI is working with T&I to develop a mechanism to track all the DEIA goals and divisional DEIA strategic action items in one system. A project manager has been assigned and has begun working on the system.

6.2.2 An analysis of CFPB efforts to increase workforce diversity consistent with procedures established by OMWI

As of September 2022, an analysis of the CFPB's current workforce reveals the following key points:

- Fifty-three percent of CFPB executives are women, representing an increase of 6 percent, and 46 percent of executives self-identified as minority.⁷⁰
- Minority employees (Hispanic, Black, Asian, Native Hawaiian/Other Pacific Islander, American Indian/Alaska Native, and employees of two or more races) represent 43 percent of the CFPB workforce in 2022.
- 15.3 percent of CFPB employees on permanent appointments identified as individuals with a disability. Of the permanent workforce, 2.9 percent of employees identified as individuals with a targeted disability. As a result, the CFPB continues to exceed the 12 percent workforce goals for employees with disabilities and two percent workforce goals for employees with targeted disabilities in both salary categories as required in the U.S. Equal Employment Opportunity Commission's (EEOC) Section 501 regulation 4.

The CFPB engages in the following activities to increase workforce diversity:

- Staffing:
 - The CFPB had 93 new hires which included 42 (45 percent) women and 30 (32 percent) minorities.⁷¹

⁷⁰ September 30, 2022.

⁷¹ New hires data are collective over the period from April 1 - September 30, 2022.

6.2.3 Increasing contracting diversity

In addition to the mandates in Section 342(b)(2)(B) of the Dodd-Frank Act, Goal 4 of the CFPB's DEIA Strategic Plan describes the efforts the CFPB takes to increase contracting opportunities for diverse businesses including Minority- and Women-owned Businesses (MWOBs). The CFPB's OMWI and Procurement offices collectively work to increase procurement opportunities for participation by MWOBs.

6.2.4 Outreach to Contractors

The CFPB promotes opportunities for the participation of small and large MWOBs by:

- Actively engaging CFPB business units with MWOB contractors throughout the acquisition cycle. OMWI provided MWOB briefings to the CFPB divisions highlighting the business case for supplier diversity, and sharing office-specific MWOB statistics and inclusion best practices. As a result of a need identified by a program office, OMWI developed its first Micro-Purchase/Purchase Card training in MWOBs utilization.
- OMWI added more than 400 new vendors to its repository and actively engaged with vendors with new and updated content added to the How to Do Business with Us and MWOB landing pages.

As a result of these efforts, 36.6 percent of \$77 million in contracts that the CFPB awarded or obligated during the reporting period went to MWOBs. The following table represents the total amount of dollars spent and disbursed to MWOBs as a result of contract billing.

TABLE 1: DOLLARS SPENT TOWARD MINORITY-OWNED AND WOMEN-OWNED BUSINESSES

Dollars Spent	Percent of Total	MWOB Category
\$14,696,138	18.3%	Women Owned
\$6,782,225	8.5%	Black/African American
\$2,286,138	2.9%	American Indian/Alaskan Native
\$15,760,015	19.7%	Asian/Pacific Islander American
\$765,783	1.0%	Hispanic American

6.2.5 Diversity within the CFPB Contractors' Workforces

The CFPB requires its contractors and subcontractors to report their diversity and inclusion data through the Good Faith Effort (GFE) contract requirement. During the reporting period, the CFPB collected GFE compliance data from contractors, providing an opportunity for contractors to demonstrate their efforts to address the six evaluation criteria: (1) Diversity Strategy; (2) Diversity Policies; (3) Recruitment; (4) Succession Planning; (5) Outreach; and (6) Supplier – Subcontractor Diversity. OMWI continues to maximize technical assistance to CFPB contractors throughout this process. During the reporting period, OMWI received approval from the Office of Management and Budget (OMB) to broaden the data collection associated with the GFE, which will allow for greater customization for Small Businesses.

6.2.6 Assessing diversity of regulated entities

As required by Section 342 (b) (2) (c) of the Dodd-Frank Act and Goal 5 of the CFPB's DEIA Strategic Plan, the CFPB continues to collect voluntarily submitted diversity and inclusion assessments from regulated entities. During the reporting period, the CFPB received numerous inquiries in response to the *Diversity and Inclusion within Financial Services* report published in January 2022. These inquiries created opportunities for OMWI to provide technical assistance to regulated entities on their diversity and inclusion efforts.

OMWI continues to welcome institutions to meet to discuss their diversity and inclusion initiatives including opportunities and challenges. The CFPB will continue to follow industry developments related to these initiatives and commitments. The CFPB will also continue its outreach to increase awareness and to encourage voluntary submission of the Diversity and Inclusion self-assessment.

7. Budget

7.1 Justification of the budget request for the previous year

The CFPB’s Annual Performance Plan and Report and Budget Overview includes estimates of the resources needed for the CFPB to carry out its mission.⁷² The document also describes the CFPB’s performance goals and accomplishments, supporting the CFPB’s long-term strategic plan.

7.1.1 Fiscal Year (FY) 2022 spending through the end of the fourth quarter of the FY

As of September 30, 2022, the end of the fourth quarter of FY 2022, the CFPB had spent approximately \$622.2 million⁷³ in FY 2022 funds to carry out the authorities of the CFPB under federal consumer financial law. There were 1,632 CFPB employees on board at the end of the fiscal year.⁷⁴

FY 2022 spending by expense category:

Expense Category	Fiscal Year 2022
Personnel Compensation	\$266,327,000
Personnel Benefits	\$111,614,000
Benefits for Former Personnel	\$31,000
Travel	\$935,000
Transportation of Things	\$80,000
Rents, Communications, Utilities & Misc.	\$10,496,000
Printing and Reproduction	\$3,839,000
Other Contractual Services	\$195,235,000
Supplies & Materials	\$5,542,000

⁷² Budget and performance, FY 2012 – 2023, Consumer Financial Protection Bureau, <https://www.consumerfinance.gov/about-us/budget-strategy/budget-and-performance/>.

⁷³ This amount includes new obligations and upward adjustments to previous year obligations. An obligation is a transaction or agreement that creates a legal liability and obligates the government to pay for goods and services ordered or received.

⁷⁴ This figure reflects the employees on board during the final complete pay-period of the quarter (PP19, ending September 24, 2022).

Expense Category	Fiscal Year 2022
Equipment	\$26,501,000
Land & Structures	\$1,578,000
Total (as of September 30, 2022)	\$622,178,000

7.1.2 FY 2022 fund transfers received from the Federal Reserve System

The CFPB is funded principally by transfers from the Federal Reserve System, up to the limits set forth in the Dodd-Frank Wall Street Reform and Consumer Protection Act.⁷⁵ As of September 30, 2022, the CFPB had received the following transfers for FY 2022. The amounts and dates of the transfers are shown below.⁷⁶

Date	Funds Transferred
October 1, 2021	\$235.0M
January 4, 2022	\$276.0M
April 7, 2022	\$67.4M
July 1, 2022	\$63.1M
Total	\$641.5M

Additional information about the CFPB's finances, including information about the CFPB's Civil Penalty Fund and CFPB-Administered Redress programs, is available in the annual financial reports and the Chief Financial Officer (CFO) quarterly updates published online at www.consumerfinance.gov/about-us/budget-strategy/financial-reports/.

⁷⁵ CFPB's operations are funded principally by transfers made by the FRB from the combined earnings of the Federal Reserve System, up to the limits set forth in the Dodd-Frank Act. The CFPB Director requests transfers from the Board in amounts that they have determined are reasonably necessary to carry out the CFPB's mission within the limits set forth in the Dodd-Frank Act. Transfers from the Board were capped at \$717.5 million in FY 2021 and are capped at \$734.0 million in FY 2022 and \$750.9 million in FY 2023. Funds transferred from the Board are deposited into the Consumer Financial Protection Bureau Fund (Bureau Fund) at the Federal Reserve Bank of New York.

⁷⁶ Current year spending in excess of funds received is funded from the prior year's unobligated balance.

Copies of the CFPB's quarterly funds transfer requests are available online at www.consumerfinance.gov/about-us/budget-strategy/funds-transfer-requests/.

8. Appendix

Annual report on the Truth in Lending Act, the Electronic Fund Transfer Act, and the Credit Card Accountability Responsibility and Disclosure Act

The Truth in Lending Act (TILA)⁷⁷ and the Electronic Fund Transfer Act (EFTA)⁷⁸ require the CFPB to make an annual report to Congress that includes a description of the administration of functions under TILA and EFTA, and an assessment of the extent to which compliance with TILA and EFTA has been achieved. In addition, the Credit Card Accountability Responsibility and Disclosure Act (CARD Act)⁷⁹ requires reporting on supervisory and enforcement activities with respect to compliance by credit card issuers with applicable federal consumer protection statutes and regulations.⁸⁰

This report provides the information required by TILA, EFTA, and the CARD Act for calendar year 2021.⁸¹ This report describes the CFPB's and other agencies' enforcement efforts and required reimbursements to consumers by supervised institutions as they relate to TILA, EFTA, the CARD Act, and their respective implementing regulations, Regulation Z (for TILA and the CARD Act),⁸² and Regulation E (for EFTA). It also provides an assessment of the extent of compliance with the provisions of TILA, EFTA, and their implementing regulations.

⁷⁷ 15 U.S.C. § 1613.

⁷⁸ 15 U.S.C. § 1693p.

⁷⁹ 15 U.S.C. § 1616(e).

⁸⁰ In 2012, the FRB and the CFPB agreed that responsibility for the reporting period required by the CARD Act passed to the CFPB under the terms of the Consumer Financial Protection Act of 2010.

⁸¹ In order to facilitate reporting on an interagency basis, this TILA, EFTA, and CARD Act Report is based on the full calendar year of 2021 (January 1-December 31). The TILA, EFTA, and CARD Act Report containing 2020 calendar year information can be found in the CFPB's 2021 Fall Semi-Annual Report to Congress, https://files.consumerfinance.gov/f/documents/cfpb_semi-annual-report-to-congress_2022-04.pdf.

⁸² The Federal Trade Commission's (FTC) enforcement action summaries in this report also include references to violations of the Consumer Leasing Act (CLA) and Regulation M. The CLA is an amendment to TILA. See 15 U.S.C. § 1667-1667f.

Public enforcement actions and reimbursements – TILA, EFTA, CARD Act

TILA: Public enforcement actions and reimbursements

The purposes of TILA include: (1) to assure meaningful disclosure of credit terms so that the consumer will be able to compare more readily the various credit terms available and avoid the uninformed use of credit, and (2) to protect the consumer against inaccurate and unfair credit billing and credit card practices. 15 U.S.C. § 1601(a).

The enforcement efforts made, and reimbursements required, by all the agencies assigned enforcement authority under TILA are discussed in this section.

The agencies charged with enforcement of TILA under 15 U.S.C. § 1607 include:

- the Consumer Financial Protection Bureau (CFPB)
- the Federal Deposit Insurance Corporation (FDIC),
- the Board of Governors of the Federal Reserve System (FRB),
- the National Credit Union Administration (NCUA),
- the Office of the Comptroller of the Currency (OCC),
- the Federal Trade Commission (FTC),
- the Department of Transportation (DOT),
- the Farm Credit Administration (FCA), and
- the Agricultural Marketing Service (AMS) of the U.S. Department of Agriculture (USDA).⁸³

⁸³ The Grain Inspection, Packers, and Stockyards Administration (GIPSA) was eliminated as a standalone agency within the U.S. Department of Agriculture (USDA) in 2017. The functions previously performed by GIPSA have been incorporated into the Agricultural Marketing Service (AMS), and TILA and EFTA reporting now comes from the Packers and Stockyards Division, Fair Trade Practices Program, AMS.

During the reporting period of January 1, 2021, through December 31, 2021, the following agencies reported public enforcement actions under TILA, including:

TABLE 1: 2021 PUBLIC ENFORCEMENT ACTIONS RELATED TO TILA

Agency	Summary
CFPB	<p>Filed a lawsuit against a lender and its principals for, among other violations, allegedly engaging in various unlawful mortgage lending practices, in violation of TILA and Regulation Z.</p> <p>Issued an administrative order against a group of companies that provide students with income-share agreements to finance postsecondary education for, among other violations, failing to give certain required disclosures and imposing prepayment penalties on private education loans, in violation of TILA and Regulation Z.</p> <p>Issued an administrative order against a reverse mortgage broker and lender for, among other violations, sending direct mail solicitations and other marketing communications to hundreds of thousands of older borrowers that violated TILA and Regulation Z.</p>
FDIC	<p>Issued a consent order against a bank for violations of TILA and Regulation Z.</p>
OCC	<p>Entered into a formal agreement with a bank related to TILA violations, amongst other violations of law and unsafe and unsound practices.</p>
FTC	<p>Obtained a settlement with the owner and manager of four auto dealers for, among other violations, allegedly failing to disclose required terms in advertisements, including in online and social media, in violation of TILA and Regulation Z and Consumer Leasing Act (CLA) and Regulation M.</p> <p>Issued an administrative opinion and order ruling against a marketer and its owner for, among other violations, failing to clearly disclose required credit information in their advertising, in violation of TILA and Regulation Z, including by quoting monthly payment amounts to purchase vehicles on credit that did not provide or hid in small print, key financing terms.</p> <p>Settled charges with the owners and operators of a payday lending enterprise for, among other violations, failing to make required loan disclosures in violation of TILA</p>

and Regulation Z. The court also issued a default judgment against one defendant on all FTC claims, including that it violated TILA and Regulation Z by failing to make accurate loan disclosures. This action also appears at Table 2: Public Enforcement Actions Related to EFTA.

Obtained a settlement against the operators of a student loan debt relief scheme for, among other violations, signing consumers up for high-interest loans to pay the fees without making required loan disclosures in violation of TILA.

DOT	<p>Obtained an order and settlement agreement against an airline that violated Regulation Z by failing to provide prompt refunds to passengers for flights to and from the United States that were cancelled or significantly changed by the airline.</p> <p>Issued an order dismissing a formal complaint against an airline for allegedly failing to provide prompt refunds to passengers for flights to and from the United States that were cancelled or significantly changed by the airline, in violation of Regulation Z. DOT's Office of Aviation Consumer Protection (OACP) refrained from taking further action in light of the fact that the airline promptly changed its policy and took other corrective action in response to DOT's investigation.</p>
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No other agencies with TILA enforcement authority reported taking any public enforcement actions relating to TILA during the January 1, 2021, through December 31, 2021 time period. For TILA and Regulation Z violations found during this time period, the CFPB, FDIC, FRB, and NCUA required 30 institutions or affiliates to reimburse an estimated 49,980⁸⁴ consumers approximately \$802,071. This amount includes reimbursements required by the enforcement actions noted in Table 1, as well as non-public supervisory or enforcement actions, and includes violations of other federal consumer financial laws.

EFTA: Public enforcement actions and reimbursements

EFTA and Regulation E provide a framework establishing the rights, liabilities, and responsibilities of participants in electronic fund and remittance transfer systems. The primary objective of EFTA is the provision of individual consumer rights. 15 U.S.C. § 1693(b).

⁸⁴ Several of the CFPB's orders require the respondents to develop compliance plans that include identifying and, in some cases, remediating affected consumers. Accordingly, this figure may not reflect the total number of consumers remediated through those actions. In addition, the CFPB obtained civil money penalties in several matters to deter future violations. Funds in the CFPB's CMP Fund are available to provide redress to consumers whose injuries are not able to be remediated in other actions.

The enforcement efforts made, and reimbursements required, by all the agencies assigned enforcement authority under EFTA are discussed in this section. As required by EFTA, the CFPB monitors what effects the act has on compliance costs for financial institutions, as well as the benefits of the act to consumers.

Consumers use electronic payments more than any other type of payment. Consumer reliance upon electronic payments relative to that of non-electronic payments has increased over the last decade.

Overall adoption of electronic payment methods remained mostly stable in 2021. According to the 2021 Survey of Consumer Payment Choice, for the average consumer, 59.8 percent of payments use a debit, credit, or prepaid card; 24.1 percent use cash, paper checks, or some other paper payment instrument; and 16.2 percent use some other form.⁸⁵ The number of debit card payments made by consumers exceeded the number of cash payments made by consumers, 10.5 payments in October of 2021 versus 7.0. Debit and credit card payments have generally increased to replace the declining check and cash share.⁸⁶

Other evidence shows that consumers altered the way that they used electronic payment methods in 2021. According to the 2021 Diary of Consumer Payment Choice, there was a statistically significant decrease in the number of check payments made by consumers between October 2020 and October 2021. All other payment instruments that appeared were not statistically significant during the same period.⁸⁷ A study of debit card issuers showed a 6 percent increase in consumer debit transactions year-over-year (YOY) in 2021 and a 7 percent increase in dollar volume for consumers YOY over the same time frame.

Although consumers tend to conduct fewer Automated Clearing House (ACH) transactions relative to card transactions, the consumer dollar volume over ACH is higher. ACH volume totaled approximately 29.11 billion transactions and \$72.6 trillion in 2021.⁸⁸ These totals increased approximately 8.7 percent and 17.4 percent, respectively, from 2020.⁸⁹ The CFPB

⁸⁵ “The 2021 Survey of Consumer Payment Choice: Summary Results: 2020 SCPC Tables,” Federal Reserve Banks of Atlanta and San Francisco, https://www.atlantafed.org/-/media/documents/banking/consumer-payments/survey-diary-consumer-payment-choice/2021/tables_dcpc2021.pdf, pp. T-7.

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ Nacha, [https://www.nacha.org/content/ach-network-volume-and-value-statistics#:~:text=Overall%20ACH%20Network%20Volume,-Growing%20fast.&text=2022%20was%20the%2010th%20consecutive,over%20Dyear%20\(YoY\)](https://www.nacha.org/content/ach-network-volume-and-value-statistics#:~:text=Overall%20ACH%20Network%20Volume,-Growing%20fast.&text=2022%20was%20the%2010th%20consecutive,over%20Dyear%20(YoY)).

⁸⁹ *Id.*

estimates consumer account debits represent slightly more than half of all ACH transaction volume and over 30 percent of ACH dollar volume.⁹⁰

Consumer adoption of digital payment forms appears to have accelerated in 2021. According to the 2021 Survey of Consumer Payment Choice, 68.4 percent of consumers made use of a mobile payment, regardless of the underlying electronic method.⁹¹ This is an increase from 2020, when 46.1 percent of consumers reported using a mobile payment.⁹²

One digital payment form, electronic person-to-person payments (P2P), represents an emerging and fast-growing category of electronic fund transfer (EFT). The P2P EFT marketplace is challenging to size for several reasons. First, a number of firms facilitate P2P EFTs over a variety of proprietary platforms. In addition, many P2P services utilize legacy EFT platforms to transmit payment messages and settle transactions. As a result, P2P transaction volume is often conflated with that of the legacy payment systems upon which the P2P services rely. An industry analyst reported, based on survey results and estimates, roughly 84 percent of U.S. consumers made a P2P payment in 2022.

In response to government agencies distributing aid to consumers in response to the COVID-19 pandemic, the CFPB in April 2020 issued an interpretive rule that concluded that certain pandemic-relief payments are not “government benefits” for purposes of Regulation E and EFTA and are therefore not subject to the compulsory use prohibition in EFTA, if certain conditions are met. To reiterate that the compulsory use prohibition does generally apply to government benefits accounts, the CFPB released *CFPB Bulletin 2022-02: Compliance Bulletin on the Electronic Fund Transfer Act’s Compulsory Use Prohibition and Government Benefit Accounts* in February 2022.

In addition, in May 2020 the CFPB amended the Remittance Rule in Regulation E to provide tailored exceptions to address compliance challenges that some insured institutions may face in certain circumstances upon the expiration of a statutory exception that allowed insured institutions to disclose estimates of certain third-party fees and the exchange rate instead of exact amounts. That statutory exception expired on July 21, 2020. The final rule also increased a

⁹⁰ For reference, in 2021, consumer ACH debit volume totaled approximately 16.4 billion transactions at \$25.4 trillion. *Id.*

⁹¹ The 2021 Survey of Consumer Payment Choice: Summary Results: 2020 SCPC Tables,” Federal Reserve Banks of Atlanta and San Francisco, https://www.atlantafed.org/-/media/documents/banking/consumer-payments/survey-diary-consumer-payment-choice/2021/tables_dcpc2021.pdf

⁹² *Id.*

safe harbor threshold related to whether a person makes remittance transfers in the normal course of its business.

The incremental costs associated with EFTA are difficult to quantify because it is difficult to determine how industry practices would have evolved in the absence of statutory requirements. The CFPB will continue to consider the potential benefits and costs to consumers and financial institutions in evaluating new rules under EFTA. The CFPB will also continue to monitor the market and evaluate the adequacy of consumer protection under EFTA.

The agencies charged with enforcement of EFTA under 15 U.S.C. § 1693 include: the CFPB, FDIC, FRB, NCUA, OCC, FTC, DOT, and the Securities and Exchange Commission (SEC).

During the reporting period of January 1, 2021, through December 31, 2021, the following agencies reported public enforcement actions under EFTA:

TABLE 2: 2021 PUBLIC ENFORCEMENT ACTIONS RELATED TO EFTA

Agency	Summary
CFPB	Issued an administrative order against a prison financial services company for violating EFTA and Regulation E by requiring consumers to establish an account with the particular financial institution that issued the company’s release card as a condition of receiving a government benefit.
FTC	Settled charges with the owners and operators of a payday lending enterprise for, among other violations, continuing to draw millions of dollars in payments from consumers’ bank accounts long after the loans’ original principal amount and stated repayment cost had been repaid, and until consumers completely closed their bank accounts or found some other way to cut off payments. In addition, the default judgment against one defendant permanently enjoined the defendant from, among other things, violating EFTA and Regulation E. This action also appears at Table 1: Public Enforcement Actions Related to TILA.

No other agencies with EFTA enforcement authority reported taking any public enforcement actions related to EFTA during the January 1, 2021, through December 31, 2021 time period. For EFTA and Regulation E violations found during this time period, the CFPB and FTC required 10

institutions to reimburse an estimated 628,765 consumers approximately \$7.6 million.⁹³ These amounts include reimbursements required by the enforcement actions noted in Table 2 as well as non-public supervisory or enforcement actions and also reflect violations of other federal consumer financial laws.

CARD Act: Public enforcement actions and reimbursements

The CARD Act amended TILA to establish fair and transparent practices for the extension of credit under an open-end consumer credit plan. Section 502(e) of the CARD Act requires reporting on supervision and enforcement activities undertaken by the federal banking agencies (the FRB, FDIC, and OCC) and the FTC with respect to compliance by credit card issuers with applicable federal consumer protection statutes and regulations, including the CARD Act and Section 5 of the FTC Act.

During the reporting period of January 1, 2021, through December 31, 2021, no agencies reported public enforcement actions under the applicable federal consumer financial protection laws.

Assessment of compliance and common violations – TILA and EFTA

The agencies that are members of the Federal Financial Institutions Examination Council (FFIEC) reported overall compliance by supervised entities with TILA, EFTA, and their respective implementing regulations.⁹⁴ The agencies did report, however, that more institutions were cited for violations of Regulation Z than Regulation E over the 2021 reporting period. Based on the information reported by the FFIEC agencies, this section outlines the most

⁹³ Several of the CFPB's orders require the respondents to develop compliance plans that include identifying and, in some cases, remediating affected consumers. Accordingly, this figure may not reflect the total number of consumers remediated through those actions. In addition, the CFPB obtained civil money penalties in several matters to deter future violations. Funds in the CFPB's CMP Fund are available to provide redress to consumers whose injuries are not able to be remediated in other actions.

⁹⁴ Other agencies either did not conduct compliance examinations for TILA, EFTA, and their respective implementing regulations, or reported general compliance for the laws under their jurisdiction.

frequently cited violations of Regulation Z and Regulation E across the FFIEC agencies for the reporting period.⁹⁵

For the reporting period of January 1, 2021, through December 31, 2021, the most frequently cited violations of Regulation Z across the FFIEC agencies were:

- 12 C.F.R. § 1026.18(d) – On closed-end credit, failure to disclose, or accurately disclose, the finance charge, using that term, and a brief description such as “the dollar amount the credit will cost you.”
- 12 C.F.R. § 1026.19(e) – On closed-end credit, failure to disclose good faith estimates of the disclosures.
- 12 C.F.R. 1026.37 – Failure to provide consumers with content of disclosures for certain mortgage transactions (Loan Estimate).
- 12 C.F.R. § 1026.38 – Failure to provide consumers with content of disclosures for certain mortgage transactions (Closing Disclosure).

For the reporting period of January 1, 2021, through December 31, 2021, the most frequently cited violations of Regulation E across the FFIEC agencies were:

- 12 C.F.R. § 1005.11(c) – Failure to comply with the investigation and timeframe requirements for resolving errors in electronic fund transfers.
- 12 C.F.R. § 1005.11(d) – Failure to follow the required procedures when an investigation determines no error, or a different error occurred.

Outreach related to TILA and EFTA

The FFIEC agencies conducted training and issued guidance and examination procedures to assist supervised institutions in complying with the requirements of TILA, EFTA, and their respective implementing regulations. The agencies also provided guidance to consumers on these topics through various means, such as Federal Register Notices, workshops, blogs, and other outreach events.

In 2021, the FTC continued its efforts to educate consumers about issues related to consumer credit and lease transactions covered by, or closely related to, Regulation Z and Regulation M.

⁹⁵ Because the FFIEC agencies use different methods to compile data, the information presented here supports only general conclusions.

For example, with respect to automobile sales and financing, the FTC updated a publication to provide guidance to consumers considering the purchase of a used car from a dealer and released an update about car dealer ads and promotions, emphasizing the importance of asking the dealer to confirm if the vehicle is actually on the lot. The FTC issued another update providing guidance to consumers on what to consider when buying or leasing a car. In addition, and among other initiatives, the FTC updated a mortgage article with tips on shopping for a mortgage, ways to prepare for getting a mortgage including getting quotes from several lenders or brokers, and information on what to expect after you apply for the loan, with a worksheet to facilitate comparing costs and other terms of mortgage offers. The FTC also updated a publication on payday and car title loans to explain how they work and the high costs of these short-term loans, and to provide possible alternatives. The FTC also released a publication with information to help consumers compare payment cards, including credit, charge, and secured credit cards with other cards.

The FTC also engaged in research and policy work that addressed EFTA-related issues. For example, the FTC issued an enforcement policy statement on negative options, warning companies against deploying illegal practices that trick or trap consumers into subscription services, and emphasizing it is ramping up enforcement in response to a rising number of complaints about financial harms caused by deceptive sign-up tactics, including unauthorized charges or ongoing billing that is impossible to cancel.